

# Oil & Gas Accountability Report, Winter 2006

A periodic update on oil and gas issues brought to you by the Oil & Gas Accountability Project, a program of EARTHWORKS.

Please let us know about your recent oil and gas activities and accomplishments. Contact the Oil & Gas Accountability Project at (970) 259-3353, email us at: [lane@ogap.org](mailto:lane@ogap.org) or [jennifergoldman@ogap.org](mailto:jennifergoldman@ogap.org), or visit our website: [www.ogap.org](http://www.ogap.org).

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### 1. OGAP and EARTHWORKS Join Forces

In 2005 OGAP became a program of EARTHWORKS. Formerly the Mineral Policy Center, EARTHWORKS is the leading organization working to protect citizens, their communities and the environment from the impacts of destructive mining, digging and drilling. EARTHWORKS works with communities and grassroots organizations to reform government policies, improve corporate practices, and influence investment decisions. OGAP and EARTHWORKS are a natural match: focusing on the myriad issues drilling and digging create, the merged organization now encompasses all aspects of resource extraction.

[EARTHWORKS](#) is based in Washington, D.C. and partners with citizens groups both nationally and internationally.

As a member of the OGAP Action list, please stay tuned -- we will soon be sending another email explaining how the OGAP/EARTHWORKS merger allows us to directly connect you with oil and gas decisionmakers.

### 2. COGCC Passes New Noise Rule, Industry Appeals -- Colorado

In December 2005, the Colorado Oil and Gas Conservation Commission (COGCC), amended its noise rule (Rule 802), providing greater protection for citizens living close to oil and gas operations. Although the COGCC just adopted this new noise rule, the Colorado Oil and Gas Association (COGA) is already requesting that it be amended and weakened at the February 13-14, 2006 COGCC hearing.

Throughout 2005, OGAP, San Juan Citizens Alliance, the oil and gas industry, the agricultural community, and individual citizens all weighed in on Rule 802. The resulting rule is a compromise between industry's and impacted citizens' requested changes. The new rule lowers the night-time residential noise standard for a well constructed on or after January 1, 2007, from 50 dBA to 45 dBA, includes rural and agricultural areas in the residential, and therefore lower noise category, acknowledges the problem of low frequency noise, and expands the requirements for quiet design mufflers.

#### Read the details:

[http://www.oil-gas.state.co.us/RR\\_Docs/Policies/Noise%20Rules1220.pdf](http://www.oil-gas.state.co.us/RR_Docs/Policies/Noise%20Rules1220.pdf)

## **Take Action!**

Go to <http://earthworkSACTION.org/COnoiseaction.cfm> to preserve this victory on one of the most contentious issues between landowners and the oil and gas industry!

### **3. San Miguel County Looks at Local Regs -- Colorado**

This February, the Bureau of Land Management is offering to sell more federal mineral leases in San Miguel County than anywhere else in Colorado. In response to the possible onslaught of new oil and gas development, the county is drafting local oil and gas regulations.

A culmination of a nine-month effort, the proposed changes to the San Miguel County land use code include "alterations to the public noticing process, definitions of minor and major facilities, and proof of road access to potential facilities." (Telluride Miner, Jan. 17, 2006) The changes would allow the county to enforce the policies everywhere in the county, as opposed to the current lack of universal standards due to different zoning districts.

OGAP provided initial input about the changes to the land use code and its implications for oil and gas development to San Miguel County officials, who also sought input from industry and homeowners' groups. There will be a public meeting in mid to late February to discuss the changes to the land use code.

See [http://www.sanmiguelcounty.org/OilGas/06Feb\\_SaleNotice.pdf](http://www.sanmiguelcounty.org/OilGas/06Feb_SaleNotice.pdf) for details about BLM's February 9, 2006 lease sale.

### **4. Valle Vidal Activists Secure Important Protections Under the Clean Water Act -- New Mexico**

While the Valle Vidal in New Mexico's Carson National Forest is still threatened by coalbed methane leasing, an important water quality protection is now in place. On December 15, 2005, the State of New Mexico's Water Quality Control Commission (WQCC) voted overwhelmingly (11-1) to formally designate the waters of the Valle Vidal as Outstanding National Resource Waters (ONRW), the highest form of protection under the federal Clean Water Act. In practical terms, an ONRW designation will amount to regulators taking a snapshot of current water quality and managing the area in a manner that prevents degradation of that water quality.

Protection of these waters is a huge long-term benefit not just for the Valle Vidal, but for downstream communities such as Costilla and Amalia along the Rio Costilla, and Cimarron and Springer along the Cimarron River.

Governor Richardson initiated the ONRW designation process in August, 2005. A formal hearing, held over two days by the WQCC, featured extensive testimony by several state agencies, the Coalition for the Valle Vidal, and the public.

Despite the ONRW designation, the Coalition for the Valle Vidal is still working hard to promote federal legislation that will permanently protect the Valle Vidal. "The Outstanding National Resource Water designation is a wonderful victory," said Coalition Coordinator Jim O'Donnell, "but we still have a hard year ahead of us. There's a lot left to do to make sure the Valle Vidal is preserved for the people of Northern New Mexico."

To learn more about the Valle Vidal and how to get involved in protection efforts visit: <http://www.vallevidal.org/>.

### **5. Surface Owner Protection Bills -- New Mexico and Colorado**

Eleven states have surface owner protection laws, which typically require that oil and gas companies provide notice to landowners before entering a property to drill a well, and that the companies negotiate damage settlements with surface owners. This year, farmers, ranchers, community groups, and developers are pushing for similar protections in New Mexico and Colorado. It is proving to be a battle of the heavies in both legislatures, with feisty coalitions pitted against the oil and gas industry.

In New Mexico, OGAP is working with the San Juan Citizens Alliance, ranchers, rural homeowners, and environmental interests to gather support for this bill. Last year, OGAP and its partners shepherded surface owners protection language through the House, but the clock ran out and the bill was never voted on in the Senate. This year, Representative Andy Nunez (D-Dona Ana) is sponsoring the Surface Owner's Protection Act in the House, and Senator Cisco McSorely (D-Bernalillo) is the bill's sponsor in the Senate. As of the publishing of this OGAP, the bill is alive and kicking.

See HB 437 and SB 631 at the NM legislature's website link <http://legis.state.nm.us/lcs/BillFinderNumber.asp?year=06>.

In Colorado, the Homebuilders' Association allied with part of the environmental community to push a surface owner protection bill that initially focused mostly on surface owner damages. House Bill 1185, sponsored by Representative Kathleen Curry (D-Gunnison), allows oil and gas operations to proceed without delay -- while providing some protections for landowners. OGAP and southwestern Colorado landowners have some concerns over this bill, because it falls short on providing surface owners a say in the scope and timing of operations. As we go to press, BP and other companies have split off from the Colorado Oil and Gas Association to propose a modified version of the Curry bill. Whether a compromise bill results or this year's effort to reform industry practice regarding surface damages goes down to defeat will play out over the next several weeks.

See HB-1185 at the Colorado legislature's website: <http://www.leg.state.co.us/Clitics2006A/csl.nsf/Search?OpenFrameSet>.

## **6. New Mexico Slated for Another Pit Rulemaking**

Ranchers, homeowners, wildlife activists, and community groups still have a beef with pits in New Mexico. In 2003, thanks to the grassroots efforts of OGAP, the Otero Mesa Coalition, San Juan Citizens Alliance, and others, closed loop systems rather than earthen, poorly lined pits were required in a discrete area surrounding Otero Mesa, and stricter rules were placed on injection wells. However, earthen and lined oil and gas pits are still an issue for many folks living elsewhere in New Mexico. Poorly designed, poorly maintained, or unsecured pits can allow toxic, hazardous, and carcinogenic chemicals to leach into soil and contaminate groundwater, spill into surface waters or bog down curious and thirsty stock and wildlife.

As part of Governor Richardson's commitment to updating oil and gas regulations, New Mexico is in the process of revisiting its pit rule. A stakeholders' meeting will be convened by New Mexico's Oil Conservation Division (OCD) in Santa Fe on February 27, while later this spring, the OCD will hold an official rulemaking currently scheduled for April 20, 2006.

Go to [www.emnrd.state.nm.us/EMNRD/ocd/documents/ProposedPitRule\\_001.pdf](http://www.emnrd.state.nm.us/EMNRD/ocd/documents/ProposedPitRule_001.pdf) for details on the draft rule and meeting schedule.

## **7. The debate over stormwater regulation in Colorado -- which agency should regulate?**

In the spring of 2005, the Colorado Water Quality Control Commission (WQCC) put into effect regulations that allow state health officials to oversee stormwater controls at oil and gas sites that are between 1 and 5 acres in size. Then, the 2005 federal energy bill granted the oil and gas industry an exemption from having to apply to the federal Environmental Protection Agency for stormwater discharge permits for their road building and land clearing construction activities. This brought into question whether the WQCC should retain authority to regulate the water discharges from the oil and gas industry, at a level stricter than what is federally mandated.

In late 2005, the Colorado Oil and Gas Association (COGA) requested to have authority transferred from the WQCC to the Colorado Oil and Gas Conservation Commission (COGCC). More than 2,300 letters from concerned citizens, Western Slope counties, environmental groups, and 20 Democrats in the state legislature helped convince the WQCC to uphold their stormwater regulations for oil and gas construction activities. The WQCC has stricter and more effective rules than the COGCC concerning erosion, and more experience dealing with sediment washing off into streams and rivers where it can compromise water quality and fish habitat.

Keeping authority over stormwater runoff with the WQCC is an important victory that will help protect water quality throughout the state. The WQCC's approach to regulation is more in tune with protecting the environment and public health, than is the COGCC's approach. The industry-dominated COGCC is largely focused on facilitating production of oil and gas. Industry associations will likely challenge the WQCC's authority to regulate them in state court over the next few months.

## **8. Wyoming Activists Call For Comprehensive Planning Along the Beartooth Front, AGAIN**

Beartooth Front activists rang in 2006 by calling on the BLM's Cody Field Office to once again bring together the various components of a proposed gas play in the Clark, Wyoming area under one, comprehensive Environmental Impact Statement (EIS). The BLM's comment period for the revised Clark 3-D Geophysical Survey Environmental Assessment (EA) opened in early December and closed in mid-January. As part of their comments, the Clark Resource Council (CRC), the Powder River Basin Resource Council (PRBRC) and OGAP called for one EIS along the Beartooth Front for activities including seismic exploration, a proposed pipeline project, and ongoing exploratory drilling and development. Of major concern to the groups are the human health, safety, and property right issues directly impacting Clark's landowners and residents, including water contamination, emergency preparedness, and liability associated with seismic operations.

Located against the Eastern portion of the Beartooth Front, Clark is a classic example of the rural west. Clark is surrounded by gorgeous federal, state and private lands. Historically a ranching town, many residents still raise cattle and bison. The area

enjoys amazing opportunities for wildlife viewing and hunting, and it boasts exceptional access to the Clarks Fork of the Yellowstone River. Unfortunately, rampant and reckless gas development threatens the very fabric of the Beartooth Front at the eastern edge of the Yellowstone Ecosystem.

*How many times do we have to ask?*

This wasn't the first time community groups and citizens have called for a more comprehensive approach to what appears to be a moderate gas play being piece-mealed together by Windsor Energy and a steady march of previous gas companies in the area. In 2005, groups such as CRC, PRBRC and OGAP weighed in on a previous seismic EA and the Bennett Creek pipeline proposal.

To view the latest round of comments on the revised seismic EA check out

<http://www.earthworksaction.org/publications.cfm?pubID=149> and <http://www.earthworksaction.org/publications.cfm?pubID=148>.

To learn more about the Clark Resource Council's efforts or to get involved in the Beartooth Front Coalition visit:

<http://www.clarkresourcecouncil.org/>.

## 9. Coalbed Methane Threat Renewed -- Alaska

In 2004, the Mat-Su Borough passed what has been called the strongest local coal bed methane ordinance in the nation. Now, CBM development is once again a threat in Mat-Su Valley. Two companies, Stormcat Energy and Forest Oil, are getting ready to explore in the Mat-Su. Stormcat Energy purchased leases on Mental Health Trust land in 2004 and on state land in 2005. Because the Mental Health Trust owns both the surface and the mineral rights to its land, the Borough ordinance does not apply, and the land is open to CBM exploration and development. As for the state leases-Stormcat claims they're going to explore for conventional oil, even though all signs point to CBM. Stormcat's specialty is CBM, and they have stated to Petroleum News that they plan to explore for CBM at the same time they explore for conventional reserves. For its part, Forest Oil is assessing large areas in the Mat-Su Valley through seismic studies, upsetting big ranchers and farmers.

To learn more or get involved, check out these websites: Friends of Mat-Su:

<http://www.foms.net/issues.html> and <http://www.gasdrillingmatsu.org/>.

## 10. Clean Water Act Permits, Cook Inlet -- Alaska

Cook Inlet Keeper is gearing up to challenge the renewal of the federal Clean Water Act permit that allows oil and gas operations to discharge toxic waste into Cook Inlet. This is a unique situation because no other facility in the coastal area (which means within 3 miles of land) is allowed to dump toxic waste into rich fisheries such as those found in the Inlet. However, since the 1950s, the oil and gas industry has been discharging upwards of 2 billion gallons of toxic waste into Cook Inlet every year. Industry's approach is 'dilution is the solution to pollution,' as they dilute toxic wastes in huge mixing zones while dumping them into the inlet waters. By dumping it wastes instead of properly treating them, industry is spreading the costs of its negligence to the people and the environment, even as it posts record profits.

Contact Bob Shavelson of Cook Inlet Keeper at (907) 235-4068 ext. 22, or see

[www.inletkeeper.org](http://www.inletkeeper.org) for more information.

## 11. Short Takes

- OGAP held its Public Health and Toxics Summit in October 2005, in Farmington, New Mexico. Read about it here <http://www.earthworksaction.org/Summit.cfm>.
- [The BLM just recently opened new areas of the National Petroleum Reserve-Alaska](#) -- to drilling for oil. The touted 2 billion barrels of oil expected from drilling in the NPRA would meet US demand – but for only 100 days!
- Coalbed Methane art exhibit stirs up controversy. Read the article about "The New Gold Rush: Images of Coalbed Methane" in the Billings Gazette: <http://www.billingsgazette.net/articles/2006/02/05/news/wyoming/25-art.txt>
- California leading the way on clean energy and the fight against global warming. The state instituted a \$2.8 billion subsidy for solar energy, while new research underscores the economic viability of reducing greenhouse gas emissions. LA Times reports on both – read the stories (requires registration) on solar and GHG reductions: [Solar Subsidy Plan is Passed](#), LA Times, 1/13/2006  
[Studies Support Emissions Plans](#), LA Times, 1/23/2006
- New Mexico is considering a quasi-government authority, the Renewable Energy Transmission Authority, to plan and

finance the construction of an interstate electricity transmission line to promote renewables in New Mexico.  
<http://www.abqjournal.com/xgr/429165xgr01-31-06.htm> (requires registration).