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Janaury 10, 2014

Alaska Oil and Gas Conservation Commission
333 W. 7th Avenue, Suite 100
Anchorage, AK 99501

Re: Third Round Public Comment
Concerning Changes to Title 20, Chapter 25 of the AAC
With Regard to Hydraulic Fracturing

Dear Commissioners:

ConocoPhillips submitted comments on each of the AOGCC's two earlier notices of potential changes to 20 AAC Chapter 25 regarding hydraulic fracturing. ConocoPhillips appreciates the ways in which the most recent notice reflects changes that address some of our earlier comments, but we still see ways in which the proposed rule could be improved. To that end, we have the following additional comments on the proposed rule.

Improvements to be Retained.

Initially, we note four substantial improvements in the most recent version of the proposed rule, and urge the AOGCC to retain these improvements in the final rule. The first improvement is a change from a requirement for post-fracturing sampling of water wells to a more flexible approach, under which the AOGCC has discretion to require post-fracturing sampling on a case-by-case basis. This change, reflected in section .283(a)(4) and (j), is a sensible change that allows for sampling when it might be useful, but avoids unnecessary burden and expense.

The second improvement is the provision in section .284(a)(4), which now recognizes that an operator may, through no fault of its own, encounter difficulty in obtaining the water well samples that are required by the new rule. The latest proposal addresses this possibility, although as described in more detail below, we suggest a reorganization of this paragraph, which now contains a number of substantive provisions.

The third improvement is a provision directly addressing confidentiality in section .283(k). Although this provision does not fully address concerns over proprietary information and other

confidentiality issues, it is a helpful addition that provides a welcome measure of protection to operators who will be asked under this rule to submit business information that would normally be kept secret from competitors.

The fourth improvement is the addition of definitions in section .990. In particular, the definition of “water well” helps clarify the intended scope of provisions in section .283. ConocoPhillips supports the addition of these definitions, and the three other improvements identified above, all of which should be retained in the final rule.

Further Changes Requested.

One of ConocoPhillips’ key concerns, regarding cement bond logs, still has not been addressed. Section .283(a)(6), as most recently proposed, still would require an assessment of casing and cementing, “including cement evaluation logs and other evaluation logs” As described in earlier comments submitted by ConocoPhillips, we believe this language might be interpreted to mean that no hydraulic fracturing would be allowed in wells for which a cement bond log was not obtained when the surface casing was cemented. That would be an unnecessarily restrictive requirement. We continue to recommend that the clause quoted above be stricken from the regulation because it is unnecessary and unduly limiting. However, we recognize that the AOGCC has elected thus far not to accept that recommendation, and so we now propose a more surgical remedy to the problem. We propose that the word “and” in the language quoted above be changed to “or.” That would at least ensure that the AOGCC has the flexibility to accept evidence of well integrity other than a cement bond log when such a log is not available.

Although section .283(a)(4) has been improved as described above, a reorganization of that paragraph of the regulation is necessary. As currently drafted, this paragraph contains substantive requirements and exceptions are outside the scope of section .283(a), which is focused on the requirements of an application for authorization of a fracturing operation. In keeping with the State’s standards for uniformity and clarity in adopted regulations, we believe reorganization is necessary to separate application requirements set forth in subsection (a) from substantive performance requirements, which should be set forth in separate subsections. We suggest a new subsection specifically on substantive standards on water well sampling. This reorganization would help make the rule more easily understandable, and therefore easier for the Commissioner to administer and easier for operators to follow.

The inclusion of a definition of “surface owners” brings to light the fact that on State-owned lands, which are the majority of leased lands for oil and gas development in Alaska, compliance with the notice requirement would require a notice to some agency of the State, presumably the Department of Natural Resources (“DNR”). However, notice to DNR seems unnecessary when the agency tasked with considering and authorizing hydraulic fracturing is the AOGCC. Thus, the application to the AOGCC for approval of hydraulic fracturing ought to be sufficient notice to the State and all its subdivisions. We recommend the addition of an exclusion so that submission of the Application for Sundry Approvals is deemed adequate notice to the State of Alaska and all

its subdivisions, and no additional notice to DNR or any other agency of the State is required for hydraulic fracturing on State of Alaska land.

ConocoPhillips notices the elimination of the proposed requirement to include in the Sundry application information about whether a well is covered by a freshwater aquifer exemption. We support elimination of this requirement, as this information is easily available to the AOGCC and will naturally be discussed anyway if an operator seeks a variance under section .283(j) on the basis of an exemption. However, this change calls to light the continued difficulty that ConocoPhillips has in ascertaining how these proposed regulations will be interpreted and applied on the North Slope, where most of Alaska's oil and gas wells are located, but neither groundwater nor water wells are present. Our prior comments have suggested ways to address these issues specifically in the rule, but those suggestions have not been adopted. We continue to think that the public interest would be served by greater clarity about how the rule applies with respect to the conditions that prevail on the North Slope.

As previously, expressed, ConocoPhillips supports the adoption of a balanced and clear rule on hydraulic fracturing, and we commend the AOGCC for both its proactive approach to this issue and for its willingness to engage in multiple rounds of notice and comment.

Sincerely,



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