



Douglas A. Ducey  
Governor

State of Arizona  
**Oil and Gas Conservation Commission**  
1110 W. Washington Street, Phoenix, AZ 85007  
602-771-4501  
[www.azogcc.az.gov](http://www.azogcc.az.gov)  
Dennis L. Turner, Oil and Gas Administrator

Commissioners:  
Frank Thorwald, Chair  
J. Dale Nations, Ph.D., Vice Chair  
Stephen R. Cooper  
William C. Feyerabend

**MINUTES OF MEETING**  
**December 7, 2018**

**PRESENT:**

Mr. Frank Thorwald,	Chairman of the Arizona Oil & Gas Conservation Commission (AOGCC)
Dr. Dale Nations,	Vice Chairman (via phone)
Mr. Bill Feyerabend,	Member (via phone)
Stephen Cooper,	Member
Mr. Rick Zeise,	Counsel
Mr. Dennis Turner,	Program Administrator

**CALL TO ORDER**

Mr. Thorwald called the AOGCC Meeting of December 7, 2018 to order at 10:00 a.m. in Room 3100B at the Arizona Department of Environmental Quality, Phoenix, Arizona. No one reported any conflicts of interest and the roll call confirmed a sufficient number were present for a quorum.

**DISCUSSION AND APPROVAL OF MEETING MINUTES**

Dr. Nations moved, seconded by Mr. Feyerabend that the following minutes be approved:

- October 26, 2018 Public Meeting, as revised
- October 26, 2018 Public Hearing (The Cobalt Group)
- October 26, 2018 Public Hearing (Triomphe Energy), as revised

All motions were carried unanimously in three separate votes.

**AOGCC JURISDICTIONAL ISSUES ON LANDS OTHER THAN PRIVATE LANDS:**

The AOGCC recently issued a permit to Pollard Helium to drill its 16-1 well (T19N R23E, sec. 16), which is located within the western expansion of the Petrified Forest National Park.

Prior to today's meeting, Mr. Turner spoke to Mr. Jeremiah Kimbell, Petroleum Engineer for the National Park Service (NPS), about jurisdictional issues. Subsequent to that conversation, Mr. Kimbell stated in an email to Mr. Turner that "36 CFR Part 9, Subpart B (9B Regulations) ... [applies] 'to all operators conducting non-federal oil or gas operations on lands or waters within System units outside of Alaska, regardless of the ownership or legislative jurisdiction status of those lands or waters.' 36 CFR § 9.30(b)."

Based upon Kimbell's statement, the AOGCC suggested to Pollard Helium that in order to gain access to the private mineral holdings within the this area of the Park boundary, Mr. Pollard should obtain approval from the NPS before mobilizing equipment on site and drilling the well.

Additionally, with regard to Kimbell's statement of NPS jurisdiction, the AOGCC's permit approval to drill is provisional, subject to the NPS' issuance of its own approval to operate ("Operations Permit"). As part of its process, the NPS must prepare an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) prior to their approval of an Operations Permit.

The Commission discussed extensively the conflicting and confusing jurisdictional issues of the AOGCC within the western expansion area of the Petrified National Park boundary. The Commission's discussion

included remarks from representatives of State Land Department (Joe Dixon), Pollard Helium (Joshua Pollard) and National Parks Conservation Association (Kevin Dahl). The Pollard permit is for helium only. The discussion centered on what the jurisdictional context would be for the Pollard permit, given Mr. Kimbell's statement about "operators conducting non-federal oil or gas operations." In view of the land ownership and mineral rights issues involved with this area of the Park, the Commission agreed the best course of action is to seek advice from its legal counsel. Mr. Thorwald moved, seconded by Mr. Feyerabend,

THAT THE DISCUSSION BE TABLED AND DIRECT MR. ZEISE TO RESEARCH THIS JURISDICTIONAL MATTER AND REPORT TO THE COMMISSION AT THE NEXT MEETING.

Mr. Cooper requested that, in his report, Mr. Zeise clarify the standing of the AOGCC's permit for Pollard Helium and that of all future AOGCC permits within the western expansion of the Park. Mr. Zeise stated that his research would be coordinated with the State Land Department.

**PUBLIC MEETING PROTOCOL:**

The Administrator previously submitted language for meeting protocol to be attached to every public notice. Mr. Cooper said this protocol assures the public interest is served by allowing members of the public to speak, especially on issues that may not be on the agenda, and can therefore be considered for a future meeting, and that public business is noticed and will be heard.

After a short discussion, Mr. Cooper motioned and Mr. Thorwald seconded as follows:

THAT NOTE #2 BE THE ADOPTED PROTOCOL TO BE INCLUDED IN EVERY AGENDA FOR AN OIL AND GAS PUBLIC MEETING.

Note 2 language in its full context follows:

"Members of the Arizona Oil and Gas Conservation Commission will attend either in person or by telephone. The public may be afforded an opportunity to comment on any item on the agenda; however, by ruling of the Arizona Oil and Gas Conservation Commission, any member of the public wishing to speak at this meeting shall be limited to three (3) minutes (see Note 2). Note that agenda items may be taken out of order at the discretion of the Commission."

**"NOTE 1:** The Arizona Oil and Gas Conservation Commission may vote to hold an Executive Session, pursuant to AR.S. § 38-431 .03(A)(3) or (4), which will not be open to the public, to consult with its attorney and receive legal advice with respect to any regular agenda item listed on this agenda.

**"NOTE 2:** Any comments provided by the public at the Call to the Public shall not exceed three (3) minutes per speaker. For any comments made during the Call to the Public on any specific issue the overall comment period shall not exceed ten (10) minutes per side. The Commission shall have the authority to end any public discussion that exceeds ten (10) minutes per side or twenty (20) minutes in total."

**REPORT BY THE OIL AND GAS ADMINISTRATOR**

Mr. Turner reported on the following items.

Approval date vs. issue date: For the public record and clarification, permits approved by the Commission during a Public Hearing are effective on the date of the hearing and the permit expiration date is calculated from that date.

Update on the Waddell-Duncan #1 Murrey well (Permit No. 02-24): the property owner installed a gate valve to adequately regulate the flow of this well. The AOGCC does not have jurisdiction over this well.

The Arizona Department of Water Resources has a registration record for this well and recently advised the current owner to submit a transfer of ownership request to update their records.

Results of joint inspection with the Arizona Corporation Commission, Pipeline & Safety Division, Plains LPG Services, Bumstead LPG underground storage facility (Glendale): the joint inspection was an opportunity for staff from both agencies to learn about each other's role in regulatory oversight of this site. Mr. Turner reported that the site visit was worthwhile for training and understanding the scope of authorities of both agencies.

Rare Earth spacing exception: – the company notified Mr. Turner earlier this month of their desire for a well spacing exception hearing on the next meeting date (January 18, 2019). The Commissioners stated that a representative from Rare Earth should appear in person to present the justification and request for a spacing exception.

#### REPORT BY THE AOGCC CHAIRMAN

Mr. Thorwald gave a summary of meeting with ADEQ and Navajo County representatives regarding helium production and hydraulic fracturing. The meeting included a discussion that helium drilling operators in Arizona do not conduct hydraulic fracturing. Navajo Co. asked about the possibility of a tour of a typical helium drilling well and related facilities. The Commission will work on making those arrangements.

#### LEGISLATION AFFECTING THE ARIZONA OIL AND GAS CONSERVATION COMMISSION

No report.

#### CALL TO THE PUBLIC

Mr. Dixon stated that the State Land Department is pursuing a revision to A.R.S. § 27-555(K) to remove the requirement for a committee to permit the withdrawal from or opening of oil and gas estates for lease. The revision would grant direct authority to the State Land Department to open and close oil & the gas estate and eliminate the committee. The State Land Department is seeking a sponsor for the bill in the oil and gas industry to submit to the State Legislature.

James Ballard proposed a hypothetical question regarding to whom royalties should be paid from any production on the western expansion of the Petrified Forest National Park now under the jurisdiction of the National Park Service.

Taylor McKinnon, Center for Biological Diversity, suggested the Commission hold a question and answer session with the public.

#### REVIEW AND CONSIDER FUTURE AGENDA ITEMS

No report.

#### ANNOUNCEMENTS

No report.

EXECUTIVE SESSION: Dr. Nations moved that the AOGCC convene an Executive Session, seconded by Mr. Thorwald. The motion carried and the AOGCC entered Executive Session at 10:48 a.m.

The purpose of the Executive Session was to seek legal advice on the status of:

- Blackstone State #4 appeal
- Chairman's discussion with ADEQ Director regarding ongoing working relationships

The AOGCC returned to the Regular Session at 11:15 p.m.

Mr. Thorwald announced that a regular meeting with the Commissioners will be held via telephone on Dec. 11, 2018 at 8:30 a.m. The meeting will address the temporary abandonment status of the Blackstone #4 State well and Blackstone's appeal of the Commission's July 2018 ruling.

ADJOURNMENT

Mr. Feyerabend moved, seconded by Mr. Cooper:

THAT THE MEETING BE ADJOURNED

Motion carried unanimously. The meeting was adjourned at 11:17 p.m.

REVIEWED

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FRANK THORWALD  
CHAIRMAN

DATE

GUESTS IN ATTENDANCE:

Joe Dixon, AZ State Land Dept.  
David Haag, AZ State Land Dept.  
Kevin Dahl, National Parks Conservation  
Association

Joshua Pollard, Pollard Helium  
Taylor McKinnon, Center for Biological Diversity  
James H. Ballard