



Colorado Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, CO 80203

January 24, 2023

RE: Public Comment on KP Kaufmann Company Enforcement – Docket No. 201100261

Adams County (“County”) appreciates the opportunity to submit this public comment to the Colorado Oil and Gas Conservation Commission (“COGCC” or “Commission”) regarding the enforcement matter against KP Kaufmann Company, Inc. (“KPK”) scheduled for January 25-26, 2023 as part of the continuation of COGCC Docket Number 201100261. The County reaffirms its concerns filed in its previous public comment on this matter from June 2022. KPK is the third largest operator in the County with approximately 90 active wells. Nearly 95% of KPK’s wells in the County are either Low Producing, Inactive, or Shut-In. Three facilities included in the Compliance Plan Agreement (“CPA”) at issue in this matter are in the County, along with many of the new spills and releases that have occurred at KPK sites since the CPA effective date in November 2021.

As stated in our comments to the Commission in June 2022, the County’s preference remains for KPK to immediately return to full compliance so they may continue to operate and produce their facilities in our jurisdiction, and statewide, as allowed by Commission rule and in a protective and responsible manner. However, the County continues to share the concerns of COGCC Staff that based on the remediation progress thus far at CPA sites and other recently discovered spills and releases, KPK appears “unable to operate in the State of Colorado in a manner that is protective of public health, safety, welfare, the environment, and wildlife resources” (Staff January 2023 Prehearing Statement at 1). The recent allegations and Notice of Alleged Violations issued against KPK and presented by Staff in their January 2023 Prehearing Statement since the CPA effective date are for some of the same rules and processes that KPK was previously found to have violated via Commission Order 1V-722 and included in the June 2022 order finding partial violation of the CPA and points to “substantial and material performance failures on KPK’s part” (Staff January 2023 Prehearing Statement at 2). In addition to the numerous COGCC violations, KPK still demonstrates an inability or unwillingness to comply with County regulations. Specifically, KPK has an outstanding and invoiced balance of approximately \$37,111.56 for

routine oil and gas inspections performed in 2020, 2021, and 2022, denying the County's express authority to inspect facilities and charge for such inspections.

The County supports the Commission's decision to deny KPK's request for a continuance of this enforcement matter to allow the operator to attempt a sale of assets related to the CPA and agrees with COGCC Staff that "[e]very day, KPK's oil and gas operations are impacting the environment, surface owners, and public health and safety" (May 20, 2022 Response to Motion to Continue at 2). While the County generally takes no position on a company's financial dealings, it does have initial concerns with KPK's proposal to transfer all or part of their Spindle Field assets (approximately 900 of KPK's 1,200 wells statewide) as presented in KPK's Motion to Continue on January 18, 2023. The County's concern is particularly significant considering this operator does not have an approved Form 3, Financial Assurance Plan with the Commission and has only approximately \$900 per well in bonding held by the COGCC at this time. The County wishes to ensure that any transfer of assets to another operator is done so responsibly, compliantly, and in a manner that does not leave a Selling Operator with only higher liability or higher orphan risk assets absent adequate financial assurance. A similar asset transfer occurred in the County when PetroShare transferred dozens of higher producing wells, active permits, and other transferrable items to other operators. That transfer left the Selling Operator, PetroShare, with only low producing, inactive, and/or Shut-In facilities without adequate bonding in place, before eventually filing for bankruptcy, resulting in the orphaning of 50 wells in the County.

All operators should comply with the Commission's rules regarding environmental impact prevention, specifically as it relates to remediation, reclamation, and spill and release reporting. As such, the County would respectfully request the Commission order KPK to immediately take the actions as stated below.

Recommended Action 1:

The County respectfully requests that, should this Commission find KPK in substantial compliance with the terms of the CPA, KPK be required to successfully complete all remediation and reclamation work, reporting, and other terms as required by the agreement, including payment of the \$795,000 reduced penalty, prior to being able to transfer any or all of their assets to another operator. Given the justification of suspending and vacating a portion of the penalty was that KPK "satisfies the terms and conditions set forth in the Order and this Plan" (CPA at 5), should this operator be unable or unwilling to satisfy that provision or should they elect to file a Form 9, Transfer of Operatorship-Intent pursuant

to COGCC Rule 218.b before the completion of the CPA, the County requests the Commission immediately unsuspend all penalties in this enforcement matter and require KPK to pay the full assessed amount of \$2,014,530 before a transfer of assets is approved.

Recommended Action 2:

The County requests that the Commission immediately require KPK to Shut-In all their wells statewide until the below recommended actions can be met and they demonstrate they are able to operate in a manner that is protective of public health, safety, welfare, the environment, and wildlife resources. The County shares the concern for environmental and public health impacts expressed by COGCC Staff and some Commissioners regarding “whether KPK is fundamentally unwilling or unable to comply with the CPA” (May 20, 2022 Response to the Motion to Continue at 1). Based on information presented during the October 2022 update and party prehearing statements, KPK should instead focus their operational activities entirely on remediation, site investigation, reclamation, training, safety, and maintenance until they can sufficiently demonstrate to the Commission that they are able to fulfill their responsibilities to produce their assets in a manner that is protective and complies with the terms of the CPA. This shift in operational focus will further allow KPK to address their stated issues regarding resource availability as justification for missing set milestones and timelines at many of the highest priority locations within the CPA.

Recommended Action 3:

The County further recommends that KPK be required to immediately file a Form 3, Financial Assurance Plan, pursuant to R.702. Specifically, the County requests KPK be compelled by the Commission to submit an Option 4 Plan, based on production data, pursuant to R.702.d.(4) necessitating Single Well Financial Assurance for every well. As discussed earlier, many of this operator’s wells in the County are non-producing or Low Producing and as such are at a significantly higher risk to be orphaned in the future. Given the Operator’s statements in their January 18, 2023 Motion that they are planning on transferring a large amount of their assets, and the status of many of KPK’s wells are non-producing or Low Producing, the County would suggest that the Commission adjust the timeline for financial assurance compliance pursuant to Rule 702.d(4)(C). Specifically, the County would suggest the Commission require KPK to secure 75% or more of all required financial assurance through allowable and appropriate instruments with the COGCC upfront before they can transfer assets or recommence production, rather than granting them up to 10 years to secure the full amount as otherwise

allowed under R.702.d. This request is necessary and reasonable to ensure that the Orphan Well Program does not become overly-burdened with the expense to plug, reclaim, and remediate these wells/sites should KPK be unable or unwilling to continue operating.

Recommended Action 4:

The County lastly recommends KPK demonstrate that all Wells and sites are in full compliance with all Commission standards and rules prior to being allowed to recommence production operations or transferring any assets. In the alternative, the County would request that if any CPA-related assets are transferred, an agreement is in place with the Buying Operator to bring the non-compliant wells into full compliance by a date certain.

As discussed in previous comments by the County, KPK has missed numerous project timelines, failed to submit required reports, and did not seek required approvals prior to commencing remediation and reclamation work at numerous sites in the County and statewide as recently as May 2022. To ensure KPK's compliance with Commission rules, the County suggests the COGCC conduct a full audit of all recent inspection reports, reporting requirements for production, Bradenhead pressure testing, Mechanical Integrity Tests, and off-location flowline mapping and registration prior to allowing KPK to recommence production operations. Additionally, the County would suggest an immediate re-inspection of all KPK sites to fully assess the current conditions at their non-CPA related facilities.

Thank you again for the opportunity to submit this public comment and your consideration of the County's recommendations.

Respectfully,



Greg Dean

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