

BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF AN APPLICATION BY LARIMER) CAUSE NO.
COUNTY AND THE CITY OF FORT COLLINS FOR AN)
ORDER REQUIRING THE PLUGGING AND) DOCKET NO.____
ABANDONMENT OF WELLS OWNED AND OPERATED BY)
PROSPECT ENERGY, LLC IN LARIMER COUNTY,) TYPE: RULE 211
COLORADO)

LARIMER COUNTY AND CITY OF FORT COLLINS APPLICATION
FOR RULE 211 HEARING TO PLUG AND ABANDON WELLS AND
CLOSE OIL AND GAS LOCATIONS

Pursuant to Rule 503.g(12) and Rule 211, Larimer County and the City of Fort Collins, through special counsel Matt Sura, are submitting this application to the Commission for an order requiring 19 oil and gas and injection wells and locations to be plugged and reclaimed pursuant to Rule 503.g(12) and Rule 211 because they are no longer used or useful and represent a threat to public health, safety, and welfare and the environment.

INTRODUCTION

This application presents a situation where the operator has numerous wells that are no longer used or useful and have, in the past several years, caused harm to public health, safety, welfare and the environment. Plugging and abandonment of these wells is therefore provided in Rule 211 and reasonable and necessary to protect public health, safety, welfare and the environment.

Rule 211 states:

An Operator of an Oil and Gas Location will permanently close an Oil and Gas Location or Oil and Gas Facility, properly Plug and Abandon all Wells at the Oil and Gas Location pursuant to Rules 434 and 435, Remediate any contamination pursuant to the Commission's 900 Series Rules, and Reclaim the Oil and Gas Location pursuant to the Commission's 1000 Series Rules, if the Commission, following a hearing pursuant to Rule 503.g.(12), determines that such *closure is necessary to protect and minimize adverse impacts to public health, safety, welfare, the environment, or wildlife resources, or when the Oil and Gas Location or Oil and Gas Facility is no longer Used or Useful* (emphasis added).

Rule 503.g.(12) states:

(12) Well or Location Closure. An application to require Plugging and Abandonment of a Well or closure of an Oil and Gas Location or Oil and Gas Facility will satisfy the requirements of Rule 211.

A. The Director may file an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 211.

B. The Relevant Local Government or Surface Owner may file an application to Plug and Abandon a Well or close an Oil and Gas Location pursuant to Rule 211. Such application by a Relevant Local Government or Surface Owner will include:

- i.** A certification that the Relevant Local Government or Surface Owner has conferred in good faith with the Operator;
- ii.** A certification that the Well has been a Low Producing Well each year of the previous three years; and
- iii.** Evidence demonstrating that the Well is:
 - aa.** A threat to public health, safety, welfare, the environment, or wildlife resources; or
 - bb.** No longer Used or Useful.

USED OR USEFUL means a Well, or an Oil and Gas Location or Oil and Gas Facility with or without associated Wells that is currently being used or has an identified future beneficial use, which may be indicated by, among other things:

- a.** Production trends for the Well;
- b.** Plugging and Abandonment, Remediation, and Reclamation costs in relation to the Well's gross revenue generation;
- c.** Failure to use or develop a facility;
- d.** Remaining economic viability; or
- e.** Other relevant evidence.

I. FACTUAL AND LEGAL BASIS FOR THE APPLICATION

- 1) Prospect Energy, LLC ("Prospect") is the operator of 50 wells within Larimer County. Ten of these wells are within the city limits of the City of Fort Collins.

- 2) Larimer County and the City of Fort Collins are requesting the Commission to order 19 wells (“Subject Wells”) to be plugged and abandoned because they are no longer used or useful and represent a threat to public health, safety, welfare, and the environment.
- 3) Larimer County and the City of Fort Collins are Relevant Local Governments and have standing to file this application pursuant to Rule 503.g.(12)B.
- 4) Larimer County and Fort Collins certify that they have conferred in good faith with Prospect regarding the need to plug and abandon wells within Larimer County and Fort Collins. (Exhibit 1, 2). Larimer County sent a letter on 2-26-2024 to Prospect requesting that it plug and abandon the Subject Wells that are “no longer used or useful.” (Exhibit 3). Larimer County subsequently met with Prospect and the City of Fort Collins on February 29, 2024, requesting that Prospect’s 19 wells that are “no longer used or useful” be plugged and reclaimed. At that meeting, Prospect stated that it planned to plug at least five wells but did not have current Form 6s filed for any wells to be plugged. Larimer County will continue to reach out to Prospect to resolve these issues prior to the hearing.
- 5) When considering whether a well or wells are “no longer used or useful” the Statement of Basis and Purpose for the financial assurance rulemaking states,

“The Commission will also consider an operator’s total number of wells and production from those wells over a recent timeframe (likely the last five years). Finally, the Commission will consider an annual average of the operator’s gross revenue over a five year period.”

Operator	Year	Oil Production	Oil Sales	Gas Production	Gas Sales	Water Produced
PROSPECT ENERGY LLC	2019	39095	39373	9618	0	2421640
PROSPECT ENERGY LLC	2020	31179	31128	6767	0	719784
PROSPECT ENERGY LLC	2021	29962	29891	1142	0	0
PROSPECT ENERGY LLC	2022	24569	24540	932	0	1664814
PROSPECT ENERGY LLC	2023	26578	26837	2107	0	2197707

Table 1. Production numbers for Prospect Energy taken from COGIS.

- 6) As can be seen in Table 1, over the past five years, there has been a declining trend in production. From 2019 to 2023 production has dropped 32% from 39,095 barrels to 26,578 barrels.

Year	Oil Sales	WTI Average ¹	Gross Revenue	Annual Gross Revenue from 19 wells
2019	39373	\$56.99	\$2,243,867	\$47,231
2020	31128	\$39.16	\$1,218,972	\$38,863
2021	29891	\$68.13	\$2,036,474	\$35,010
2022	24540	\$94.90	\$2,328,846	\$41,372
2023	26837	\$77.58	\$2,082,014	\$10,562

Table 2. Annual gross revenue using WTI average price per year.

- 7) As can be seen in Table 2, even with increased oil prices, Prospect’s gross revenues have dropped more than 7% over the past five years. Gross revenues for the 19 subject wells have dropped over 77%.
- 8) In 2023, the 19 Subject Wells combined for a total of a mere \$10,562 in gross revenue – an average of \$555.89 per well for the year.
- 9) Waterflood projects typically cost \$5,000 - \$6,000 / a month. Even using a conservative figure of \$3,500 / month, none of these 19 Subject Wells are making money or even breaking even.² (Exhibit 4)
- 10) Generally, a water to oil ratio of 100 is considered very high and likely not economically attractive to continue producing. (Exhibit 4)
- 11) A water to oil ratio was provided for the few wells that are producing at all. The average water to oil ratio of the 19 wells is well over 100. (Exhibit 4)
- 12) Prospect only listed eight inactive wells on its “Inactive Well List” submitted as part of its Form 3 Financial Assurance Plan on 5/18/2023. (Exhibit 5). Today, Prospect has only noticed four inactive wells. However, as listed in Table 3 below, there are currently 12 inactive wells within Larimer County and the City of Fort Collins.
- 13) According to COGIS (“Well Plugging Data for Previous 3 Years”), Prospect has plugged only one well (Peterson #14-20) since before 2021.
- 14) WSP USA, a multinational engineering firm, has performed an analysis that demonstrates that the 19 Subject Wells are not economically viable. (Exhibit 4.)

¹ <https://www.statista.com/statistics/266659/west-texas-intermediate-oil-prices/> (Note: Prices in Colorado are typically 5% less than WTI prices.)

² Lencioni, Letha, WSP, “Review of wells in the Fort Collins Field relative to Colorado ECMC Rule 211.” March 12, 2024, pp. 10-11. (Exhibit 4).

19 SUBJECT WELLS ARE NO LONGER USED OR USEFUL

- 1) Of the 50 wells Prospect owns, 19 of them are no longer “used or useful.”
 - a. Of the 19 Subject Wells, 12 have been shut in or temporarily abandoned for at least two consecutive years. Six of those wells have been continuously shut in or temporarily abandoned for a period of 12 to 25 years.
 - b. All 19 Subject Wells are “Low Producing Wells.” A “Low Producing Well” is a well that produces an average of less than 2 BOE / day.
 - c. To be considered no longer used or useful, the well needs to have been Low Producing (>2 BOE/ day) for at least three years. In this case, none of the wells have had production of more than 1 BOE per day over the last *four* years.
 - d. Only three of the 19 wells reported *any* production in 2023. One well reported 0.28 BOE per day. The other two were at less than 0.1 BOE per day.
 - e. Five of the remaining wells are injection wells that are serving the wells that are extremely low or non-producing. These wells are no longer effectively serving as water flood wells for enhanced oil recovery and therefore should also be plugged.
- 2) Prospect gives inadequate reasons for wells to be inactive on its Form 3 “Inactive Well List.” It simply states, “Codell Evaluation Conversion” for six wells in the County. It also lists a “planned plugging date” for five other wells but does not list them on the “out of service” list. (Exhibit 5).
- 3) Both Larimer County and the City of Fort Collins have local regulations that would require Prospect to obtain a local permit to complete a well from the Muddy formation to the Codell formation.
- 4) In response to another redevelopment proposal from Prospect, the ECMC Planning and Permitting Manager Sabrina Trask found the proposal constitutes a “*significant change to the design and operation of an oil and gas location*” and therefore required an Oil and Gas Development Permit and a Form 2A before the Form 2 could be considered.³ (Exhibit 6)
- 5) The Codell formation produces natural gas as well as oil. Prospect has no natural gas lines for any of its 50 wells. On February 8, 2024, Prospect was ordered to shut in a Codell well that it was illegally flaring for more than a year. (Exhibit 7)

³ Letters from Sabrina Trask, ECMC Planning and Permitting Manager, to Ward Giltner, Prospect Energy LLC, April 5, 2022. (Exhibit 6)

- 6) Larimer County and the City of Fort Collins certifies that each of the following wells in orange have been “Low Producing” for each year of the previous three years. (Exhibits 1, 2)

API #	Well Title	Spud Date	Well Status	City	Prod. 2020	Prod. 2021	Prod. 2022	Prod. 2023	Proposed to plug
506905113	MEYER 1	12/2/1924	SI		0.854	0.0164	0.0164	0	
506905114	MEYER 3	12/8/1952	SI		0.041	0.011	0	0	
506905115	WORTH (MUDDY UNIT) 1	10/24/1924	TA		0	0	0	0	12/6/2023
506905132	COMMUNITY 3	12/12/1956	SI		0.019	0.0247	0	0.027	
506905136	MARTINEZ, F G, 2	6/18/1960	SI		0	0	0	0	5/17/2024
506906094	MUDDY SANDSTONE 30-6	6/14/1980	SI	Ft Collins	1.35	0.5178	0.671	0	
506906095	MSSU 30-7	6/24/1980	IJ	Ft Collins	IJ	IJ	IJ	IJ	
506906137	COMMUNITY 6	11/19/1981	PR		0.035	0.509589	0.375	0.28	
506906255	MSSU 30-10	5/27/1985	SI	Ft Collins	0	0	0	0	
506906284	MSSU 30-17	2/27/1988	IJ	Ft Collins	IJ	IJ	IJ	IJ	
506906289	MSSU 19-9	4/17/1988	IJ		IJ	IJ	IJ	IJ	
506906307	MSSU 20-2	5/13/1992	SI		0.032	0	0.074	0	
506906309	MSSU 20-1	5/21/1992	SI		0	0	0	0	5/17/2024
506906310	CHEYENNE RIDGE 7-1	8/29/1992	SI		0.035	0.216	0.058	0.066	
506906312	MSSU 17-1	9/10/1992	TA		0	0	0	0	5/17/2024
506906313	MSSU 19-10	7/15/1992	TA/SI		0	0	0	0	
506906316	MSSU 31-1	8/4/1992	SI	Ft Collins	IJ	IJ	IJ	IJ	5/17/2024
506906332	KIIX 1	5/20/2005	SI		0.175	0.0329	0	0	
506906399	MARTINEZ 3	6/25/2010	SI		0.178	0.0795	0	0	

Table 3. Production numbers from 19 “Subject Wells.” Production numbers taken from COGIS.

- 7) **Prospect has announced that five wells will be plugged:** Worth (Muddy Unit) #1; Martinez F,G #2; MSSU 20-1; MSSU 17-1; MSSU 31-1.
- As part of its Form 3 Financial Assurance Plan, Prospect submitted an “Inactive Well List” (Exhibit 5.)
 - The Inactive Well List is required to contain, “A list of all the Operator’s Inactive Wells that includes the name, number, API number, status, reason for no or low production, and planned date for return to production or plug each Well.” (Rule 702.c).
 - Prospect stated it intended to plug five (5) of the 19 wells as part its Form 3 Financial Assurance Plan (Form 3 - “Inactive Wells”).
 - For the five wells, Prospect listed the reason for being inactive was, “Old well” and then went on to list the “Planned Plugging Dates.”

- e. Four of the wells have not been active for more than a decade. Two of the wells were last active before 1999 (the limit of COGIS records).
 - f. The “Planned Plugging Dates” for the wells were 12/6/2023 for 1 Worth (Muddy Unit) and the other four were listed as 5/17/2024.
 - g. Last year, Prospect filed only one Form 6 Notice of Intent to Abandon the Worth (Muddy Unit) #1 which was approved on 6/1/23. Prospect did not plug that well and the Form 6 expired on 11/30/2023 (Doc# 403406405).
 - h. Prospect has not refiled a Form 6 for the Worth (Muddy Unit) #1 or any of the other wells purported to be plugged in the next three months.
- 8) Meyer 1– API # 506905113**
- a. The Meyer 1 was spud in 1924 – nearly 100 years ago.
 - b. It has not produced at all since February 2022.
 - c. The last three years it produced 2021 - 0.0164; 2022 - 0.0164; and 2023 – 0 BOE/day far below 2 BOE required to be considered “Low Producing.”
 - d. It has 1 home within 500 feet; 39 within 1,000 feet; and 75 within 2,000 feet.
- 9) Meyer 3 – API # 506905114**
- a. The Meyer 3 was spud in 1952.
 - b. It has not produced at all since September 2021.
 - c. The last three years it produced 2021 - 0.011; 2022 - 0; and 2023 – 0 BOE/day far below 2 BOE required to be considered “Low Producing.”
 - d. In the Inactive Well List, Prospect claims it is considering using the well as a “fresh water source; research beneficial use” (sic.)
 - e. In 2023, the water to oil ratio on this well was 197.5 to 1.
 - f. It has 5 homes within 500 feet; 41 within 1,000 feet; and 84 within 2,000 feet.
- 10) Worth (Muddy Unit) #1 – API # 506905115**
- a. Worth (Muddy Unit) #1 was spud in 1924.
 - b. It is currently Temporarily Abandoned. It has been Temporarily Abandoned since before 1999.
 - c. The Worth (Muddy Unit) #1 was listed in the Form 3 Inactive Well List as slated for plugging on or before 12/6/2023.
 - d. A Form 6 Notice of Intent to Abandon was filed in 12/2022 and again in 5/2023. It still has not been plugged.
 - e. It has been an “Inactive Well” since 1999 but there has never been a Form 5B filed as required by Rule 434.c.
 - f. It has 3 homes within 500 feet; 15 within 1,000 feet; and 90 within 2,000 feet.
- 11) Community 3– API # 506905132**

- a. The Community 3 was spud in 1956.
- b. It has not produced at all since February 2022.
- c. The last three years it produced 2021 - 0.0247; 2022 - 0; and 2023 – 0.027 BOE/day far below 2 BOE required to be considered “Low Producing.”
- d. It has 2 homes within 500 feet; 16 within 1,000 feet; and 38 within 2,000 feet.
- e. The only reason given for the well being inactive is “intermittent producer.” It has produced 10 BOE or less each year for the last three years. It is barely producing at all. At \$78.64 / barrel the well is making less than \$2.00 / day. If operating costs are a conservative \$3,500 / month, this well is losing \$41,371 per year.

12) Martinez F,G #2 – API # 506905136

- a. Martinez F,G #2 was spud in 1960.
- b. It last produced in 2002. It was used as an injection well from 2002 to 7/2012 and has not been used at all since that time.
- c. It has 1 home within 500 feet; 6 within 1,000 feet; and 12 within 2,000 feet.
- d. The Martinez F,G #2 was listed in the Form 3 Inactive Well List as slated for plugging on or before 5/17/2024. No Form 6 has been filed.
- e. It has been an “Inactive Well” since 2012 but there has never been a Form 5B filed as required by Rule 434.c.

13) MUDDY SANDSTONE UNIT 30-6 – API # 506906094

- a. The Muddy Sandstone Unit 30-6 was spud in 1980.
- b. It has not produced at all since April 2022.
- c. The last three years it produced 2021 - 0.517; 2022 – 0.517 and 2023 – 0 BOE/day far below 2 BOE required to be considered “Low Producing.”
- d. In 2021-2022 it produced 372 BOE but 17,672 barrels of water.
- e. This well is within the City of Fort Collins. It has 3 homes within 500 feet; 12 within 1,000 feet; and 189 within 2,000 feet.
- f. It is considered “inactive” since it has not produced for more than one year but was not listed on the Form 3 Inactive Wells Report.

14) MSSU 30-7– API # 506906095

- a. MSSU 30-7 was spud in 1980.
- b. It has been used as an injection well since before 1999.
- c. This well is within the City of Fort Collins. It has 2 homes within 500 feet; 13 homes within 1,000 feet; and 88 within 2,000 feet.
- d. This well has been reported as shut-in 26 months over past 3-years.
- e. As an injection well, it has no reason to exist other than to support the Muddy Sandstone Unit 30-6 that produced 0 barrels last year. There are no other active producing wells near it.

15) Community 6– API # 506906137

- a. The Community 6 was spud in 1981.
- b. It has not produced at all since February 2022.
- c. The last three years it produced 2021 - 0.51; 2022 - 0; and 2023 – 0.28 BOE/day far below 2 BOE required to be considered “Low Producing.”
- d. It has 2 homes within 500 feet; 7 within 1,000 feet; and 40 within 2,000 feet.
- e. In 2023 it produced 103 BOE. At \$78.64 / barrel the well is making \$22.00 / day. If operating costs are a conservative \$3,500 / month, this well is losing \$33,900 per year.

16) MSSU 30-10– API # 506906255

- a. The MSSU 30-10 was spud in 1985.
- b. It has not produced since January, 2003.
- c. In its Form 3 Inactive Well Report, the reason Prospect gives for failing to produce this well for 21 years is “Waiting on Codell Permit for re-completion.”
- d. Prospect submitted a Form 2 for a recompletion into the Codell on 3/11/2019 but withdrew the same on 3/22/2019. (Doc # 401952695) .
- e. The well is within the City of Fort Collins. It has 6 homes within 500 feet; 40 within 1,000 feet; and 92 within 2,000 feet.
- f. The City of Fort Collins Land Use Code considers existing oil and gas facilities within the City that were established prior to April 14, 2023 as legal nonconforming uses. Enlargement or expansion of the use, including hydraulic fracturing into a new formation, is considered expansion and must be brought into conformance with the Land Use Code. *Land Use Code Section 3.12.2(C)(1)*.
- g. The expansion of use into the Codell would therefore require the well to request a City approval and compliance with all standards including zoning and setback restrictions. Fort Collins requires a working pad surface to be at least 2,000 feet from the nearest wall of any existing or platted building or occupiable space. *Land Use Code 3.12.4(A)(2)(a)(1)*.
- h. There are also no gas lines in the area for gas takeaway. The Codell is a known gassy formation. Producing the Codell would require pipeline takeaway. Prospect is currently seeking a variance from Rule 901 to allow it to flare another well (Docket# 231000316). As justification for flaring, Prospect states that, “The nearest sales line is approximately 5 to 6 miles away.” This well location is in the same general area and would face the same problem of lack of a sales line for the natural gas.

17) MSSU 30-17– API # 506906284

- a. MSSU 30-17 was spud in 1988.

- b. It has been used as an injection well since before 1999.
- c. This well is within the City of Fort Collins. It has 9 homes within 1,000 feet; and 35 homes within 2,000 feet.
- d. Like the MSSU 30-7 nearby, this injection well has no reason to exist other than to support the Muddy Sandstone Unit 30-6 that produced 0 barrels last year. There are no other active producing wells near it.

18) MSSU 19-9 – API # 506906289

- a. MSSU 19-9 was spud in 1988.
- b. It has been used as an injection well since before 1999.
- c. It has 2 homes within 500 feet; 7 homes within 1,000 feet; and 30 within 2,000 feet.
- d. As an injection well it has no reason to exist. There is an active injection well immediately between it and the only producing well in the area.

19) MSSU 20-2 – API # 506906307

- a. The MSSU 20-2 was spud in 1992.
- b. It has not produced at all since July 2022.
- c. The last three years it produced 2021 - 0.033; 2022 – 0.075 and 2023 – 0 BOE/day far below 2 BOE required to be considered “Low Producing.”
- d. It has 4 homes within 2,000 feet.
- e. It is considered “inactive” since it has not produced for more than one year but was not listed on the Form 3 Inactive Wells Report.
- f. It has been an “Inactive Well” since 2023 but Prospect has not filed a Form 5B filed as required by Rule 434.c.
- g. The MSSU 20-2 was listed in the Form 3 Inactive Well List as slated for plugging on or before 5/17/2024. No Form 6 has been filed.

20) MSSU 20-1 – API # 506906309

- a. The MSSU 20-1 was spud in 1992.
- b. It has been an “Inactive Well” since before 1999. Prospect has not filed a Form 5B filed as required by Rule 434.c.
- c. The MSSU 20-1 was listed in the Form 3 Inactive Well List as slated for plugging on or before 5/17/2024. No Form 6 has been filed.
- d. It has 1 home within 500 feet; and 2 within 2,000 feet.

21) CHEYENNE RIDGE 7-1 – API # 506906310

- a. The CHEYENNE RIDGE 7-1 was spud in 1992.
- b. It has not produced at all since July 2022.
- c. The last three years it produced 2021 - 0.2137; 2022 – 0.058 and 2023 – 0.066 BOE/day, far below 2 BOE required to be considered “Low Producing.”

- d. In 2023 it produced 24 BOE but 90 barrels of water.
- e. It has produced 24 BOE or less each year for the last two years. At \$78.64 / barrel the well is making less than \$2.00 / day. If operating costs are a conservative \$3,500 / month, this well is losing \$40,113 per year.
- f. This well has 4 homes within 1,000 feet; 22 homes within 2,000 feet.

22) MSSU 17-1 – API# 0506906312

- a. MSSU 17-1 was spud in 1992.
- b. It is currently temporarily abandoned. It was used as an injection well from at least 1999 to 2/2005 and has not been used at all since that time.
- c. The MSSU 17-1 was listed in the Form 3 Inactive Well List as slated for plugging on or before 5/17/2024. No Form 6 has been filed.
- d. It has been an “Inactive Well” since 2005 but there has never been a Form 5B filed as required by Rule 434.c.
- e. This well has 3 homes within 2,000 feet.

23) MSSU 19-10– API # 506906313

- a. The MSSU 19-10 was spud in 1992.
- b. It has not produced since 2010.
- c. In its Form 3 Inactive Well Report, the reason Prospect gives for failing to produce this well for 14 years is “Waiting on Codell Permit for re-completion.”
- d. Prospect has not submitted a Form 2 for a recompletion into the Codell. On 3/22/2019 Prospect filed a Form 4 sundry notice that asked for the well to be continued in TA status because “Prospect plans to retain well for future use as an injector in waterflood project.” (Doc# 401981605)
- e. Larimer Code, and ECMC regulations, require a new permit if there is to be a change of use or recompletion into a new formation. Larimer County Land Use Code requires a “substantial modification” to an existing oil and gas facility to go receive a new oil and gas permit. *Land Use Code 11.2.9A*. A “substantial modification” includes recompletion into a new geologic formation.
- f. This well has 11 homes within 1,000 feet; and 42 within 2,000 feet.

24) MSSU 31-1 – API # 506906316

- a. MSSU 31-1 was spud in 1992.
- b. It is currently shut in. It was used as an injection well from since before 1999 to 11/2012 and has only been used as an injection well for three months since that time.
- c. The MSSU 31-1 was listed in the Form 3 Inactive Well List as slated for plugging on or before 5/17/2024. No Form 6 has been filed.

25) KIIX 1– API # 506906332

- a. The KIIX 1 was spud in 2005.
- b. It has not produced since November 2021.
- c. The last three years it produced 2021 - 0.0329; 2022 – 0; and 2023 – 0 BOE/day, far below 2 BOE required to be considered “Low Producing.”
- d. In its Form 3 Inactive Well Report, the reason Prospect gives for failing to produce this well is “Waiting on Codell Permit for re-completion.”
- e. Prospect has not submitted a Form 2 for a recompletion into the Codell.
- f. Larimer Code, and ECMC regulations, require a new permit if there is to be a change of use or recompletion into a new formation. Larimer County Land Use Code requires a “substantial modification” to an existing oil and gas facility to go receive a new oil and gas permit. *Land Use Code 11.2.9A*. A “substantial modification” includes recompletion into a new geologic formation.
- g. On April 5, 2022, Planning and Permitting Manager Sabrina Trask denied Prospect’s request to recomplete the Kiix well into the Codell formation. Noting the well was within 500 feet of a reservoir, Ms. Trask stated a new Form 2 could not be considered “without a signed waiver from Colorado Parks and Wildlife (“CPW”) and an approved Form 4, Sundry Notice or Form 2A documenting relief.” (Exhibit 6)
- h. This well has 1 home within 500, 4 homes within 1,000 feet; and 20 within 2,000 feet.

26) MARTINEZ 3 – API # 506906399

- a. The MARTINEZ 3 was spud in 2010.
- b. It has not produced since November 2021.
- c. The last three years it produced 2021 - 0.0795; 2022 – 0; and 2023 – 0 BOE/day, far below 2 BOE required to be considered “Low Producing.”
- d. In its Form 3 Inactive Well Report, the reason Prospect gives for failing to produce this well is “Needs repairs - high flowline pressure.”
- e. This well has 5 homes within 1,000 feet; and 14 within 2,000 feet.

19 SUBJECT WELLS ARE A THREAT TO PUBLIC HEALTH, SAFETY, WELFARE, AND THE ENVIRONMENT

- 1) Prospect Energy has been found to have violated numerous state ECMC rules in the past three years. They include:
 - a. **Missing Bradenhead tests.** Notice of Alleged Violations issued on 1/1/2022 (for 2021); 12/26/23 (for 2022).

- b. **A Notice of Alleged Violation.** No. 403418205 for flaring at the Hearthfire #1 location was issued to Prospect on May 31, 2023. Prospect failed to shut in the well as ordered.
 - c. **901.a Order.** On February 8, 2024, ECMC Director Julie Murphy issued a rare Rule 901.a Order. It stated that “the Director has objective grounds and reasonable cause to determine that Prospect, in the conduct of oil and gas operations, *is impacting or threatening to impact public health, safety, welfare, the environment, and wildlife resources.*” (Emphasis added.) It requires that, “Prospect immediately cease all venting and flaring at the Hearthfire #1 Well, except under the circumstances detailed in 903.d.(1)(A), (B), (D), or (E). Moreover, Prospect will immediately cease all production activities at the Hearthfire #1 Well.” (Exhibit 7)
- 2) Prospect has had three spills in the past two years that have resulted in impacts to the environment.
- a. On 5/9/2022, The produced water malfunction caused oil to enter the vapor line at the top of the produced water tanks. The oil in the vapor line flowed to the Tornado TEC-4-CS combustor, where it burned on contact, causing a visible flame and black smoke. Fire department responded to smoke.
 - b. On 10/25/22, Produced water from a flowline between the MSSU 19-5 (API 05-069-06301-00) and the Krause water injection plant was discovered in the open, vacant field used for radio/satellite towers.
 - c. On 10/31/2023, a City of Fort Collins employee discovered a large flowline leak that made it to a storm detention pond then to an irrigation canal.
- 3) There have also been numerous odor complaints submitted to the ECMC over the past two years. Since 2022, there have been six odor complaints made involving the Fort Collins tank battery and the Krause tank battery.
- 4) Prospect has a history of air quality violations making closure necessary to protect public health, safety, welfare, and the environment. These include:
- a. **Compliance Advisory October 2, 2019.** (Exhibit 8)– (Krause and Fort Collins-Meyer facilities)
 - i. Krause Location
 - (1) Failed to file an Air Pollution Emission Notice (“APEN”) for a separator for 2 years
 - (2) Venting gas at a new facility for 2.5 years without obtaining a construction permit from the Division
 - ii. Fort Collins-Meyer Location
 - (1) Failed to file an Air Pollution Emission Notice (“APEN”) for a

- separator for 2 years
- (2) Venting gas at a new facility for 2.5 years without obtaining a construction permit from the Division
- iii. The APCD entered into an “early settlement agreement” with Prospect Energy on April 15, 2020 for \$7,350.
- b. **Warning letter November 10, 2020.** (Exhibit 9) However, prior to the settlement agreement, an inspection of the Krause location on October 18, 2019 found (1) emissions venting from the thief hatch of two condensate tanks, and (2) failed to provide evidence or records that it was using BMP to prevent venting during liquids unloading. These violations resulted in a warning letter that was submitted the following year on November 10, 2020. No penalties were assessed.
- c. **Immediate Notice of Violation December 6, 2021.** (Exhibit 10) On November 15, 2021, APCD staff observed emissions from a crack or hole in the roof of the center produced water storage tank, which has been ineffectively repaired since at least March 2, 2021. The Company failed to minimize leakage of volatile organic compounds to the atmosphere to the maximum extent practicable, violating AQCC Regulation No. 7, Part D § I.C.1.b.
- i. The Company failed to operate without venting hydrocarbon emissions, violating AQCC Regulation No. 7, Part D § II.C.2.a.
- d. **Compliance Advisory March 2, 2022.** (Exhibit 11) A summary of the alleged violations at the Krause facility included:
- i. Failure to file Air Pollution Emission Notice (“APEN”) for Produced Water tanks due 4/30/21; submitted 5/27/21.
- ii. Failure to file APEN renewal for oil tanks due 12/5/2020; submitted 5/27/21.
- iii. Failure to obtain a construction permit for produced water tanks - they filed for a GP05 on 5/27/21.
- iv. Failure to operate and maintain oil and Produced water tanks so as to minimize emissions to maximum extent practicable. Emissions were detected 1/29/21; 3/2/21; 3/4/21; 3/5/21; 4/1/21; 6/9/21; 1/12/22; 1/31/22; and 2/9/22.
- v. Failure to operate without venting (at dates above) and failure to confirm within 24 hours that actions taken to return tanks to operation were effective.

- vi. Missing leak detection and repair (“LDAR”) quarterly inspections (all four quarters Jan-20 to Dec-20) and monthly (May-21, Jul-21, Aug-21, Oct-21).
 - vii. Reg 2 Odor Violation on January 28, 2022.
 - viii. Failure to mark AIRS ID numbers on separator, produced water tanks, and enclosed combustor.
- e. **Compliance Advisory August 9, 2022.** (Exhibit 12) A summary of the alleged violations at the Fort Collins Tank Battery included:
- i. Prospect failed to file an APEN for the produced water tanks (AIRS Point 005), in violation of AQCC Regulation Number 3, Part A, § II.A.1.
 - ii. Prospect failed to submit revised APENs for AIRS Points 002 and 003 until May 27, 2021, in violation of AQCC Regulation Number 3, Part A, §§ II.C.1.e and II.C.3.a.
 - iii. Until May 27, 2021, Prospect failed to obtain a construction permit for the produced water tanks (AIRS Point 005), in violation of AQCC Regulation Number 3, Part B, § II.A.1.
 - iv. The produced water tanks overflowed, causing produced water to flow into the Facility’s Tornado TEC-4-CS enclosed combustion device (ECD), resulting in a fire and visible emissions from the ECD. On May 9, 2022, Prospect failed to operate and maintain hydrocarbon liquid and produced water storage operations so as to minimize emission of volatile organic compounds to the atmosphere to the maximum extent practicable, violating AQCC Regulation Number 7, Part D, § I.C.1.b; GP05, Condition IV.B.3; and GP08, Condition IV.B. Also, Prospect failed to ensure that the combustion device at the Facility had no visible emissions, violating AQCC Regulation Number 7, Part D, § I.C.1.d; Permit Number 19LR0686, Condition 13; GP05, Condition IV.A; and GP08, Condition IV.A.2.
 - v. Prospect failed to complete quarterly AIMM inspections in the second, third, and fourth quarters of 2020; and failed to complete monthly AIMM inspections in January, February, April, May, July, August, October, and November of 2021, violating AQCC Regulation Number 7, Part D, § II.E.4.d.
 - vi. Prospect failed to accurately calculate emissions and provide the Division with an accurate emissions compliance record for the Facility, violating GP05, Condition V.B.4 and V.B.4.b.

- f. **Cease and Desist Order issued August 24, 2022.** (Exhibit 13) To stop illegal emissions at the Krause Tank Battery.
- i The Division has determined that air pollutants from Prospect’s Krause Tank Battery activities “is of such a nature as to cause extreme discomfort or that it is an immediate danger to the welfare of the public because such pollutants make habitation of residences or the conduct of businesses subject to the pollutants extremely unhealthy or disruptive.”
 - ii ***The Division ordered Prospect to cease & desist from operating the Krause Tank Battery, effectively immediately.*** “Specifically, Prospect shall discontinue any and all activities at Krause Tank Battery that have actual or potential to emit air pollutants. Prospect may not recommence operation and the emission of pollutants at Krause Tank Battery unless and until Prospect demonstrates to the Division that the facility complies fully with AQCC Regulations.”
- g. **APCD – Compliance Order on Consent** (Exhibit 14) – *Negotiated enforcement settlement with Prospect Energy.*
- i. This negotiated settlement with the Air Pollution Control Division (“APCD”) was a long time coming. It addresses numerous air quality violations at both the Fort Collins tank battery and the Krause tank battery, going back to 2021.
 - ii. The Compliance Order on Consent requires Prospect to monitor for Hydrogen Sulfide (H₂S) at the Krause facility and require the facility to shut in if H₂S is detected in higher concentrations.
 - iii. “Hydrogen sulfide (H₂S) is a colorless gas with a strong odor of rotten eggs. Exposure to hydrogen sulfide may cause irritation to the eyes and respiratory system. It can also cause apnea, coma, convulsions; dizziness, headache, weakness, irritability, insomnia; stomach upset...”⁴
 - iv. The APCD levied \$337,050.00 in penalties to Prospect Energy.
- 5) Low production wells represent a small portion of our oil and gas production but a very large portion of methane emissions. According to a recent study, low production wells represent roughly half (37—75%) of all oil and gas well site methane emissions, and a production-normalized methane loss rate of more than 10%.⁵ (Exhibit 15)

⁴ Centers for Disease Control and Prevention website, visited 3/12/24

<https://www.cdc.gov/niosh/topics/hydrogensulfide/default.html>

⁵ Omara, M., Zavala-Araiza, D., Lyon, D.R. *et al.* Methane emissions from US low production oil and natural gas well sites. *Nat Commun* 13, 2085 (2022). <https://doi.org/10.1038/s41467-022-29709-3> (Exhibit 14).

II. RELIEF REQUESTED

- 1) Larimer County and the City of Fort Collins request 19 wells listed above be required to be placed on the “out of service well list” and plugged and reclaimed as they are “no longer used or useful” pursuant to Rule 211.
- 2) Larimer County and the City of Fort Collins request these wells be plugged, ten per year. All wells should be plugged and abandoned no later than July 1, 2026.

III. PRESENTATION TO COMMISSION

Larimer County and the City of Fort Collins plan to present witnesses to the Commission that will testify to the following:

- 1) The cost of plugging and reclaiming Prospect well sites;
- 2) The 19 Subject Wells that are no longer “used or useful” and therefore should be plugged and reclaimed pursuant to Rule 211,
- 3) The threat Prospect wells pose to public health, safety, and welfare; and
- 4) Other issues that may arise in our review of materials, in briefing, or during the hearing.

IV. POTENTIAL WITNESSES

- 1) Letha C. Lencioni, P.E., WSP Vice-President, Chief Petroleum Engineer, Registered Petroleum Engineer, State of Colorado #29506.
- 2) Cassie Archuleta, Lead Air Quality Specialist and Local Government Designee for the City of Fort Collins.
- 3) Lea Schneider, Environmental Health Planner, Larimer County Health and Environment Department
- 4) Matt Lafferty, AICP, Principal Planner, Local Government Designee, Larimer County

Larimer County and the City of Fort Collins reserve the right to add to their witness list after briefing.

V. LIST OF EXHIBITS

Exhibit 1 – Certification of good faith consultation from Larimer County, April 11, 2024.

Exhibit 2 – Certification of good faith consultation from the City of Fort Collins, April 2, 2024.

Exhibit 3 – Letter from Larimer County and City of Fort Collins to Prospect Energy, LLC, “Larimer County and City of Fort Collins analysis of Prospect Energy wells,” February 26, 2024.

Exhibit 4 – Lencioni, Letha, WSP, “Review of wells in the Fort Collins Field relative to Colorado ECMC Rule 211.” March 12, 2024.

Exhibit 5 – Prospect Energy, LLC, “Inactive Well List” submitted as part of its Form 3 Financial Assurance Plan, May 18, 2023.

Exhibit 6 – Letters from Sabrina Trask, ECMC Planning and Permitting Manager, to Ward Giltner, Prospect Energy LLC, April 5, 2022.

Exhibit 7 – ECMC, Director’s Order Pursuant to Rule 901.a. Prospect Energy LLC, February 8, 2024.

Exhibit 8 – APCD, Compliance Advisory, Prospect Energy, LLC, Case No. 2019-167, 2019-168, October 2, 2019.

Exhibit 9 – APCD, Warning Letter to Prospect Energy, LLC, “Regarding non-compliance at Krause Facility AIRS No: 069-0173, November 10, 2020.

Exhibit 10 – APCD, Immediate Notice of Violation, Prospect Energy, LLC, Case No. 2021-119, December 06, 2021.

Exhibit 11 – APCD, Compliance Advisory, Prospect Energy, LLC, Case No. 2022-020, March 2, 2022.

Exhibit 12 – APCD, Compliance Advisory, Prospect Energy, LLC, Case No. 2022-155, August 9, 2022.

Exhibit 13 – APCD, Cease and Desist Order, Prospect Energy, LLC, “Krause Tank Battery, a well production facility located 4.2 miles northeast of Highway 14 and US Highway 287, Larimer County, Colorado Facility AIRS ID 069-0173,” August 24, 2022.

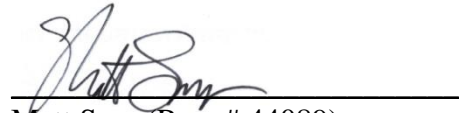
Exhibit 14 – APCD, Compliance Order on Consent, Prospect Energy, LLC, CASE NOS. 2021-119, 2022-020, 2022-073, 2022-155, February 15, 2024.

Exhibit 15 – Omara, M., Zavala-Araiza, D., Lyon, D.R. et al. Methane emissions from US low production oil and natural gas well sites. Nat Commun 13, 2085 (2022). <https://doi.org/10.1038/s41467-022-29709-3>.

VI. TIME REQUESTED

Larimer County and Fort Collins request four hours to present its witnesses and for rebuttal.

Respectfully submitted on this, 15th day of April, 2024.



Matt Sura (Reg. # 44089)

Special Counsel to Larimer County, City of Fort Collins

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the LARIMER COUNTY AND CITY OF FORT COLLINS APPLICATION FOR RULE 211 HEARING TO PLUG AND ABANDON WELLS AND CLOSE OIL AND GAS LOCATIONS was electronically filed on the COGCC's e-filing system, on April 15, 2024.

/s/ Matt Sura