

Lexam Chronology – Selected paragraphs from Articles in **The Crestone Eagle** regarding Lexam Drilling on Baca National Wildlife Refuge written by Lisa Cyriacks.

These paragraphs pertain to actions by U.S. Fish and Wildlife Service regarding Lexam drilling proposal. If you have any questions or want me to send you the entire article, just let me know. Christine (719) 256-4758 or (719) 589-1518.

August 2006

Ron Garcia, Baca National Wildlife Refuge Manager, announces informational meeting regarding Lexam Explorations plan to drill two test wells. August 9th at POA Building. In the article it states Lexam's notification to Refuge for plan's to "drill for oil."

"An interesting item to note is that, should the wells go into production, the Bureau of Land Management would authorize drilling on any portions of the refuge outside the boundary of the Baca Grant to allow the government to take advantage of comparable profits."

"The refuge is exploring all options, including legal, that are available to them in order to mitigate the impact of this exploration and test drilling. Surface access and use on the Refuge is provided by Lexam's ownership of the mineral rights, and is further provided for by a Surface Use Agreement signed by American Water Development (AWDI) in 1992 that is binding on surface owners who are successors to AWDI."

"Gary Boyce extended this agreement with Lexam Explorations Inc., in 2002. This agreement is scheduled to expire in 2011, unless Lexam Explorations has achieved production. Solicitors for the Department of the Interior are reviewing and preparing an interpretation of that agreement and the scope of the Refuge's authority in relationship to the agreement."

"The agreement gives the mineral rights owner the right to enter the property for the purpose of exploration, development and mining of minerals found on the property. It also grants the mineral rights owner the exclusive right to determine the extent of activities on the property, and to construct roadways for access."

"Ron is also compiling a list of negotiable items to bring to the table. He has already made the request twice to relocate the wells further west due to concerns about ecologically sensitive riparian areas and wet meadows. Each time Lexam's staff has carried the request back to the scientists and, the first time, complied with his request. He is hoping to be able to request that Lexam use a closed loop system that gives more protection to the land, water and especially birds. A closed system utilizes a tank rather than an open pit to contain waste and contaminants, and would result in less disturbance to the soil and easier clean up of the site."

"Ron is committed to minimizing the impact of this exploration and keeping the process as environmentally friendly as possible, given the limitations presented under pre-existing agreements. He is requesting the community's assistance as he enters into negotiations with Lexam representatives. If you are unable to attend the meeting, but have concerns or information to share, you can reach Ron at the Baca Wildlife Refuge office at (719) 256-5527 or by e-mail: ron_j_garcia@fws.gov."

September 2006 –Convening of second Lexam public Meeting, Sonoran helps to Coordinate, Tuesday September 12th at POA Hall. Representatives of Lexam Explorations and Colorado Oil and Gas Commission will be there.

Review about applications that will be made to the state, rights of property owners and avenues to mitigate impacts of drilling and proposed strategies to develop a coordinated plan."

"U.S. Fish and Wildlife, the federal agency that manages the surface rights, has a legal mandate to accommodate the exploration and development of mineral interests; but also has a mandate to protect the resources on the refuge by laying out the concerns about surface impacts due to the drilling. At this time, Lexam has agreed to negotiate on how the drilling and exploration will be done. There are federal regulations that apply, and U.S. Fish and Wildlife Service is complying with the procedures that apply."

October 2006 – Community turns out to express concerns

"U.S. Fish and Wildlife Service and has not really had the time to collect baseline data to determine what ecosystems need what level of protection, or even a complete assessment of what species are present on Refuge lands."

"What is not at question is Lexam's legal right to exercise their subsurface mineral rights and proceed with exploration. Ron Garcia, Refuge Manager, and Jim Spehar, Sonoran Institute, are interested in forming a community workgroup to identify community concerns and in facilitating discussion among all parties involved to provide opportunities to mitigate impacts."

"Jim Spehar reminded the crowd Tuesday night that Lexam had no legal obligation to hear or factor in community concerns."

"Jim Donaldson (Lexam) made it clear that Lexam would be working with Ron Garcia of the Baca Wildlife Refuge to negotiate terms for proceeding with the exploration."

"Peggy Utesch, western slope resident said she had no rights when it came to mineral exploration "All the laws are written in their favor." Ms. Utesch helped to formulate the Rifle, Silt, New Castle Community Development Plan. Her main message for citizens was to educate themselves and stay involved-"serving as the eyes and ears on the ground to force accountability." A third Meeting was scheduled for October 3rd.

November 2006 – Baca Wildlife refuge Explores options with Lexam

"The Surface Use Agreement gives the mineral rights owner the right to enter the property for the purpose of exploration, development and mining of minerals found on the property. It also grants the mineral rights owner the exclusive right to determine the extent of activities on the property, and to construct roadways for access."

"Lexam had no legal obligation to hear or factor in community concerns. Jim Donaldson, Lexam's U.S. Operations Manager, did indicate a willingness to listen to community concerns and consider mitigation where possible. But he also made it clear that Lexam would be working with Ron Garcia of the Baca Wildlife Refuge to negotiate terms for proceeding with the exploration."

"The U.S. Fish and Wildlife Service recently took over management of the land dedicated to the Wildlife Refuge, and has not really had time to collect baseline data to determine which ecosystems or cultural resources need what level of protection, or even a complete assessment of what is present on Refuge lands."

December 2006 – November 17th, Kim Malville of Crestone/Baca Land Trust distributes press release indicating that a FOIA request was sent to the U.S. Fish and Wildlife Service for all records and information relating to proposed oil and gas exploration or development on the Baca National Wildlife Refuge. FOIA was submitted by University of Denver Law Clinic. CBLT is particularly interested in learning who made the determination that standard procedures required under NEPA were not needed and on what basis that determination was made." The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making process by considering environmental impacts of their proposed actions, and reasonable alternatives to those actions." In particular, we consider it highly unusual that the proposed drilling on a National Wildlife Refuge has apparently not required an EIS and a public hearing."

December 2006 – Negotiations on-going with Lexam

"Over 40 cultural sites have been identified by the archeological survey crews which has resulted in re-routing the seismic trucks away from those sites. One out come of the meetings with Sonoran Institute and Ron Garcia, Baca Wildlife Manager, was a formation of a small community group to work with Ron to identify community concerns and participate in the negotiation process with Lexam."

January 2007 – Water Watch Alliance Forms

Small community group to work with Ron Garcia, BNWR Manager has named itself Water Watch Alliance. SLVEC is raising funds to pay the legal fees to retain an attorney to review the real estate agreements that were part of the transfer of the Baca NWR from The Nature Conservancy to U.S. Fish and Wildlife Service

February 2007 – Lexam to start seismic testing, drilling permits in process

Lexam Explorations Inc., will be conducting seismic tests February 2007 on the land just west of the grants of the Baca Grande Sub-division. At the request of Ron Garcia, Baca National Wildlife Refuge Manager, the seismic testing is being conducted while the ground is frozen to minimize damage. The seismic contractor has also agreed to limit stream crossings to already existing points of access. USFWS employees will monitor the entire process that includes 200+ miles of seismic lines.

Due to Lexam's failure to file the cultural assessment with the proper agencies prior to scheduling with the seismic sub-contractor, the crew has been waiting on the ground since mid-January. The crew laid the lines for the truck to follow on foot, since they do not have clearance to use machinery on the site yet. The seismic testing is on hold pending clearance from the State of Colorado. The cultural assessment revealed forty plus sites, requiring the survey crew to re-route the lines for the seismic trucks to follow.

Mid-January, (January 11) Dave Dillion of COGCC met with representatives of Lexam, Saguache County, U.S. Fish and Wildlife Service, SLVEC, Crestone/Baca Land Trust, Baca Water and Sanitation Dist., to review conditions being added to the state drilling permits.

It needs to be noted here that SLVEC invited ourselves to this meeting after the County called and told us about the meeting. We happen to have a good relationship with the County Commissioners. I then informed other community members and made sure that someone from Baca Water and Sanitation Dist was there. If it weren't for the County, I do not think U.S. Fish and Wildlife Service would have invited us to this critical meeting. These are my minutes from that meeting.

Hi Folks:

Yesterday, Thursday, January 11th, a few of us locals met with representatives of the Oil and Gas Commission, Lexam Reps., Saguache County Reps., and Ron Garcia with U.S. Fish and Wildlife at the Baca

National Wildlife Refuge Headquarters. I'm sure Lisa Cyriacks will do a thorough article for the Crestone Eagle, please look for it, but in the meantime, I just wanted to give folks a brief update.

David Dillion of the Oil and Gas Commission called the meeting to review the "conditions for Lexam's permit" and find out if U.S. Fish and Wildlife and Saguache County, specifically, had any other concerns regarding this permit. Jack Clark, a Lexam rep., gave a quick summary regarding the Seismic evaluation and water sampling that had been done previous to this meeting. He felt confident in the baseline data that has been collected for both surface and groundwater quality, totalling 33 sampling sites. In terms of the seismic work, some preliminary work has been done regarding a cultural resource inventory. He also mentioned that U.S. Fish and Wildlife requested that the seismic work be done now, while the soil is hard and less chance for damage.

Clark then went into the process for drilling the 2-14,000 ft. wells. He mentioned that the drilling of the two test wells would be a 24 hour operation and each well would take about 75 days. There will be 70 Haliburton round trip truck loads over 5 days bringing in the rig, which will be in pieces and assembled on the drill pad. The rig on the drill pad will be about 800,000 lbs. There was discussion about road bed, (they are working to approximate truck load) which is why the county was present and SLV Earth movers, to help determine round trip truck loads. There will be diesel trucks for the rig, 5 trucks to bring in casing, supply trips and employees (1/2 dozen or so) and then there was discussion about what will need to be hauled out. Deb Phencie, representing Baca Grande Water and Sanitation Dist., asked a lot of very good questions about leaving foreign sub-surface material (the mud slurry that they use to bring up the underground dirt called drill cuttings) to the surface and how to dispose of it. They estimated about 350 yards for each well so to remove from site would take about 20-35 truck loads. That issue of disposal came to no conclusions by the end of the meeting, but left up to future discussions between Lexam and U.S. Fish and Wildlife Service.

Lexam will be building some new road to well #5 (I think about a mile) and upgrade a 2-track road to well #6. Ron Garcia with the Wildlife Refuge plans on revegetating these roads and bringing them back to their previous condition if Lexam's efforts don't find any natural gas. Well # 5 is not that far from the Willow Creek drainage and even closer to a large meadow. Lexam has the opportunity to move these wells short distances after the seismic testing if they determine they may have better results. They will have to contact Oil and Gas about this but a readjustment of their application will all that will be required. Garcia hopes Lexam will move the wells farther from the meadow and not closer.

Apparently, some of Lexam's basic finding's on these test wells will be available to the public though the Oil and Gas Commission 6 months after they complete drilling, USGS (U.S. Geological Survey) is eager to get the data.

The Rio Grande Water Conservation District wrote a letter to the Oil and Gas Commission and stated that they believe from previous court data that the unconfined aquifer may be much deeper in this area so are recommending a 3,000 ft. casing, Dillion plans on calling Steve Vandiver at the Water District to clarify.

Lexam also mentioned that they would be calling for a meeting with the local Fire Depts. and EMT's to go over safety protocol and recommendations.

When I asked about the NEPA (National Environmental Policy Act) and whether a federal public process would be triggered Ron Garcia with the Refuge said that since Lexam is a private company and this is not a federal action that NEPA does not apply in the case. Instead, the Refuge is working on a "Negotiated Operating Plan" with Lexam. I told Ron and the Lexam Reps., that SLVEC did not agree with that assessment and we would be in contact with them after our research because we feel NEPA does apply. I also asked about doing a biological inventory and Ron mentioned that a preliminary inventory was done a little while back when they first heard about this and I asked if he had gotten in touch with (Colorado Natural Heritage Program) CNHP yet (the Crestone/Baca Land Trust has arranged for John Sovell from CNHP to come down and do a small scale inventory) and he said that he would have to see what transpires, that "timing" is critical right now and not sure how he will fit it all in? (Not quite sure of his response but I think we need to keep gentle pressure on him regarding the importance of this.)

They plan on starting the drilling, if things line up correctly sometime this spring or early summer. Can't wait.

Thanks for your time and interest in this matter.

The rest of the newspaper article.

"The COGCC had not yet issued the two drilling permits. A result of the meeting in January was the identification of sixteen conditions for the permits-most of which deal with the protection of water quality, prevention of surface contamination by drilling processes, and minimizing long-term surface impacts."

"Chris Canaly, San Luis Valley Ecosystem Council (SLVEC), presented the community's questions and concerns regarding an Environmental Impact Statement (EIS) of the areas impacted. USFWS has made a determination that a National Environmental Policy Act (NEPA) review, including an EIS, is not required. Instead, Lexam has agreed to negotiate an Operating Plan with USFWS that will include an environmental analysis."

"SLVEC and WWA do not agree with the USFWS determination that NEPA is not a required process and will have the relevant NEPA and surface use agreement reviewed by legal counsel."

March 2007 – Lexam completes seismic survey

"seismic testing was conducted on approximately 25 square miles of the refuge." Throughout the process,

USFWS employees worked closely with Lexam and Polaris, their seismic contractor, to take additional steps to protect the natural and cultural resources of the refuge.”

“Late in 2006 a cultural resource survey was conducted for the entire area by TRC Mariah Associates, Inc., hired by Lexam and approved by the USFWS. All areas of cultural/historical significance were mapped, documented and were excluded from any seismic activities. Baca Refge manager Ron Garcia, also spent many hours with field representatives of the seismic company to identify, map and exclude several other areas of concern such as sensitive fish habitats, riparian corridors, stabilizing dune areas and sensitive drainages and ditches. USFWS employees monitored the mapping process that includes 200+ miles of seismic testing lines.

April 2007

Over view of Oil and Gass Commission changes under Ritter

Specific overview of House Bill 1252 –offer more protection of surface rights to property owners

Also, House Bill 1298, require COGCC to work with the State Division of Wildlife