

May 27, 2008

**VIA E-MAIL**

David Neslin, Esq.  
Acting Director  
Colorado Oil & Gas Conservation Commission  
1120 Lincoln Street, Suite 801  
Denver, CO 80203

Re: Docket No. 0803-RM-02  
Matter of Changes to the Rules and Regulations of the Oil and Gas  
Conservation Commission of Colorado

Dear Mr. Neslin:

At the opening rule making proceedings held in the referenced matter on May 22, 2008, the Commission requested that the parties provide time allocation proposals to you by e-mail. The Colorado Association of Homebuilders ("CAHB") and the National Association of Industrial and Office Properties ("NAIOP") submit the following proposal as requested by the Commission.

Although I met with some representatives of the Landowner/Royalty Group, not all parties or counsel for parties within that group were in attendance at the May 22, 2008 hearing. While the three (3) hours are woefully inadequate, those present agreed in principle to an allocation of time for the presentation of their direct cases as follows:

Agricultural Group	1 hour
CAHB/NAIOP	1 hour
Landowner Group	½ hour
Royalty Group	½ hour

The Landowner/Royalty Group understands that this time does not include any time that may be utilized by those parties for the presentation of public comment during the public comment portions of the hearing. Moreover, the Landowner/Royalty Group understands that this allocation of time does not include an equal amount of time estimated by the Commission staff to be needed for questions by the Commission.

Concurrently with the submittal of this letter to you, CAHB and NAIOP are moving the Commission for reconsideration of the allocation of only three (3) hours to this group. Three hours is insufficient time for this significant and diverse group of parties, representing interests in agricultural businesses, agricultural trade associations, farmers, ranchers, individual property owners, residential and commercial builder, developer and owner trade associations, mineral owners, and royalty owners to

adequately present their direct cases. CAHB and NAIOP are requesting that the group be allocated 7½ hours as requested on May 15 and 22, 2008.

CAHB and NAIOP are also requesting a clarification and order that any time not used by the Commission for questions of witnesses and counsel for this group be allocated back to this group for presentation of its direct case and/or rebuttal.

On May 22, 2008, the group also discussed what areas, if any, might be appropriate for consolidation. There are two (2) primary areas involving preservation of private property rights and preservation of rights established through private contracts such as surface use agreements between landowners and the oil and gas industry that may have some commonality. Otherwise, there are numerous and diverse issues raised by all parties in the Landowner/Royalty Group that cannot be consolidated. For example, CAHB and NAIOP have raised issues in their prehearing statement, direct testimony and alternatives regarding the following:

1. Surface Owner Notice of and Participation in Comprehensive Drilling Plans under Rule 216 and in Memorandums of Agreement under Rule 521;
2. Disclosure of Surface Owner Protections, Location Permit Duration and Location Permit Approval under Rule 303;
3. Surface Owner Notice and Waiver under Rule 305;
4. Surface Owner Consultation and Waiver under Rule 306;
5. Setbacks under Rule 603;
6. Surface Protection Bonds under Rule 703; and
7. Surface Use Agreements under the part 1000 Rules.

Except as noted above, these specific issues are not necessarily duplicated by any other parties in the Landowner/Royalty Group, and are not proper for consolidation. Other issues raised by other parties that cannot be consolidated include, for example, privacy, intrusion, confidentiality, takings, use of produced water, economic effects on businesses and individuals and perhaps, basin specific issues.


CAHB and NAIOP intend to make a brief opening statement to the Commission, and further request that they be allowed to tender their witness and exhibits to the Commission upon issues 2, 5, 9, 10, and 12, identified in the May 9, 2008 Third Prehearing Order, at one time rather than as each specific issue is heard. In that fashion, efficiency will be promoted not only for these parties but also for the rule making process so that the witness does not have to make five separate appearances on five separate issues that may be considered for hearing on five separate days. Your consideration of this request is appreciated.

Mr. David Neslin  
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Do not hesitate to contact me if you have any questions regarding the information provided in this letter.

Very truly yours,

DUFFORD & BROWN, P.C.

  
Randy Feuerstein  
Randy J. Feuerstein

RJF/kam

cc: Mr. Rob Nanfelt (via - email)  
Mr. Chris Elliott (via - email)  
Mr. Bob Moody (via - email)  
All parties of record (via - email)