

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

IN THE MATTER OF CHANGES TO THE	)	CAUSE NO. 1-R
RULES AND REGULATIONS OF THE OIL	)	
AND GAS CONSERVATION COMMISSION	)	DOCKET NO. 0803-RM-02
OF THE STATE OF COLORADO	)	

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**WELD COUNTY COALITION  
CONSENSUS ALTERNATE PROPOSAL**

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The Weld County Coalition, which includes Anadarko Petroleum Corporation (“Anadarko”), Noble Energy, Inc. (“Noble”), Petro-Canada Resources (USA) Inc. (“Petro-Canada”), the American Royalty Council (“ARC”) and Weld County (collectively the “Weld County Coalition”), submits this Consensus Alternate Proposal as provided by Colorado Oil and Gas Conservation Commission (“COGCC” or the “Commission”) Rule 529 in connection with the Commission’s consideration of Draft Rules for oil and gas development in Colorado pursuant to House Bills 1298 and 1341 (“Draft Rules”), adopted by the Colorado Legislature in 2007. This Consensus Alternate Proposal is also submitted in accordance with and pursuant to the First, Second and Third Prehearing Orders, Cause No. 1R, Docket No. 0803-R-02 in this rulemaking proceeding.

**I. STATEMENT OF BASIS AND PURPOSE**

The Wattenberg field northeast of Denver in Weld County is a 2,900-square-mile area that is located in the Denver-Julesburg Basin (“D-J Basin”). This area is uniquely subject to extensive and specialized oil and gas regulations. Specifically, the Greater Wattenberg Area (“GWA”) is subject to COGCC Rule 318A, a special set of regulatory requirements that provide unique notice and hearing procedures and control well spacing, well location, and unit designation, and thereby limit surface development, in the GWA. In addition to being heavily regulated, the D-J Basin is distinguishable from most other geologic basins in Colorado given its unique mix of agriculture and suburban development, and its property ownership patterns. The combination of unique well spacing and water well sampling requirements, combined with the ozone non-attainment status of the Denver Metropolitan Area (in which most of the GWA is located) currently provides comprehensive regulation and protection of public health, the environment and wildlife, and largely obviates the need for application of the Draft Rules in the D-J Basin. As the Commission itself has recognized, the Rule 318A requirements are analogous to the Geographic Area Plans that the Commission intends to adopt under the new rules. See Testimony of Thomas Kerr at 15 (“I believe the Greater Wattenberg Area Rule 318A and the Yuma/Phillips County . . . Rule 318B are great analogies to this proposed rule [Draft Rule 513] . . . [Rules 318A and 318B] have addressed the need for additional wells . . . and the needs of the surface owners.”). Given that 318A functions to provide the kind of basin-specific comprehensive regulation the Commission plans for other areas, it is appropriate that the draft rules should make exceptions for the GWA.

In light of the existing regulations that were designed for the GWA and other areas of the D-J Basin, and the surface use rubric imposed by the Commission's existing rules, the Draft Rules are particularly burdensome, inappropriate and unnecessary. The consensus alternative provisions harmonize the existing rules of the Commission, including Rule 318A, with the Draft Rules developed pursuant to H.B. 1298 and H.B. 1341.

#### **A. Rule 300 Series**

The Rule 300 Series contain numerous proposed revisions that are unduly burdensome and overly broad, and would have potentially substantial adverse impacts to oil and gas operations in the D-J Basin. For instance the Form 2A requirements in Rule 303 should be modified with respect to the D-J Basin, as redlined below, so as to reduce the burden on operators in this well-developed area. Under Rule 318A, surface locations are carefully defined and operators are required to utilize existing facilities to the extent practicable. Therefore, in areas subject to 318A, surface impacts are minimized and the extraordinary information gathering requirements proposed under the new rules would serve little purpose.

The notice requirements in Rule 305 should also be modified. By requiring notice to adjoining landowners, the Commission's draft rules promise to create conflicts between the wishes of adjoining landowners and the exercise of rights by surface and mineral owners to use their property. Rule 318A.e contains notice provisions designed for the GWA where local property owners are familiar with oil and gas development. In those areas, the notice provisions of Draft Rule 305 should not apply. In addition, the Weld County Coalition suggests that the consultation requirements in Rule 306 should be narrowed to reflect the reduced amount of wildlife habitat in this largely agricultural area.

The Weld County Coalition proposes that the location restrictions and proposed performance standards in the new Rule 317B rule should also be rejected to the extent they would apply to the D-J Basin. Rule 318A.e(4) provides for extensive water well sampling in in-fill drilling areas that provides an extra measure of protection for water quality. To date these provisions have proved more than sufficient for safeguarding drinking water supplies. Moreover, the baseline testing requirements in Rule 318A.e(4) mirror the sampling requirements imposed as part of the performance standards required in Draft Rule 317B.c. Currently, the COGCC's maps defining the surface water drinking water supply areas to which Draft Rule 317B would be applicable shows that the draft rule would not apply to the GWA. However, an exception to the rule for the GWA is appropriate if the Commission amends that map to include areas in the GWA to which 317B would be applicable.

#### **B. Rule 500 Series**

Counties typically have a county legal newspaper that complies with the circulation requirements set forth in C.R.S. 24-70-103. Notices of pending ordinances and some resolutions will appear there. Requiring that publication take place in that newspaper provides certainty that the notice of a pending Memorandum of Agreement pursuant to Rule 521 will be found with notices of other county business. The consensus proposal alters Draft Rule 507.b to utilize the legal newspaper.

### **C. Rule 800 Series**

The Rule 800 series addresses visual mitigation, odors and fugitive dust. Weld County residents are familiar with oil and gas facilities and additional visual mitigation is not necessary. The consensus proposal restricts visual mitigation measures to facilities that are visible from public highways.

Weld County is located in the Denver Metropolitan Area nonattainment area for the 8-hour ozone standard, which means the oil and gas industry in this area is subject to the most stringent air quality regulations in the state of Colorado. Moreover, the Air Pollution Control Division (“APCD”) and the Regional Air Quality Council (“RAQC”) are in the process of adopting even more stringent requirements and regulating a broader group of oil and gas sources through the ozone state implementation plan (“SIP”) process. The odor and dust provisions of the Draft Rules that would apply in Weld County (*i.e.*, pits, production operations, pneumatic devices, and green completions) have the potential to conflict with results of the SIP modeling effort, and be counterproductive to the necessary control requirements for attaining the 8-hour ozone standard. Also, the incidence of odor complaints in Weld County specific to oil and gas is extremely low.

Moreover, the dust requirements of the Draft Rules should be dispensed with for largely agricultural and rural Weld County. In comparison to other commercial activities where Weld County regulates dust through its land use process, oil and gas operations produce less “coming and going” traffic to generate dust. Also, unpaved access roads to oil and gas production sites in Weld County are shorter than similar roads in other parts of the state, such that the dust generating potential from those activities in Weld County is less significant. The Weld County Coalition proposes that APCD retain exclusive jurisdiction over air quality control requirements in Weld County, such that Draft Rule 805 does not apply in Weld County, as noted by the redline below.

### **D. Rule 900 Series**

As noted above, Rule 318A provides for extensive baseline testing of water quality in certain areas. In these areas, water wells must be tested and laboratory analysis performed for “all major cations and anions, total dissolved solids, iron and manganese, . . . nitrates, nitrites, selenium, dissolved methane, pH, and specific conductance.” Rule 318A.e(4)(E). If certain concentrations of methane are discovered in sampled water wells, additional testing is required. Moreover, the Director may require additional testing based on laboratory results or complaints from water well owners. These measures provide ample protection for ground water sources and make the revised provisions of the Sensitive Area Determination (Draft Rule 901.e) unnecessary and the baseline testing required for centralized E&P waste management facilities (Draft Rule 908.b(9)) duplicative. Accordingly, the consensus proposal exempts areas subject to Rule 318A.e(4) from these Draft Rules.

### **E. Rule 1200 Series**

The 1200 series of rules regarding wildlife resources are generally inappropriate for the D-J Basin. The rules should be altered with respect to timing limitations, as noted below, such that the oil and gas industry should not be required to protect prairie dog colonies which the draft

rules recognize as having a high tolerance for developed areas. The same exception for the GWA is noted for the restricted surface occupancy areas in 1209. The rules should also be altered to establish a section that would allow operators to mitigate the effects of oil and gas operations on wildlife resources through a mitigation banking program, or through the use of best management practices as an alternative to mitigation. Finally, the blanket, 300-foot setback from the ordinary high water mark of any water body should also be tailored to address different conditions in different localities.

## **II. ALTERNATE PROPOSAL**

The provisions detailed below represent those sections of the draft rules upon which the Weld County Coalition reached consensus. That consensus concerns only those provisions addressed by the highlighted changes to the rules and does not operate to demonstrate agreement by any party in the Coalition with either the Draft Rules or the position of any other party as to provisions not addressed in this consensus alternative. Those provisions included below that do not reflect proposed changes are provided solely for context. The parties of the Weld County Coalition reserve the right to request additional time and to call appropriate witness necessary for the presentation of this alternate proposal.

### **303. REQUIREMENTS FOR FORM 2, APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE; FORM 2A, OIL AND GAS LOCATION ASSESSMENT.**

#### **a. FORM 2. APPLICATION FOR PERMIT-TO-DRILL, DEEPEN, RE-ENTER, OR RECOMPLETE, AND OPERATE.**

- (1) **Approval by Director.** Before any person shall commence operations for the drilling or reentry of any well, such person shall file with the Director an application on Form 2 for a Permit-to-Drill, pay a filing and service fee established by the Commission (see Appendix III), and obtain the Director's approval, subject to Rule 303.m.1, before commencement of operations with heavy equipment.
- (2) **Operational conflicts.** The Permit-to-Drill shall be binding with respect to any operationally conflicting local governmental permit or land use approval process.
- (3) **Exemptions.** Wells drilled for stratigraphic information only shall be exempt from paying the filing and service fee. The re-entry of a well in a unitized, storage, or secondary recovery operation shall be exempt from the filing of Form 2 and from paying the filing and service fee. The notice of such intent to re-enter a well shall be filed on a Sundry Notice, Form 4.

b. A request to recomplete or deepen a well to a different reservoir or to side-track a well shall be filed on an Application for Permit-to-Drill, Form 2, with a filing and service fee established by the Commission (see Appendix III), along with a Sundry Notice, Form 4, detailing the work, and a wellbore diagram.

c. Attached to and part of the Permit-to-Drill, Form 2, as filed shall be a current 8½" by 11" scaled drawing of the entire section(s) containing the proposed well location with the following minimum information:

- (1) Dimensions on adjacent exterior section lines sufficient to completely describe the quarter section containing the proposed well shall be indicated. If dimensions are not field measured, state how the dimensions were determined.
- (2) The latitude and longitude of the proposed well location shall be provided on the drawing with a minimum of five (5) decimal places of accuracy and precision using the North American Datum (NAD) of 1983 (e.g.; latitude 37.12345 N, longitude 104.45632 W). If GPS technology is utilized to determine the latitude and longitude, all GPS data shall meet the requirements set forth in Rule 215. a. through h.
- (3) For directional drilling into an adjacent section, that section shall also be shown on the location plat and dimensions on exterior section lines sufficient to completely describe the quarter section containing the proposed productive interval and bottom hole location shall be indicated. (Additional requirements related to directional drilling are found in Rule 321.)
- (4) For irregular, partial or truncated sections, dimensions will be furnished to completely describe the entire section containing the proposed well.
- (5) The field-measured distances from the nearer north/south and nearer east/west section lines shall be measured at ninety (90) degrees from said section lines to the well location and referenced on the plat. For unsurveyed land grants and other areas where an official public land survey system does not exist, the well locations shall be spotted as footages on a protracted section plat using Global Positioning System (GPS) technology and reported as latitude and longitude in accordance with Rule 215.
- (6) A map legend.
- (7) A north arrow.
- (8) A scale expressed as an equivalent (e.g. - 1" = 1000').
- (9) A bar scale.
- (10) The ground elevation.
- (11) The basis of the elevation (how it was calculated or its source).
- (12) The basis of bearing or interior angles used.
- (13) Complete description of monuments and/or collateral evidence found; all aliquot corners used shall be described.

- (14) The legal land description by section, township, range, principal meridian, baseline and county.
- (15) Operator name.
- (16) Well name and well number.
- (17) Date of completion of scaled drawing.
- (18) A completed or, where it has been approved in advance, an approved Oil and Gas Location Assessment, Form 2A or Modified Form 2A.

**d. FORM-2A. OIL AND GAS LOCATION ASSESSMENT.**

(1) A completed Oil and Gas Location Assessment, Form 2A,, shall be submitted for any new oil and gas location, except gathering lines, as set forth below. These provision shall not apply to projects that are subject to regulation by the U.S. Department of Transportation or have received approval of the Federal Energy Regulatory Commission.

(2) The requirement for submittal of a Form 2A shall not apply to ancillary facilities located within any area subject to Rule 318A. Any oil and gas operation subject to Rule 318A may submit a modified Form 2A. The Modified Form 2A requires the attachment of:

a. a minimum of two (2) color photographs; one (1) of the staked location and one (1) of the existing or proposed access road. Each photograph shall be identified by: date taken, well name, location and direction of view.

b. a current 8½" by 11" scaled drawing of the entire section(s) containing the proposed well location with the following minimum information:

(1) Dimensions on adjacent exterior section lines sufficient to completely describe the quarter section containing the proposed well shall be indicated. If dimensions are not field measured, state how the dimensions were determined.

(2) The latitude and longitude of the proposed well location shall be provided on the drawing with a minimum of five ( decimal places of accuracy and precision using the North American Datum (NAD) of 1983 (e.g. latitude 37.12345 N, longitude 104.45632 W). If GPS technology is utilized to determine the latitude and longitude, all GPS data shall meet the requirements set forth in Rule 215. a. through h.

(3) For directional drilling into an adjacent section, that section shall also be shown on the location plat and dimensions on exterior section lines

sufficient to completely describe the quarter section containing the proposed productive interval and bottom hole location shall be indicated. (Additional requirements related to directional drilling are found in Rule 321.)

- (4) For irregular, partial or truncated sections, dimensions will be furnished to completely describe the entire section containing the proposed well.
- (5) The field-measured distances from the nearer north/south and nearer east/west section lines shall be measured at ninety (90) degrees from said section lines to the well location and referenced on the plat. For unsurveyed land grants and other areas where an official public land survey system does not exist, the well locations shall be spotted as footages on a protracted section plat using Global Positioning System (GPS) technology and reported as latitude and longitude in accordance with Rule 215.
- (6) A map legend.
- (7) A north arrow.
- (8) A scale expressed as an equivalent (e.g. - 1" = 1000').
- (9) A bar scale.
- (10) The ground elevation.
- (11) The basis of the elevation (how it was calculated or its source).
- (12) The basis of bearing or interior angles used.
- (13) Complete description of monuments and/or collateral evidence found; all aliquot corners used shall be described.
- (14) The legal land description by section, township, range, principal meridian, baseline and county.
- (15) Operator name.
- (16) Well name and well number.
- (17) Date of completion of scaled drawing.
- (18) All visible improvements within two hundred (200) feet of a wellhead (or, in a high density area within four hundred (400) feet of a wellhead) shall be physically tied in and plotted on the well location plat or on an addendum, with a horizontal distance and approximate bearing from the well location. Visible improvements shall include, but not be limited to, all

buildings, publicly maintained roads and trails, major above ground utility lines, railroads, pipelines, mines, oil wells, gas wells, injection wells, water wells, visible plugged wells, sewers with manholes, standing bodies of water, and natural channels including permanent canals and ditches through which water may flow. If there are no visible improvements within two hundred (200) feet of a wellhead (or in a high density area within four hundred (400) feet of a wellhead), it shall be so noted on the Permit-to-Drill, Form 2.

### **305. NOTICES OF OIL AND GAS OPERATIONS**

- a. The provisions of this Rule 305.b(1)B and subsections (2) through (5), shall not be applicable on federal or Indian owned surface lands.
- b. **Notices.**
  - (1) **Notice of Form 2A Submittals.**
    - A. **Public notice and opportunity to comment.**
      - i. Whether submitted pursuant to Rule 303.d.3 or Rule 303.d.4, the Director shall, upon determination that the Form 2A is complete pursuant to Rule 303.h:
        - aa. Promptly post the Oil and Gas Location Assessment, Form 2A, and attachments on the Commission website;
        - bb. Simultaneously electronically alert the local governmental designee of the county or municipal corporation within whose jurisdiction the activity is occurring or proposed to occur; and
        - cc. Simultaneously electronically alert the Colorado Department of Public Health and Environment and the Colorado Division of Wildlife where the proposed location would trigger consultation pursuant to Rule 306.c or 306.d.
      - ii. The public shall be given thirty (30) calendar days from the date of posting to submit comments to the Commission on the Oil and Gas Location Assessment, Form 2A that is not covered by an accepted Comprehensive Drilling Plan. Where the proposed location is covered by an accepted Comprehensive Drilling Plan, the public shall be given twenty (20) days from the date of posting to submit comments.
      - iii. The website posting called for in this subsection shall clearly indicate:

- aa. The date on which the Form 2A was posted;
- bb. The date by which public comments must be received to be considered;
- cc. The address(es) to which the public may direct comments; and
- dd. Where the proposed location is covered by an accepted Comprehensive Drilling Plan, the posting shall include directions for review of the accepted plan.
- iv. The Commission shall promptly post all comments received under this subsection on the Commission website.

**B. Landowner notice.**

- i. The notice provisions of this subsection 305.b(1)B do not apply to oil and gas facilities subject to the provisions of 318A.
- ii. Whether submitted pursuant to Rule 303.d.3 or Rule 303.d.4, the applicant shall, within five (5) days of a completeness determination pursuant to Rule 303.h, provide a copy of a complete Oil and Gas Location Assessment, Form 2A, with attachments to the record owner of the surface to be affected by the proposed location and his lessee (if known) and the record owner(s) of property that is both adjacent to and within five hundred (500) feet of the proposed location, if such owner(s) exists, and his lessee (if known).
- iii. The notice required in this subsection shall include a copy of the Commission's Informational Brochure for Surface Owners containing the rules pertaining to notice of oil and gas operations and opportunities for consultation thereon, as well as the rules of procedure for filing complaints and making applications for hearing. The brochure shall provide contact information for the Commission's main office, field offices and website, and shall describe the services and information available to the public, including access to a listing of local governmental designees. The brochure shall contain a prominent disclaimer advising surface owners to obtain legal advice as may be appropriate to their particular circumstances.
- iiii. The notice required in this subsection shall include a copy of Rule 306(a) and the Commission's "Onsite Inspection Request Form."
- iv. The notice required in this subsection shall be accomplished by hand delivery or by certified mail, return-receipt requested.

**C. Content of notices required under this subsection.** All individual notices and agency notifications required under this subsection shall:

### 306: CONSULTATION

- a. **Consultation with surface owner.**  
....
- b. **Consultation with local government.**  
....
- c. **Consultation with the Colorado Division of Wildlife.**

(1) **Consultation to occur.** An operator shall consult with the Commission, the surface owner, and the Colorado Division of Wildlife on an Oil and Gas Location Assessment, Form 2A, where:

A. The operator seeks from the Director a variance from a provision in the 1200-Series of these rules intended to minimize adverse impacts to wildlife resources;

B. The operator elects to consult rather than comply with the provisions of Rule 1208, Timing Limitation Areas;

C. The surface owner requests consultation with the Commission on provision of the 1200-Series; or

D. An operator requests a well density increase and a Local Public Forum is convened pursuant to Rule 508.b or the Commission develops a basin-wide order involving public health, welfare, safety, wildlife, or environmental concerns or protections.

E. Notwithstanding the foregoing, the requirement to consult with the Colorado Division of Wildlife may be waived by the Colorado Division of Wildlife at any time.

- d. **Consultation with the Colorado Department of Public Health and Environment.**

(1) **Consultation to occur.** The Commission shall consult with the Colorado Department of Public Health and Environment on an Oil and Gas Location Assessment, Form 2A, where:

A. The local governmental designee requests, within seven (7) days of notice, the participation of the Colorado Department of Public Health and Environment in the Commission's consideration of an Application for Permit-to-Drill, Form 2, or Oil and Gas Location Assessment, Form 2A, based on concerns regarding public health, safety, welfare, or impacts to the environment;

B. The operator seeks from the Director a variance from a provision of one of the following rules intended for the protection of public health, safety, welfare, or the environment:

- i. Rule 317B. Surface Water Drinking Water Protection Areas;
- ii. Rule 325. Underground Disposal of Water;
- iii. Rule 603. Setback Requirements in High Density Areas;
- iv. Rule 608. Coalbed Methane Wells;
- v. Rule 805. Odors and Dust;
- vi. 900-Series E&P Waste Management; or
- vii. Rule 1002.g. Stormwater Management.

C. An operator requests a well density increase and a Local Public Forum is convened pursuant to Rule 508.b or the Commission develops a basin-wide order that can reasonably be anticipated to have impacts on public health, welfare, safety, or environmental concerns or protections.

D. Notwithstanding the foregoing, the requirement to consult with the Colorado Department of Public Health and Environment may be waived by the Colorado Department of Public Health and Environment at any time.

### **317B. SURFACE WATER DRINKING WATER SUPPLY AREAS**

a. **Applicability determination.** The applicability of Rules 317B.b and 317B.c will be determined by reviewing the Source Water Drinking Water Supply Area Map, located on the Commission website or by entering the longitude and latitude coordinates into the Source Water Drinking Water Supply Area Applicability Determination Tool, also located on the Commission website.

**b. Oil and gas operations located in Surface Water Drinking Water Supply Area(s).**

Except for oil and gas operations subject to Rule 318A.e, Oil and gas operations shall be located a minimum distance of five hundred (500) feet from a classified surface water supply segment for a distance of five (5) miles upstream of a public water supply intake used as a public water supply. Oil and gas operations shall also be located a minimum distance of five hundred feet from a water supply spring or ground water well under the influence of surface water, used as a public water supply.

**c. Performance standards for oil and gas operations located in Surface Water Drinking Water Supply Area(s).**

Except for oil and gas operations subject to Rule 318A.e, the following performance standards shall be implemented when oil and gas operations occur within a distance of one-half (1/2) mile from a classified surface water supply segment for a distance of five (5) miles upstream of a public water supply intake used as a public water supply. The following performance standards shall also be implemented when oil and gas operations occur within a distance of one-half (1/2) mile from a water supply spring or groundwater well under the influence of surface water, used as a public water supply:

(1) Pitless drilling systems or containment of all drilling waste with impervious liners is required, as provided in Rule 904.

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**318A. GREATER WATTENBERG AREA SPECIAL WELL LOCATION, SPACING AND UNIT DESIGNATION RULE**

a. **GWA, GWA wells, GWA windows and unit designations.**

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b. **Recompletion/commingling of existing wells.**

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c. **Surface locations.**

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d. **Prior wells excepted.**

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e. **GWA infill.**

.....

(6) Notice and hearing procedures.

C. The notice provisions of 305.b(1)B do not apply to oil and gas operations subject to the provisions of this subsection 318A.e(6).

**507. NOTICE FOR HEARING**

a . **General notice provisions.**

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b. **Notice for specific applications.**

(1) **Applications affecting drilling units.** For purposes of applications for the creation of drilling units, applications for additional wells within existing drilling units or other applications for modifications of or exceptions to existing drilling unit orders (except for applications for well exception locations to existing orders which are addressed in subsection 5 of this rule) notice of the application shall be served on the owners within the proposed drilling unit or within the existing drilling unit to be affected by the applications.

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(7) **Application for Memorandum of Agreement with Local Government.** With respect to an application to enter into a Memorandum of Agreement with a local government pursuant to Rule 521, notice shall be posted by the local government and published in the county's legal newspaper, which complies with the requirements of C.R.S. 24-70-103, a newspaper of local circulation for a period not less than two (2) weeks.

## 804. VISUAL IMPACT MITIGATION

Production facilities, regardless of construction date, which are observable from any public highway shall be painted with uniform, non-contrasting, nonreflective color tones, (similar to the Munsell Soil Color Coding System) and with colors matched to but slightly darker than the surrounding landscape. Operators of those production facilities constructed prior to May 30, 1992 shall have until July 1, 2009 to comply with the requirements of this rule.

Consistent with an operator's right to conduct operations, the Director may require the employment of site-specific mitigation practices to protect aesthetic and visual resources, including siting of roads, well locations, and production facilities to minimize visual impacts; reducing unnecessary disturbance; modifying production facility or well pad shape or size; using low-profile pumping units and low-profile tanks; and completing interim reclamation on disturbed land. Within the Greater Wattenberg Area, such visual mitigation may only be imposed on oil and gas locations visible from a public highway.

## 805. ODORS AND DUST

a. **General.**

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b. **Odors.**

....

c. **Fugitive dust.**

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d. Notwithstanding any other provision of this Rule 805, the requirements of this section shall not be required if the oil and gas operation is located in Colorado's 8-Hour Ozone Non-attainment Area (including all of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson counties, and parts of Larimer and Weld counties), as defined by the Colorado Department of Public Health and Environment, and areas subject to the provisions of 318A.

## 901. INTRODUCTION

**901.e Sensitive area determination.** Except for oil and gas operations subject to Rule 318A.e, operators shall make a sensitive area determination using appropriate geologic and hydrogeologic data to evaluate the potential for impact to ground water and surface water, including appropriate percolation tests that demonstrate that seepage will not reach underlying ground water or waters of the State and impact current or future uses of these waters. Operators shall submit data evaluated and analysis used in the determination to the Director for the following operations or remediation activities:

- (1) Construction of drilling pits;
- (2) Construction of production and special purpose pits;
- (3) Construction of centralized E&P waste management facilities;
- (4) Management and remediation of spills/releases exceeding twenty (20) barrels net loss of E&P waste; or

- (5) When the operator or Director has data that indicate an impact or threat of impact to ground water.

f. **Sensitive area operations.** Operations in sensitive areas shall incorporate adequate measures and controls to prevent adverse environmental impacts and ensure compliance with the allowable concentrations and levels in Table 910-1, with consideration to WQCC standards and classifications.

## 908. CENTRALIZED E&P WASTE MANAGEMENT FACILITIES

a. **Applicability.** Non-commercial, centralized E&P waste management facilities may be established by an operator for the treatment, disposal, recycling or beneficial reuse of E&P waste that is generated exclusively by that operator. This rule applies only to non-commercial facilities, which means the operator does not represent itself as providing E&P waste management services to third parties and does not accept E&P waste from oil and gas operations other than its own. Centralized facilities may include components such as land treatment or land application sites, pits and recycling equipment. The ground water monitoring requirements of Rule 908.b(9) shall not be applicable in areas subject to Rule 318A.e.

b. **Permit requirements.** Before any person shall commence construction of a centralized E&P waste management facility, such person shall file with the Director an application on Form 28 and pay a filing and service fee established by the Commission (see Appendix III), and obtain the Director's approval. The application shall contain the following:

- (1) The name, address, phone and fax number of the operator, and a designated contact person.

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- (9) **Ground water monitoring.**

### A. Water wells.

Water samples shall be collected from water wells within a 1-mile radius of the proposed facility and shall be analyzed to establish baseline water quality. Analytical parameters shall be selected based upon the proposed waste stream and shall include, at a minimum, all major cations and anions, total dissolved solids, iron and manganese, nutrients (nitrates, nitrites, selenium), benzene, toluene, ethylbenzene, xylenes, pH, and specific conductance.

Copies of all test results described above shall be provided to the Director and the water well owner within three (3) months of collecting the samples. Laboratory results shall also be submitted to the Director in an electronic data deliverable format.

### B. Site-specific monitoring wells.

- i. The Director shall require ground water monitoring to ensure compliance with the allowable concentrations and levels in

Table 910-1 and WQCC standards and classifications by establishing points of compliance. All monitoring well construction must be completed in accordance with the State Engineer's regulations on well construction, 'Water Well Construction Rules' (2 CCR 402-2).

ii. The direction of flow, ground water gradient and quality of water shall be established by the installation of a minimum of three (3) monitor wells, including an up-gradient well and two (2) down-gradient wells that will serve as points of compliance, or other methods authorized by the Director.

(10) **Surface water monitoring.** Where applicable, the Director shall require baseline and periodic surface water monitoring to ensure compliance with WQCC surface water standards and classifications.

c. **Permit approval.**

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## 1202. IDENTIFICATION OF WILDLIFE SPECIES

a. **Identification of wildlife species.**

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b. **Wildlife mapping.**

(1) Using scientifically acceptable survey techniques coinciding with the season and activity periods for the specific species noted below and based on its review of wildlife occurrence data from the Colorado Division of Wildlife, an operator planning an oil and gas facility shall survey, map, and report the occurrence of all identified wildlife species, including a survey of lands within a ½ mile radius of a proposed oil and gas facility, on lands legally accessible by the operator, for the following species:

A. Raptor nests, including owls; and

B. Amphibians, including boreal toads.

(2) Using scientifically acceptable survey techniques coinciding with the season and activity periods for the specific species noted below and based on its review of wildlife occurrence data from the Colorado Division of Wildlife, an operator planning an oil and gas facility shall survey, map, and report the occurrence of all identified wildlife species, including a survey of lands within a ¼ mile radius of a proposed oil and gas facility, on lands legally accessible by the operator, for the following species:

A. Active black-tailed prairie dog colonies (NE, SE Colorado);

B. Active white-tailed prairie dog colonies (NW, SW Colorado);

....

## 1208. TIMING LIMITATION AREAS

a. Timing Limitation Areas described herein shall be applied to oil and gas operations in the following areas of Colorado, as delineated on the Colorado Division of Wildlife Species Activity Mapping (SAM) systems, found on the Colorado Division of Wildlife website, except gathering lines, using the best available technology to minimize adverse impacts to wildlife resources and to plan and manage oil and gas operations in a manner that balances development with wildlife conservation, unless an operator demonstrates that the identified species is not in fact present:

(1) **Mule deer critical winter range (West of Interstate 25, except in Las Animas County).** Development activity shall be restricted between January 1 and March 31.

....

(11) **Prairie dog (~~Black-tailed, White-tailed, Gunnison's~~).** Development activity shall be restricted in active colonies between March 15 and June 15, except those colonies within 1 mile of urban development areas.

(12) **Black-footed ferret release areas.** Development activity shall be restricted between April 15 and June 14 in Prairie Dog colonies where Black-Footed Ferrets have been released or documented since 2001.

....

## 1209. RESTRICTED SURFACE OCCUPANCY AREAS

a. Restricted Surface Occupancy Areas described below shall be applied to oil and gas operations in Colorado, except for oil and gas operations subject to the provisions of Rule 318A, using the best available development technology in order to minimize adverse impacts to wildlife resources and to plan and manage oil and gas operations in a manner that balances development with wildlife conservation.

**AMERICAN ROYALTY COUNCIL**

s/ Robert S. Abernathy

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REPRESENTATIVE FOR AMERICAN ROYALTY  
COUNCIL

**ANADARKO PETROLEUM CORPORATION**

s/ John R. Jacus

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ATTORNEYS FOR ANADARKO PETROLEUM  
CORPORATION

**NOBLE ENERGY, INC.**

s/ Michael J. Wozniak

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**PETRO-CANADA (USA) RESOURCES, INC.**

s/ Michael J. Wozniak

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INC.

**BOARD OF COUNTY COMMISSIONERS OF  
COUNTY OF WELD, COLORADO**

s/ Bruce T. Barker

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ATTORNEY FOR BOARD OF COUNTY COMMISSIONERS  
OF WELD COUNTY, COLORADO

**CERTIFICATE OF SERVICE**

I hereby certify that, on behalf of the Weld County Coalition, one (1) original and fifteen (15) true and correct copies of the attached **CONSENSUS ALTERNATE PROPOSAL OF THE WELD COUNTY COALITION** were served by courier delivery on the 6th day of June, 2008, and filed with the Colorado Oil and Gas Conservation Commission, as follows:

Patricia Beaver, Hearing Manager  
Docket No. 0803-RM-02  
Oil and Gas Conservation Commission  
1120 Lincoln Street, Suite 801  
Denver, Colorado 80203

and further certify that two (2) true and correct copies of said petition were served by courier delivery on the 6th day of June, 2008, to the Department of Law, as follows:

Kelly Rees  
Colorado Department of Law  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, Colorado 80203

and further certify that one (1) true and correct copy of said petition was served by courier delivery on the 6th day of June, 2008, to the State of Colorado, as follows:

Joshua Epel, Assistant General Counsel  
DCP Midstream  
370 Seventeenth Street, Suite 2500  
Denver, Colorado 80202

and lastly certify that one (1) true and correct copy of said petition copy was served by First Class Mail delivery on the 6th day of June, 2008, to:

Paul Zogg  
Law Office of Paul Zobb  
1221 Pearl Street  
Boulder, CO 80302

City of Trinidad  
Attention: Mayor Joseph Reorda  
135 North Animas Street  
Trinidad, CO 81082

Steven T. Wells  
Wells Ranch, LLLP  
32010 WCR 63  
Gill, CO 80624

Las Animas Board of County Commissioners  
Attention: Jim D. Montoya, Chairman  
200 East First Street, Room 110  
Trinidad, CO 81082

Yuma County Board of Commissioners  
Attention: Dean Wingfield, Chairman  
Attention: Robin Wiley  
310 Ash Street, Suite A  
Wray, CO 80758

/s Linda Bondar\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that, on behalf of the Weld County Coalition, true and correct electronic copies of the attached **CONSENSUS ALTERNATE PROPOSAL OF THE WELD COUNTY COALITION** were served by e-mail on the 6th day of June, 2008, as follows:

Patricia Beaver at [tricia.beaver@state.co.us](mailto:tricia.beaver@state.co.us)

Kelly Rees at [kelly.rees@state.co.us](mailto:kelly.rees@state.co.us)

Marc Fine at [marc.fine@state.co.us](mailto:marc.fine@state.co.us).

All Parties on the COGCC Service List for Docket No. 0803-RM-02 that are capable of receiving delivery by e-mail.

/s Diane Beckman \_\_\_\_\_