

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

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

COMES NOW, Consensus Coalition and submits this CONSENSUS ALTERNATIVE FOR YUMA COUNTY, Colorado and as grounds therefore, states the following:

**Statement of Basis and Purpose**

**Coalition Parties**

The Yuma County Coalition consists of the following parties Rosewood Resources, Inc., (hereinafter Rosewood), Berry Petroleum Corporation, (hereinafter “Berry”), Noble Energy (“Noble”), and Yuma County. The coalition believes the record does not demonstrate a need for additional regulations in Yuma County or northeastern Colorado.<sup>1</sup> Further, this area is already covered by a specific rule that considered the unique development scenario in this region.

**Eastern DJ Development**

The Eastern DJ Basin development is characterized by shallow depth, lower costs and correspondingly lower production. Because of the lower cost/lower production profile, development in this region is susceptible to regulatory changes that increase the costs of development. Statewide application of similar rules disproportionately impact lower cost wells on a percentage basis. As a result, the proposed rules could significantly discourage investment in Niobrara development in Yuma County.

In Yuma County and the eastern DJ Niobrara development, existing rule 318B has worked to address many concerns in that area. Staff testimony acknowledges that geographic area plans are analogous to those in Northeastern Colorado through rules 318A and 318B which have worked so successfully. See Testimony of Thomas Kerr, Page 16 (analogizing Draft Rule 513 (Geographic Area Plans) to both 318A and 318B). As a result, Yuma County and the businesses and operators herein request that the rules reflect the unique nature of development in this region.

The record contains no testimony about identified problems in Yuma County. Under the proposed rules there are no changes to Rule 318B except as it relates to permitting, consultation and wildlife issues. The application of these changes will make development in Yuma County more expensive for operators resulting in lower investments in the region although the degree to

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<sup>1</sup> The parties to this coalition do not in anyway suggest that the record demonstrates a need for additional regulations in any other region of Colorado. The parties reserve all of their rights and objections to the proposed rules as they apply to other regions and basins.

which is uncertain at this time. To avoid this uncertainty, we are asking for special consideration for this part of Colorado given that the evidence in the record contains no information about Yuma County that demonstrate a need to make development here more restrictive.

In short, the Yuma County Coalition would like the existing rules to stay in effect since there is no evidence of a problem as the existing rules are applied to Yuma County. The changes noted below address needed problems within the context of these rules.

### **Rule 300 Series**

The Rule 300 series is a tremendous burden to producers in Yuma County and will yield little tangible results on the ground in this region. Natural gas production in Yuma County is typically characterized by private landownership of both the mineral estate and the surface. In addition, the land where drilling takes place is typically used for agriculture purposes wherein, thus already disturbed by existing agricultural operations.

Notice under Rule 305 also complicates the development by creating conflicts among surface owners. The existing requirements for surface owner notification provided by the Oil and Gas Conservation Act are perfectly adequate to provide notice in this low population area.

The consultation process is also unduly burdensome given the lack of split estate and the predominance of agricultural operations in this area.

### **Rule 800 Series**

The visual mitigation, odors and fugitive dust provisions are a problem for Yuma County as well. This rural area of northeastern Colorado is characterized by many dirt roads, and ongoing agricultural activities that contribute to dust. In addition, due to the multitude of existing roads and the agricultural profile of Yuma County, access roads for oil and gas are much shorter than other areas in the state.

Further, with several thousand wells in the Eastern DJ with 16 wells per section allowed under Rule 318B– the local community is familiar with oil and gas operations out here. Further the agricultural equipment in place in many fields are equally intrusive to the view. Therefore, the need for painting of tanks is unnecessary.

In addition, the odor issues are relatively minor since the wells are drilled and completed in less than 36 hour typically.

### **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. Further, there is no recognition of the private property rights of the surface owners upon whose land the operator is required to conduct the survey. 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 or through some

sort of alternate arrangement. 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.

### **Presentation of Consensus Alternate Proposal**

The Yuma County Consensus Alternate Proposal covers several rules, however, a piecemeal presentation of the proposal does not make intuitive sense because the Coalition members are relatively diverse. As a result, Yuma County intends to present this Consensus Alternate Proposal to the Commission but reserves the right to have other Coalition members available to jointly present and answer Commission questions. We believe this will be the most effective way to present this Alternate Proposal to the Commission.

### **Consensus 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.

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(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 provisions 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 or 318B. Any oil and gas location subject to Rule 318B 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 (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) 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.

Rule 305.b (1)(B)

- i. The notice provisions of this subsection 305.b (1) B do not apply to oil and gas facilities subject to the provisions of 318B.

## 1202. IDENTIFICATION OF WILDLIFE SPECIES

### b. Wildlife mapping.

- (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 **and for which the operator has received written permission from the surface owner**, for the following species:

A. Active black-tailed prairie dog colonies (NE, SE Colorado). **Except agricultural areas where the state or local government has determined that black-tailed prairie dogs are a nuisance for agricultural operations.**

## 1208. TIMING LIMITATION AREAS

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- (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. **In addition, those agricultural areas where the state or local government has designated prairie dogs as a nuisance shall not be subject to the timing limitation requirements.**

## 1209. RESTRICTED SURFACE OCCUPANCY AREAS

- a. Restricted Surface Occupancy Areas described below shall be applied to oil and gas operations in Colorado, **except in areas subject to the provisions of Rule 318B**, 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.

Respectfully Submitted this 6<sup>th</sup> Day of June, 2008,

Yuma County Commissioners  
**THE BOARD OF COUNTY COMMISSIONERS  
OF YUMA COUNTY, STATE OF COLORADO**

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**Dean Wingfield, Chairman**

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**Robin Wiley**

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**Trent Bushner**

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**COUNSEL FOR ROSEWOOD RESOURCES, INC. AND NOBLE ENERGY**

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **FINAL PREHEARING STATEMENT OF The Yuma County Commissioners**. Was emailed to the state per the order on May 14, 2008 and hard copies delivered on May 15, 2008, per the hearing order as follows:

Original and 15 copies hard copies on May 15, 2008 hand delivered to:

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

Two hard copies mailed to:

- 2) Kelly Rees, Colorado Department of Law  
1525 Sherman Street, 5th Floor,  
Denver, Colorado, 80203
- 3) Joshua Epel, Assistant General Counsel  
DCP Midstream,  
370 17th Street, Suite 2500  
Denver, CO 80202.

with an electronic copy sent to:

Commission            [Marc.fine@state.co.us](mailto:Marc.fine@state.co.us)  
Department of Law   [Kelly.rees@state.co.us](mailto:Kelly.rees@state.co.us)

All other parties listed on the "party list"  
([http://cogcc.state.co.us/RuleMaking/Party\\_List.pdf](http://cogcc.state.co.us/RuleMaking/Party_List.pdf))

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