

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

IN THE MATTER OF THE APPLICATION OF) CAUSE NO. 407
BOULDER COUNTY, COLORADO FOR AN)
ORDER AMENDING ORDER 1R-100) DOCKET NO. _____
IN THE GREATER WATTENBERG FIELD,)
BOULDER COUNTY, COLORADO)

APPLICATION

The Board of County Commissioners of Boulder County, Colorado (“County”), by and through its attorney, Jeffery P. Robbins, Goldman, Robbins and Nicholson, P.C., respectfully submits its application to the Oil and Gas Commission of the State of Colorado (the “Commission”) for an order to amend the Order of the Commission in Cause No. 1R-100, Amending GWA Rule to Require Water Sampling, in the Greater Wattenberg Field (“GWA”), within unincorporated Boulder County, Colorado, and requests entry of an Order by the Commission to apply the water sampling provisions of recently adopted Rule 609 instead of the water sampling provisions of Amended Rule 318A.e(4) for all new wells within GWA located in unincorporated Boulder County, Colorado.

In support of its application, the County states and alleges as follows:

1. Boulder County is an organized county within the state of Colorado and is a body corporate and politic. C.R.S. § 30-11-101.
2. The property that is the subject of this Application is as follows:

The unincorporated portions of Townships 1 South to 3 North and Range 69 West, 6th P.M. within Boulder County (“Subject Lands”).
3. The Subject Lands are all properties located within the Greater Wattenberg area GWA and within unincorporated Boulder County.
4. Boulder County supports water well sampling and believes that a protective and adequate water well sampling protocol is one of the most effective techniques to identify baseline and ongoing data which will provide the necessary information and protection against the potential for adverse impacts on water from oil and gas operations.
5. On May 1, 2013, Amended Commission Rule 318A.e(4), Groundwater Baseline Sampling and Monitoring, will become effective for new oil wells, new gas wells, multi-well sites and dedicated injection wells (collectively referred to as “Well”). Amended Rule 318A.e(4) will require an initial baseline sample and subsequent monitoring sample to be collected from one available water source in the governmental quarter section in which a Well is located. According to Amended Rule 318A.e(4), if a sampling location has previously been established within the governmental quarter section, and sampled within the prior sixty (60) months before spudding, no initial baseline sample is required for a new Well. Further, if there is no available water source within the governmental quarter section where a proposed new Well is located, then an available

water source from a previously un-sampled governmental quarter section within a one-half mile radius of the proposed Well, if any, would be sampled.

6. In contrast to the GWA baseline water sampling and monitoring provisions of Amended Rule 318A.e(4), recently enacted Rule 609, Statewide Groundwater Baseline Sampling and Monitoring, applies to new Wells in the rest of the state. This Rule provides that initial baseline samples and subsequent monitoring samples are to be collected from all available water sources with up to a maximum of four (4) water sources within a one-half mile radius of a proposed new Well. Further, rather than one subsequent sampling event, new Rule 609 provides that one water well sampling event shall be conducted between six (6) and twelve (12) months and a second subsequent sampling event shall be conducted between sixty (60) and seventy-two (72) months following completion of the new well.

7. According to the Statement of Basis and Purpose for Amended Rule 318A.e(4) and for new Rule 609, the Commission found that the less stringent sampling provisions of Amended Rule 318A.e(4) were appropriate for the GWA area based upon the following unique conditions in GWA:

Due to the high-level of existing oil and gas development in the GWA, new oil and gas wells are frequently drilled in the same sections where several existing producing wells are already present and where baseline water samples were previously collected, analyzed and reported to the Commission. In addition, the aquifer systems are well understood and continuous over large areas. *Statement of Basis, P. 2.*

8. The rationale in the Statement of Basis was based upon COGCC staff's explanation that there were already a significant number of oil and gas wells in this highly developed field and there were already a high number of water wells within the GWA area. As a result of these two factors, staff suggested that the new Wells within GWA should be treated with a less vigorous water sampling protocol than the rest of the state. Staff further noted as justification for the GWA sampling protocol that 65% of the property within GWA and 53 of the 81 townships in GWA were located within Weld County and that the Weld County Board of Commissioners preferred no changes to the current (and even less stringent) Rule 318A water sampling protocol for GWA. Staff also provided the Commission a map entitled Water Well Density and Oil and Gas Well Permits in the Greater Wattenberg Area (GWA), a copy of which is attached as Exhibit A to this Application. Staff explained that this map established that, except for the far west of the GWA, the GWA area contained a water well density of between 6-100 water wells per section and that testing water wells under the then proposed more stringent Rule 609 standards would amount to an "overkill of data." Finally, staff noted that the GWA field is currently highly developed with oil and gas wells and staff concluded that a water sampling protocol of one water well per quarter section would amount, in time, an appropriate amount of water sampling data.

9. Boulder County informs the Commission that the portion of its unincorporated area currently designated as being within GWA is not similar to the remainder of the GWA. First, Boulder County's portion of the GWA is indeed that property to the far west on the staff's map. The areas of unincorporated Boulder County identified on the map are Townships 3N, 2N, 1N, and 1S all within Range 69W. This map supports the fact that the GWA in unincorporated Boulder County is not extensively developed with oil and gas wells. Also, the map establishes that Boulder County's GWA area does not contain the high density of water wells as compared with the

remainder of the GWA. Accordingly, an Amended Rule 318A requirement to sample only one water well per quarter section or one well up to ½ mile from a new Well would not provide a sufficient sampling data base for unincorporated Boulder County. Rather, given the scarcity of wells (both water and oil and gas), the four (4) water well sampling protocol under Rule 609 is necessary to establish an effective sampling regime. Boulder County also does not agree with the Rule 318 provision that allows an up to 5 year old previous sample to be used and believes that the 18 month previous sample time period of Rule 609 to be more appropriate for unincorporated Boulder County. Similarly, Boulder County believes that the post-completion sampling protocol as set forth in Rule 609 is more appropriate for unincorporated Boulder County. Both of these last points and requests are supported by the same fact that unincorporated Boulder County is not highly developed with either oil and gas wells or with water wells. As such, additional post completion sampling as required for the rest of the state is necessary to ensure an adequate data base is developed for unincorporated Boulder County.

10. Boulder County asserts that the Commission should enter an Order requiring the statewide Rule 609 water sampling protocol for the eastern portion of Boulder County because it is the only method for the Commission to accomplish the underlying purpose of the water sampling rule: “to gather baseline water quality data prior to oil and gas development occurring in a particular area, and to gather addition data after drilling and completion operations.” Statement of Basis, P. 2. Because eastern Boulder County is neither highly developed with existing oil and gas wells, nor are the aquifer systems in eastern Boulder County as well understood, the rationale underlying the less stringent water sampling protocol in Amended Rule 318A.e(4) does not apply to eastern Boulder County.

11. The Commission has jurisdiction to enter the Order requested by Boulder County pursuant to Section 34-60-105(1), C.R.S. (Commission has the power to make and enforce rules) and Section 34-60-106(2)(d), C.R.S. (Commission has authority to regulate “Oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility.”). The Oil and Gas Conservation Act, C.R.S. § 34-60-101, et seq., (“Act”) states that any person “may apply for any hearing before the Commission ... upon any question relating to the administration of [the Act]...and jurisdiction is conferred upon the commission to hear and determine the same and enter its rule, regulation or order with respect thereto.” C.R.S. § 34-60-105(1). The Act further provides that the Commission has “jurisdiction over all persons and property, public and private, necessary to enforce the provisions of [the Act], and the power to make and enforce rules, regulations and orders.” *Id.*

WHEREFORE, Boulder County respectfully requests that this Commission enter its Order retroactive to May 1, 2013 to require that all new oil or gas wells, the first well on a multi-well site, or a dedicated injection well located within that portion of GWA in unincorporated Boulder County be required to meet the water sampling and monitoring provisions of new Rule 609, rather than the provisions of Amended Rule 318A.e(4). Boulder County respectfully requests that a hearing be held and, at its conclusion, an Order as set forth above be entered by the Commission.

Dated this 17th day of April, 2013.

GOLDMAN, ROBBINS & NICHOLSON, P.C.

BY: /s/ JEFFERY P. ROBBINS
Jeffery P. Robbins

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of April, 2013, the original and thirteen (13) correct copies of the attached Application were filed via Federal Express overnight mail delivery to the Colorado Oil and Gas Conservation Commission as follows:

Colorado Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, Colorado 80203

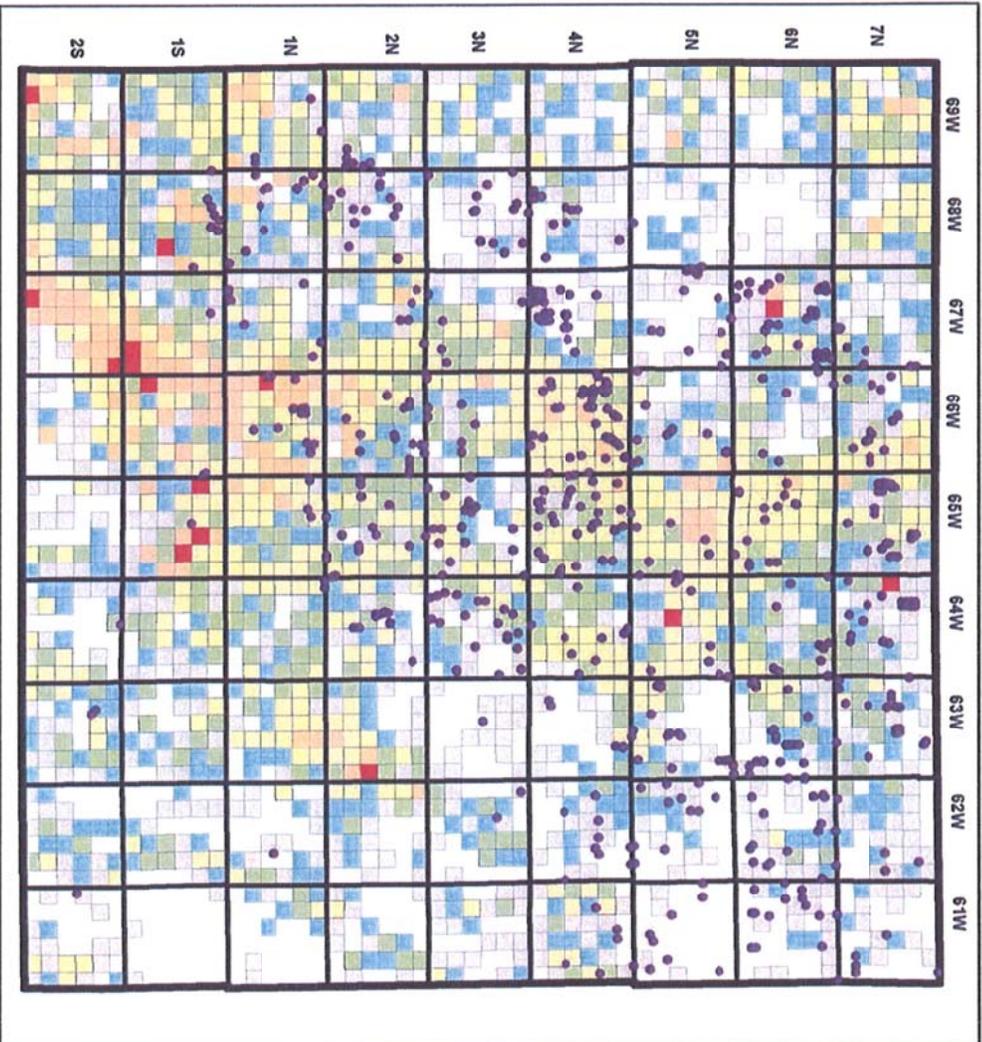
Additionally, I hereby certify that on the 17th day of April, 2013, I e-mailed a Microsoft Word copy of the foregoing Application to:

Margaret.humecki@state.co.us

/s/ Linda Etz

Linda Etz

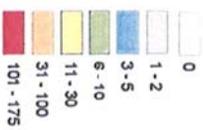
e:\word documents\2600\002 - gwa rulemaking\pleadings\application - v5.docx



Legend

- OG Well Permit Locations

Count of Water Wells > 30 feet deep per Section



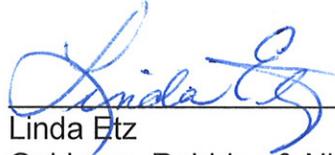
**Water Well Density
and Oil and Gas Well Permits
in the Greater Wattenberg Area (GWA)**

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IN THE MATTER OF THE APPLICATION OF)	CAUSE NO. 407
BOULDER COUNTY, COLORADO FOR AN)	
ORDER AMENDING ORDER 1R-100)	DOCKET NO. 1306-GA-02
IN THE GREATER WATTENBERG FIELD,)	
BOULDER COUNTY, COLORADO)	

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the Notice of Hearing in the above-referenced matter before the COGCC was deposited in the U.S. mail on the 21st day of May, 2013, postage pre-paid, to the interested parties listed in the application submitted to the COGCC regarding the above-referenced Docket Number.



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BOULDER COUNTY, COLORADO)

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INTAKE #10-6/2013 HEARINGS

Exhibit B

Parties List

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