

Via Email

November 20, 2017

Matthew Lepore
Director
Colorado Oil and Gas Conservation Commission
1120 Lincoln Street, Suite 801
Denver, CO 80203

Re: Rule 1001.c Reclamation Variance and Waiver for Locations No. 307113, 307108, and 333082

Dear Director Lepore:

Pursuant to Commission Rule 1001.c and the associated Operator Guidance, Prospect Energy, LLC ("Prospect") respectfully requests a variance from certain final reclamation requirements under Commission Rule 1004 for the following three locations: the location for the Fort Collins Muddy Unit #30-4 well, API No. 05-069-06082 (Location No. 307113); the location for the Muddy Sandstone Unit #30-1 well, API No. 05-069-06082 (Location No. 307108); and the location for the Muddy Sandstone Unit #30-5 well, API No. 05-069006087, the Muddy Sandstone Unit #30-15 well, API No. 05-069-06305, and the Muddy Sandstone Unit #30-16 well, API No. 05-069-06314 (collectively, Location No. 333082). All three locations are situated within the Waters' Edge West Subdivision ("Subdivision") in the City of Fort Collins in the south half of Section 30, Township 8 North, Range 68 West, 6th Principal Meridian, Larimer County, Colorado. The Subdivision has been approved by the City of Fort Collins, but is not yet developed.

Waters' Edge West LLC ("WEW") is the surface owner of the locations and the developer of the Subdivision. Pursuant to an agreement between WEW and Prospect, Prospect recently plugged and abandoned the oil and gas wells at the locations, conducted a soil gas survey to confirm that the wells were successfully plugged, abandoned the flow lines that serve the locations, and restored the surface of the locations. Under its development plan approval from the City of Fort Collins, WEW will revegetate each of these locations along with adjacent and other land as open space within the Subdivision. The revegetation of the locations must be undertaken with the revegetation of the other open space and coordinated with other site preparation and construction work to ensure that the open space vegetation is appropriate and attractive and that disruption and conflict during the development process are avoided. The existing roads within the Subdivision will be reclaimed or improved as part of the Subdivision.

Under these circumstances, WEW waives the Rule 1004 requirements that Prospect revegetate the locations, undertake further weed control and storm water management at them, and reclaim existing roads serving them. Prospect requests a corresponding variance from the Rule 1004 requirements regarding revegetation, weed control, storm water management, and road reclamation at the locations. WEW and Prospect also request that the Commission promptly conduct a final reclamation inspection and submit a Field Inspection Form confirming that final reclamation at the locations is complete subject to the requested variance.

Background

Prospect plugged and abandoned all of the wells on the locations during March and April of 2017, and in each case the plugging procedures were witnessed by Commission Inspector Tom Peterson (Documents No. 680703877-78, 680703887-88, and 680703908 for the Fort Collins Muddy Unit 30-4 well, Documents No. 680703998-99 and 680704005-06 for the Muddy Sandstone Unit 30-1 well, and Documents No. 680703912, 680703915-19, 680703925, 680703931, 680703969, and 680703977 for one or more of the Muddy Sandstone Unit 30-5, Muddy Sandstone Unit 30-15, and Muddy Sandstone Unit 30-16 wells). The Commission approved the abandonment reports for each of the wells in August 2017 (Documents No. 401257444, 401271102, 401277708, 401278835, and 401283899).

Prospect abandoned the flowlines serving the locations by purging, cutting, and capping the lines approximately three to four feet below grade and removing the risers. This work was inspected and approved by Commission Inspector Joe Maclaren (Document No. 674603412 for Location No. 307113, Document No. 674603413 for Location No. 307108, and Document No. 690100024 for Location No. 333082).

The locations contain no pits, and Prospect has removed all equipment and debris and restored the land to a condition and grade consistent with the adjoining land. As previously noted, WEW has waived revegetation of the locations, additional weed control and storm water management at them, and reclamation of roads serving them.

All three locations will be revegetated and used by WEW as open space within the Subdivision as illustrated by the diagram attached as Appendix 1. The Subdivision will consist of residential development on about 108.5 acres, and it will include 249 single family dwellings, 82 single-family attached townhomes, and 48 multifamily dwellings. The City has required this residential development to be set back 150 feet from the plugged and abandoned wells at Locations No. 307108 and 333082 and 100 feet from the plugged and abandoned well at Location No. 307113. The Subdivision has received various approvals from the City over the years, including most recently a development plan approval from the Fort Collins Planning and Zoning Board in March of 2017. A City summary of the Subdivision's regulatory status is attached as Appendix 2. If necessary, Jason Holland of the Fort Collins Planning Department can provide additional information regarding the Subdivision approvals; he can be reached at 970 416-4311.

Agreement

In May 2016, WEW and Prospect entered into a Well Plugging and Surface Restoration Agreement ("Agreement"). Among other things, the Agreement requires Prospect to plug and abandon the oil and gas wells at the locations, remove all surface equipment related to the wells, abandon all pipelines that serve only the wells, restore the land associated with the wells to a condition and grade consistent with the adjoining land within the Subdivision, and obtain a COGCC Field Inspection Form documenting final and satisfactory reclamation of the locations. Agreement §§ 2.2(a) & 2.3(3). The Agreement also describes the land subject to these requirements by reference to the wells and by legal subdivision. *Id.* at § 2.2(a)(i) & Exhibit B. Excerpts from the Agreement are attached as Appendix 3.

A November 2017 Amendment to the Agreement ("Amendment") states that Prospect is not required to revegetate the land associated with the wells, to perform further weed control or storm

water management on such land, or to reclaim existing roads serving the wells and that WEW knowingly and forever waives the requirements for revegetation, weed control, storm water management, and road reclamation under COGCC Rule 1004 with respect to the land associated with the wells. It also explains the reasons for this waiver, and it acknowledges that WEW will be satisfied with the condition of the land without revegetation, weed control, storm water management, or road reclamation under Rule 1004, provided that the work required by the Agreement is completed. The Amendment is attached at Appendix 4.

Public Health, Safety, Welfare, and the Environment

The waiver and requested variance will protect public health, safety, and welfare and prevent significant adverse environmental impacts as set forth below:

1. Wells: The wells were plugged and abandoned, and abandonment reports were submitted and approved (Documents No. 401257444, 401271102, 401277708, 401278835, and 401283899).
2. Equipment: All oil and gas equipment was removed.
3. Debris: All trash and debris were removed.
4. Noxious Weeds: There is no evidence that noxious weeds are present or that this issue presents a significant environmental risk. WEW will revegetate the locations as part of the Subdivision, and the City of Fort Collins will oversee this work as part of the local land use process.
5. Surface Owner Consultation: As reflected by the Agreement and Amendment, WEW and Prospect have consulted in good faith regarding final reclamation.
6. Current Condition: All wells have been plugged and abandoned, all surface equipment and debris have been removed, all flow lines serving the locations have been abandoned, the locations have been restored to a condition and grade consistent with the adjoining land.
7. Stabilization and Storm Water: As part of the land use approval process, WEW has submitted a storm water management plan to the City of Fort Collins, and the City of Fort Collins has approved this submittal as part of the final development plan for the Subdivision.
8. Public Health, Safety, and Welfare Protection and Significant Environmental Impact Prevention:
 - a. Public health, safety, and welfare will be protected because the wells were properly plugged, the flow lines were properly abandoned, the equipment was removed, and there is no sign of any pits. In addition, the locations will be revegetated by WEW as open space for the Subdivision, and the existing roads will be reclaimed or improved as part of the Subdivision. The City of Fort Collins has approved the Subdivision as an appropriate land use, and the City will oversee the Subdivision development as part of the local land use process.

- b. Significant environmental impacts will be prevented because the locations will be revegetated by WEW as open space for the Subdivision and the existing roads will be reclaimed or improved as part of the Subdivision. Again, the City of Fort Collins has approved the Subdivision and will oversee its development.

Conclusion

For the reasons set forth above, WEW provides a waiver for, and Prospect requests a variance from, the revegetation, weed control, storm water management, and road reclamation requirements of Rule 1004 for Locations No. 307113, 307108, and 333082. WEW and Prospect also request that the Commission promptly conduct a final reclamation inspection of these locations and submit a Field Inspection Form confirming that final reclamation is complete subject to the requested variance.

Respectfully,



Prospect Energy, LLC

Appendices:

1. Subdivision diagram
2. Regulatory status summary
3. Agreement
4. Amendment

cc:

Margaret Ash
Joe Knopinski
Dave Neslin

Appendix A: Subdivision Diagram



Fig 1 – Showing the Waters' Edge Subdivision with existing well sites and recommended setbacks.

Welcome to the City of Fort Collins Citizen Portal

Project PDP160006:

▼Project Location:

□

FORT COLLINS CO

▼Project Details

□

Applicant:

TERENCE HOAGLUND
VIGNETTE STUDIOS
PO BOX 1889
FORT COLLINS, CO, 80522
Home Phone:9704729125
HOAGLUND@VIGNETTESTUDIOS.COM

Project Description:

Waters Edge
CURRENT STATUS: This project is approved -- Jason Holland.
Information on the P&Z approval is below: On Thursday, March 16, 2017 at the regular meeting of the City of Fort Collins Planning and Zoning Board, the Board voted 4 - 1 to approve the Waters Edge Project Development Plan, PDP160006, based on the findings of fact of the staff report and subject to the following conditions: 1. The Developer shall design and construct intersection improvements at the intersection of Turnberry Road and Country Club Road to include a signal and necessary geometric improvements (auxiliary turn lanes). 2. The Developer, concurrently with the recording of the Final Plan Documents for the project, shall provide a sum of two hundred fifty thousand dollars (\$250,000) to the City to serve as mitigation of the Development's off-site traffic impacts in addition to the intersection listed above (Country Club Road and Turnberry). The entire amount shall be allocated and managed by the City to fund improvements to one or more of the area intersections impacted by the development. 3. All multi-family dwelling units and single-family attached dwelling units shall be designated as age-restricted dwelling units in accordance with the Housing for Older Persons Act of 1995. 4. Prior to City authorization of any residential building permit in conjunction with the Final Plans, the applicant shall provide to the City a valid agreement which documents that the current lessee of the mineral property has relinquished all rights and interests in the surface of any portion of the property, including but not limited to rights and interests pursuant to any and all surface use agreements applicable to the property or any portion thereof. 5. Prior to City authorization of any residential building permit in conjunction with the Final Plans, all oil and gas well heads within the project

boundary shall be permanently plugged and abandoned in accordance with COGCC regulations. All existing oil and gas well head locations shall remain permanently plugged and abandoned. 6. Upon completion of well plugging and reclamation, the applicant shall conduct a soil gas survey of all oil and gas well head locations on the property and provide the City and the COGCC with the results of the survey. Should the results of the survey indicate that any well heads are not properly plugged and abandoned in accordance with COGCC standards, the applicant/owner shall re-plug the well heads and provide further documentation to the City and COGCC that the wells are properly plugged in accordance with COGCC regulations. 7. The single-family homes along the north edge shall be designated to be single story only and that they are reduced by 2 lots. PROJECT DESCRIPTION: This is a request for a Project Development Plan for Waters' Edge, which includes 108.5 acres west of Turnberry Road and North of the Richard's Lake subdivision. Final Plans for project were originally approved in 2010 have expired, requiring a new review/approval of the plans. The development proposes 249 single family dwellings, 82 single family attached townhomes, 48 multi-family dwellings. The project is zoned Low Density Mixed Use Neighborhood (L-M-N) and Urban Estate (U-E), and is subject to approval by the Planning and Zoning Board (Type II).

Owner:

WATERS EDGE WEST, LLC
5935 S. ZANG. ST
SUITE 230
LITTLETON CO 80127
United States

► More Project Details

▣ Additional Project Information

SITE DATA

Location Description:
NW corner of Turnberry Rd. and Brightwater Dr.
North:
E DOUGLAS RD
South:
RICHARDS LAKE RD
East:
TURBERRY RD
West:
TERRY LAKE RD
Zoning 1:
LMN--Low Density Mixed-Use Neighborhood District
Zoning 2:
UE--Urban Estate District

GENERAL

Subdivision Plat:
With Plat
Current Round:
3

DATES

Conceptual Review:
09/23/2015
Conceptual Review Meeting:
Yes
Neighborhood Meeting Date:
09/16/2015
Neighborhood Meeting:
Yes
Project Submittal Date:
02/11/2016

Project Expiration Date:

12/01/2017

Hearing Date:

03/16/2017

Hearing Type:

Type 2

Decision Date:

03/16/2017

Decision:

Approved w/Conditions

Conditions of Approval:

On Thursday, March 16, 2017 at the regular meeting of the City of Fort Collins Planning and Zoning Board, the Board voted 4 - 1 to approve the Waters Edge Project Development Plan, PDP160006, based on the findings of fact of the staff report and subject to the following conditions: 1. The Developer shall design and construct intersection improvements at the intersection of Turnberry Road and Country Club Road to include a signal and necessary geometric improvements (auxiliary turn lanes). 2. The Developer, concurrently with the recording of the Final Plan Documents for the project, shall provide a sum of two hundred fifty thousand dollars (\$250,000) to the City to serve as mitigation of the Development's off-site traffic impacts in addition to the intersection listed above (Country Club Road and Turnberry). The entire amount shall be allocated and managed by the City to fund improvements to one or more of the area intersections impacted by the development. 3. All multi-family dwelling units and single-family attached dwelling units shall be designated as age-restricted dwelling units in accordance with the Housing for Older Persons Act of 1995. 4. Prior to City authorization of any residential building permit in conjunction with the Final Plans, the applicant shall provide to the City a valid agreement which documents that the current lessee of the mineral property has relinquished all rights and interests in the surface of any portion of the property, including but not limited to rights and interests pursuant to any and all surface use agreements applicable to the property or any portion thereof. 5. Prior to City authorization of any residential building permit in conjunction with the Final Plans, all oil and gas well heads within the project boundary shall be permanently plugged and abandoned in accordance with COGCC regulations. All existing oil and gas well head locations shall remain permanently plugged and abandoned. 6. Upon completion of well plugging and reclamation, the applicant shall conduct a soil gas survey of all oil and gas well head locations on the property and provide the City and the COGCC with the results of the survey. Should the results of the survey indicate that any well heads are not properly plugged and abandoned in accordance with COGCC standards, the applicant/owner shall re-plug the well heads and provide further documentation to the City and COGCC that the wells are properly plugged in accordance with COGCC regulations. 7. The single-family homes along the north edge shall be designated to be single story only and that they are reduced by 2 lots.

Council Appeal Date:

05/02/2017

Council Appeal Decision:

Approved

BUILDING AND SITE

Platted Area:

108.45

Single Family Attached:

82

Single Family Detached:

247

Two Family:

0

Multi-Family:

48

Gross Density:

3.49

Net Density:

3.94

Residential Area:

1903572

Right of Way Area:

877298

Parking and Drive Area:

136343

Open/Other Area:

1609106.4

Gross Area:

4724082

Residential Area Acres:

43.7

Right of Way Area Acres:

20.14

Parking and Drive Area Acres:

3.13

Open/Other Area Acres:

36.94

Gross Area Acres:

108.45

WELL PLUGGING AND SURFACE RESTORATION AGREEMENT

This **WELL PLUGGING AND SURFACE RESTORATION AGREEMENT** (the "**Agreement**") is made effective as of May 10, 2016, by and between WATERS' EDGE WEST LLC, a Colorado limited liability company ("**WEW**"), and PROSPECT ENERGY, LLC, a Colorado limited liability company ("**Prospect**"). WEW and Prospect may be referred to individually as a "**Party**", or collectively as the "**Parties**".

RECITALS

A. WEW is a real estate developer that intends to develop the Waters' Edge West subdivision, located in Fort Collins, Larimer County, Colorado (the "**Subdivision**").

B. In order for WEW to properly develop the Subdivision, (i) the Subdivision must be replatted, as depicted on Exhibit A attached hereto; (ii) the oil and gas wells located within the Subdivision must be properly plugged and abandoned in order to reduce setback requirements imposed by the City of Fort Collins, Colorado (the "**City**"); and (iii) the surface restoration of activity from previous oil and gas development located within the Subdivision, as well as from such plugging and abandonment, must be completed.

C. Prospect is an oil and gas developer that owns oil and gas leasehold interests and surface rights within the Subdivision for the purposes of exploring for and producing oil and gas therefrom.

D. WEW desires to have Prospect perform the plugging and abandonment of all wells located within the Subdivision, to restore the surface of the Subdivision, and, upon completion of such work, relinquish all of Prospect's rights to access the surface of the Subdivision except as necessary to re-plug or otherwise undertake remedial work on such wells as required by the Colorado Oil & Gas Conservation Commission (the "**COGCC**") and in consultation with WEW, pursuant to the terms and conditions of this Agreement. Prospect is willing to undertake such activities on and subject to the terms of this Agreement.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein, the sufficiency of which is hereby acknowledged by the Parties, WEW and Prospect agree as follows:

1. **WEW CONDITIONS**

1.1 **Plat Approval**

Prior to the commencement of any Work (as defined in Section 2.2) by Prospect, the following conditions must be met to the satisfaction of WEW (the "**WEW Conditions**"):

(a) Receipt of final, non-appealable approval from the City of a final plat for the Subdivision in substantially the same form as Exhibit A (the "**Final Plat**"), that is subject to the following conditions (the "**Plat Approval**"):

i. residential building setbacks from the locations of the Wells (as defined in Section 2.2) located within the Subdivision reduced from 350 feet to 150 feet; and

ii. landscaping requirements around the Wells (as defined in Section 2.2) limited to residential standards, as prescribed by the City's Municipal Code.

(b) Recording of the Final Plat and ancillary documents related thereto in the real property records of Larimer County, Colorado.

1.2 Failure to Obtain Plat Approval

Notwithstanding any provision hereof to the contrary, WEW will have the right to waive the benefit of any or all of the WEW Conditions. If WEW has not delivered written notice to Prospect on or before December 31, 2016 that the WEW Conditions have been satisfied or waived, this Agreement shall terminate and neither Party shall have any further obligations or be due any additional consideration hereunder. WEW will promptly deliver written notice to Prospect upon satisfaction of the WEW Conditions (or WEW election to waive some or all of such WEW Conditions).

2. PROSPECT OBLIGATIONS

2.1 Contractor Bids

Prior to the commencement of any Work, Prospect will obtain at least two (2) bids from licensed contractors that are qualified to perform the Work. Prospect will promptly deliver any bid it receives for performance of the Work to WEW. Prospect will maintain ultimate authority to select the contractor to perform the Work.

2.2 Plugging and Restoration Work

(a) Upon receipt of notice of the satisfaction or waiver of the WEW Conditions, Prospect will diligently perform the following plugging and abandonment and surface restoration work within the Subdivision ("Work"):

i. plug and finally abandon all oil and gas and injection wells located within the Subdivision identified on Exhibit B attached hereto (collectively, the "Wells") in accordance with the requirements hereof (including but not limited to Section 2.2(b) below);

ii. subject to the provisions of Section 2.5, remove all surface equipment related to the Wells;

iii. abandon all pipelines that serve only the Wells;

iv. obtain a soil gas survey, from a licensed and qualified consultant, of all Well sites within the Subdivision, reflecting that all of the Wells have been plugged and abandoned in accordance with the requirements set forth in Section 2.2(b) below (and

if such survey identifies any non-compliance, cause all of the non-compliant Wells, if any, to be re-plugged and abandoned in accordance with such requirements); and

v. restore the land associated with the Wells to a condition and grade consistent with the adjoining land within the Subdivision as specified by WEW.

(b) Prospect will perform all such Work in accordance with all applicable rules, regulations, ordinances and laws, including but not limited to COGCC Rules 311, 319, 1004, 1103, and all other COGCC regulations and will conduct the plugging and abandonment of the Wells in consultation with and in accordance with the plugging specifications identified by David K. Dillon, petroleum engineering consultant, set forth in Exhibit C attached hereto and incorporated herein by this reference.

(c) Prospect will be responsible for obtaining all necessary permits, licenses, and approvals associated with or required to perform the Work and will dispose of all removed equipment in a manner compliant with all applicable rules, regulations, ordinances and laws.

(d) Prospect will complete such Work within nine (9) months after receipt of written notice from WEW of the satisfaction or waiver of the WEW Conditions, or the Plugging Fee will be reduced in accordance with Section 3.2. In any event, Prospect must complete the Work in accordance with the requirements hereof within the time period set forth in Section 2.4.

2.3 **Plugging Satisfaction Obligations**

The Work will be considered completed by Prospect upon delivery of the following to WEW ("Plugging Satisfaction Obligations"):

(a) a letter from David K. Dillon confirming that the Work has been completed in accordance with the plugging specifications identified by him;

(b) full and final lien waivers from all contractors, subcontractors and suppliers engaged in the performance of the Work;

(c) a fully executed and notarized relinquishment in a form satisfactory to WEW, acting reasonably, pursuant to which Prospect relinquishes all right it has to use the surface of any portion of the Subdivision, including but not limited to any rights pursuant to any and all surface use agreements applicable to the Subdivision or any portion thereof and expressly agreeing to not drill any additional wells or undertake any other activities on, in, under or within the vicinity of the Subdivision which would impact or disturb any portion of the surface of the Subdivision except for activities necessary to re-plug or otherwise undertake remedial work on the Wells as required by the COGCC and in consultation with WEW;

(d) a Subsequent Report of Well Abandonment approved by the COGCC; and

(e) a COGCC Field Inspection Form documenting final and satisfactory reclamation of the Well sites;

(f) a soil gas survey of all Well sites within the Subdivision, evidencing that the Wells have all been plugged and abandoned in accordance with the requirements set forth in Section 2.2(b) above.

2.4 **Final Date for Satisfaction of Plugging Satisfaction Obligations**

2.5 **Pump Jack and Salvage of Equipment**

3. **PLUGGING FEE**

4. **FORCE MAJEURE**

5. REPRESENTATIONS AND WARRANTIES.

6. COMPLIANCE AND INDEMNITY

7. INSURANCE

8. NOTICES

9. DEFAULT

10. CONFIDENTIALITY

11. LIABILITY OF PARTIES

12. GOVERNING LAW; VENUE

13. ASSIGNMENT

14. BINDING EFFECT

15. AUTHORITY TO ENTER INTO AGREEMENT

16. COUNTERPARTS

17. EXHIBITS

IN WITNESS WHEREOF, the Parties have executed this th 10 day of MAY, 2016.

WATERS' EDGE WEST LLC

By: Waters' Edge Investments LLC, its sole member and manager, by Actual Commit



By: William E. Smalley

Title: President

Inc., its
general
partner

PROSPECT ENERGY, LLC

**By: Memorial Production Operating LLC,
its sole member**

**By: Memorial Production Partners LP, its
sole member**

**By: Memorial Production Partners GP LLC,
its general partner**

Richard P. Smiley

By: Richard P. Smiley

Title: VP Operations

EXHIBIT B

The Wells

<u>Well Name</u>	<u>API</u>	<u>Status</u>	<u>Status Date</u>	<u>Location</u>
Ft. Collins Muddy Unit 30-4	05-069-06082	PR	9/20/2006	NE/4SE/4 Section 30-T8N-R68W
Muddy Sandstone Unit 30-1	05-069-06071	PR	3/30/1994	NE/4SW/4 Section 30-T8N-R68W
MSSU 30-5	05-069-06087	PR	9/20/2006	NW/4SE/4 Section 30-T8N-R68W
MSSU 30-15	05-069-06305	SI	6/13/2013	NW/4SE/4 Section 30-T8N-R68W
MSSU 30-16	05-069-06314	SI	7/15/2015	NW/4SE/4 Section 30-T8N-R68W

AMENDMENT TO WELL PLUGGING AND SURFACE RESTORATION AGREEMENT

THIS AMENDMENT (“Amendment”) is made effective as of November ^{21st}, 2017, by and between WATERS’ EDGE WEST LLC, a Colorado limited liability company (“WEW”), and PROSPECT ENERGY, LLC, a Colorado limited liability company (“Prospect”), for the purpose of amending that certain Well Plugging and Surface Restoration Agreement (“Agreement”) between WEW and Prospect dated and effective May 10, 2016. This Amendment uses the definitions adopted in the Agreement.

RECITALS

A. Section 2.3(e) of the Agreement requires Prospect to obtain a COGCC Field Inspection Form documenting final and satisfactory reclamation of the Well sites.

B. In connection with such reclamation work, Prospect waives the COGCC Rule 1004 requirements for revegetation, weed control, storm water management, and road reclamation as they apply to the land associated with the Wells.

C. The Parties seek to memorialize Prospect’s waiver of the revegetation, weed control, storm water management, and road reclamation requirements in a manner that satisfies the COGCC Operator Guidance: Rule 1001.c Reclamation Variances and Waivers and enables Prospect to obtain a COGCC variance from those requirements.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the sufficiency of which is hereby acknowledged by the Parties, WEW and Prospect agree to amend the Agreement as follows:

1. Section 2.2. of the Agreement, titled Plugging and Restoration Work, is amended to add a new subparagraph (a)(vi) as follows: Prospect is not required to revegetate the land associated with the Wells, to perform further weed control or storm water management on such land, or to reclaim existing roads associated with the Wells, and WEW knowingly and forever waives the requirements for revegetation, weed control, storm water management, and road reclamation under COGCC Rule 1004 with respect to the land associated with the Wells. WEW waives these requirements because it intends to revegetate the land associated with the Wells as open space within the Subdivision and to reclaim or improve the existing roads as part of the Subdivision. WEW will be satisfied with the reclamation of this land without revegetation, weed control, storm water management, or road reclamation as required by COGCC Rule 1004, provided that Prospect completes the requirements in Section 2.2(a)(i) through 2.2(a)(v) above.

2. Section 2.2 of the Agreement, titled Plugging and Restoration Work, is further amended to add a new sentence at the end of subparagraph (b) as follows: Provided, that Prospect may obtain a variance from the revegetation, weed control, storm water management, and road reclamation requirements of COGCC Rule 1004 consistent with Section 2.2(a)(vi) above.

3. Except as expressly amended by the preceding Paragraphs 1 and 2 of this Amendment, all other terms, conditions, and provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of on the day and year first above written.

WATERS' EDGE WEST LLC

By: Waters' Edge Investments LLLP, its sole member and manager

By: Actual Communities, Inc. its general partner



By: WEL(BILL) SWALLING
Title: PRESIDENT

PROSPECT ENERGY, LLC

By: _____
Title: _____

3. Except as expressly amended by the preceding Paragraphs 1 and 2 of this Amendment, all other terms, conditions, and provisions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of on the day and year first above written.

WATERS' EDGE WEST LLC

By: Waters' Edge Investments LLLP, its sole member and manager

By: Actual Communities, Inc. its general partner

By: _____
Title: _____

PROSPECT ENERGY, LLC


By: WARD GILVER
Title: MANAGER