

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

IN THE MATTER OF THE PROMULGATION)	CAUSE NO. 407
AND ESTABLISHMENT OF FIELD RULES)	
TO GOVERN OPERATIONS FOR THE)	DOCKET NO. 190900569
CODELL AND NIOBRARA FORMATIONS,)	
WATTENBERG FIELD, ADAMS COUNTY,)	TYPE: POOLING
COLORADO)	

**GREAT WESTERN OPERATING COMPANY, LLC'S RESPONSE TO
PROTESTANT'S EXCEPTIONS TO HEARING OFFICER'S RECOMMENDED ORDER
AND ORDER REGARDING GREAT WESTERN OPERATING COMPANY, LLC'S
MOTION TO DISMISS PURSUANT TO C.R.C.P. 12(b)(1) AND 12(b)(5)**

COMES NOW Great Western Operating Company, LLC (Operator No. 10110) ("Great Western" or "Applicant") by and through its attorneys, Jost Energy Law, P.C., and respectfully files this Response to the Exception filed by Stacy and Eric Lambright (the "Lambrights" or "Protestant") to the Hearing Officer's Recommended Order and Order Regarding Great Western's Motion to Dismiss Pursuant to C.R.C.P. 12(b)(1) and 12(b)(5). In support of this Response, Great Western states as follows:

INTRODUCTION

The Commission's consideration of the Lambrights' Exception in this matter is limited to a pure question of law. The only issue before the Commission is whether the Hearing Officer was correct, as a matter of law, in his Order Granting Great Western's Motion to Dismiss and his Recommended Order to Approve the Application in the above-referenced docket. Based on the undisputed facts in the record, the Hearing Officer's Orders in this matter are correct as a matter of law, and nothing in the Lambrights' Exception rebuts or otherwise provides conflicting legal precedent contradicting the Hearing Officer's findings. The Lambrights' Exception continues to raise unsupported allegations that are irrelevant to the consideration of a pooling application, are outside of the Commission's jurisdiction, are not supported by plausible facts or law, and were not raised in the Lambrights' Protest in this matter. For the following reasons, the Commission should deny the Lambrights' Exception to the Hearing Officer's Orders, uphold the Hearing Officer's Order Granting Great Western's Motion to Dismiss, and consider the Recommended Order to Approve the Application as the final Order of the Commission.

RELEVANT FACTS AND PROCEDURAL HISTORY

1. On June 25, 2019, Great Western filed an Application in the above-referenced Docket (the "Application") for an order to pool all interests within an approximate 640-acre drilling and spacing unit established for the below described lands ("Application Lands"), and to subject any non-consenting interests to the cost recovery provisions of § 34-60-116(7), C.R.S., for the drilling of the Ivey LC 02-033HC Well and Ivey LC 02-036HC Well ("Wells"),

for the production of oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations:

Township 1 South, Range 68 West, 6th P.M.

Section 2: E½

Section 11: E½

2. Prior to filing the Application, Great Western tendered reasonable, good faith lease offers to all unleased mineral owners in the Application Lands in accordance with former Rule 530, and tendered offers to participate in the drilling and operation of the Wells to all unleased and leaseholder owners in compliance with former Rule 530. See sworn Testimony submitted in support of the Application in the public records in COGCC Docket No. 190900569.

3. The Lambrights are leased royalty owners, as acknowledged by the Lambrights in this matter, so they were not entitled to receive a lease offer or an offer to participate in the Wells. See Lambright Response to Great Western's Motion to Dismiss, p. 2, 6; see *also* the Oil and Gas Lease attached to the Lambright Response, recorded in the records of the Clerk and Recorder of Adams County, Colorado on August 25, 1975 in Book 2013, Page 325 (the "Byron Lease") and its associated Amendment and Ratification recorded in the records of the Clerk and Recorder of Adams County, Colorado on August 31, 2004 at Reception No. 20040831000842740 (the "Starlight Lease").

4. On or before July 26, 2019, Great Western mailed a copy of the Application and Notice of Hearing to all interested parties, including the Lambrights as leased royalty owners, in compliance with former Rule 507. See Certificate of Service in the public records of the COGCC in Docket No. 190900569. On August 6 and August 7, 2019, Great Western caused the Notice of Hearing to be published in the Denver Daily Journal and the MetroWest Brighton Standard Blade in Adams County in compliance with former Rule 507. See Affidavit of Publication in the public records of the COGCC in Docket No. 190900569.

5. The Lambrights acknowledge that they did receive the Notice of Hearing and Application in compliance with the Oil and Gas Conservation Act (the "Act") and Commission Rules. See Oral Argument, at 38:00, as cited in the Hearing Officer's Order Granting Great Western's Motion to Dismiss in this matter.

6. On August 26, 2019, the Lambrights filed a protest to the Application pursuant to former Rule 509 (the "Protest"). In their Protest, the Lambrights argued that Great Western failed to provide them with a reasonable offer to lease or participate in the Wells. Protest, p. 1-2. The Lambrights also alleged that the Application will cause waste and result in the drilling of unnecessary wells, will not protect their correlative rights, will cause irreparable environmental damage, and will endanger the health, safety, and welfare of residents in the area. *Id.* at 2. While the Protest also alleges that the Lambrights did not receive proper notice, the Lambrights later admitted that they did receive the Notice of Hearing and Application. Oral Argument, at 38:00.

7. On December 17, 2019, Great Western filed a Motion to Dismiss the Lambrights' Protest pursuant to C.R.C.P. 12(b)(1) and 12(b)(5) (the "Motion") on the basis, among other things, that the Lambrights are leased mineral owners and therefore their allegation that they did not receive a lease or offer to participate under the Act and Commission Rules failed to state a claim for which relief can be granted, the Commission lacks jurisdiction to address any disputes over leases, including those arising in this matter, and that the Application complies with applicable COGCC Rules and the Act. Motion, p. 5-8.

8. On January 7, 2020, the Lambrights filed a Response to Great Western's Motion. The Lambrights argued, among other things, that C.R.C.P. 12(b)(5) does not apply to protestors and raised several new arguments challenging specific terms within the Byron Lease and Starlight Lease and, for the first time, new public policy and constitutional arguments and a request to "see their mineral rights remain in the ground." Lambrights Response, p. 5.

9. On January 14, 2020, Great Western filed a Reply in Support of Motion to Dismiss Pursuant to C.R.C.P. 12(b)(1) and 12(b)(5). Great Western's Reply objected to the new arguments raised by the Lambrights in their Response, objected to numerous factual claims and the standard of review outlined in the Response, and outlined the Commission's lack of subject matter jurisdiction over the Protestant's arguments. Great Western Reply, p. 2-7. Great Western also requested summary dismissal of the Protest pursuant to Commission Rule 501.b, for abuse of process. *Id.* at 10-11.

10. On March 12, 2020, the Hearing Officer held oral arguments on the issues raised in the Motion.

11. On December 8, 2020, the Lambrights filed a Motion for Emergency Hearing seeking clarification on the effective date of the COGCC Mission Change Rulemaking and its potential impact on the Application, Protest, and Motion as related to statutory pooling and the Application. Motion for Emergency Hearing, p. 1-2. On December 21, 2020, the Hearing Officer issued an Order denying the Motion for Emergency Hearing on the basis, among other things, that the request for clarification on the application of the Mission Change Rules is unripe for adjudication by the Hearing Officer, that to address or apply the Mission Change Rules to the protest and the issues presented in the Motion to Dismiss would constitute the impermissible issuance of an advisory opinion, and that the request for an emergency hearing on other issues related to constitutional arguments and arguments regarding forced pooling under the Act and Commission Rules must be denied because no further relief is available to Protestants on those issues. *Id.* p. 3-4.

12. As acknowledged in the Hearing Officer's Order Granting Great Western's Motion, the Application remained continued pending review and pending litigation in the Adams County and Denver District Courts regarding the Ivey wells at issue in this docket and related Docket No. 210400286. The litigation regarding the Ivey wells involved Complaints for Declaratory Judgment filed by Adams County Communities for Drilling Accountability Now ("ACCDAN"), of which the Lambrights are members.

13. On April 29, 2021, the Adams County District Court entered an Order Granting Great Western's Converted Motion for Summary Judgment in Case Number 2021 CV 030101. In the Adams County District Court matter, the Court considered ACCDAN's Complaint for Declaratory Judgment seeking an injunction prohibiting Great Western from operating in the Ivey site. The Adams County District Court held that ACCDAN's claims for declaratory and injunctive relief fail as a matter of law.

14. On October 29, 2021, the Hearing Officer entered an Order Granting Great Western's Motion to Dismiss the Lambrights' Protest in this matter finding, among other things: 1) that the Lambrights are leased mineral owners and are not entitled to a new lease or offer to lease under the Act or COGCC Rules, 2) that the Commission does not retain jurisdiction to enforce or interpret the terms of a private lease or otherwise adjudicate any controversy involving a bona fide dispute regarding contract interpretation, 3) that the Lambrights' claim that current market conditions are not favorable to the owner of mineral interests fails to state a claim for which relief can be granted, 4) that the Lambrights' claims that the pooling application will cause waste and the drilling of unnecessary wells, and will not protect correlative rights, all fail to state a claim for which relief can be granted, and 5) that the Lambrights' allegations that the pooling application will endanger the health, safety, and welfare of the many residents who live in the drilling and spacing unit cannot be redressed through denial of an involuntary pooling application. Order Granting Great Western's Motion, p. 6-12.

16. On November 1, 2021, the Hearing Officer entered an Order Granting Great Western's Motion to Dismiss ACCDAN's Protest to the second Ivey wells pooling application in Docket No. 190400286 for similar reasons.

17. On November 8, 2021, the Hearing Offer issued a Recommended Order approving the Application in this matter. In the Recommended Order the Lambrights are not listed as nonconsenting parties subject to the cost recovery provisions of the Act because they are leased royalty owners.

18. On November 17, 2021, the Commission took no action on the Recommended Order approving the Application on the Consent Agenda.

19. On November 29, 2021, the Lambrights filed the subject Exception to the Orders of the Hearing Officer. With the Exception, the Lambrights did not submit a designation of the relevant parts of the record pursuant to § 24-4-105(15)(a), C.R.S. As such, the Commission's review of the Exception is limited to a matter of law. Section 24-4-105(15)(a), C.R.S.

20. On November 30, 2021, the Order approving the pooling of the additional Ivey wells in Docket No. 190400286 became the final Order of the Commission after no Exceptions were timely filed.

21. On November 30, 2021, the Denver District Court in Case Number 2021CV93 heard oral argument on Great Western and the COGCC's Motions to Dismiss ACCDAN's Complaints for a Declaratory Judgment that Colorado's pooling statute and regulations violate Article II, § 14 of the Colorado Constitution and request for a permanent injunction enjoining the State of Colorado or its agencies from enforcing the pooling statute. On an oral ruling on the bench, the Court found that under C.R.C.P. 12(b)(1) ACCDAN has not suffered an injury in fact, and under C.R.C.P. 12(b)(5) ACCDAN's claim is insufficient because the substantive law does not support the claims asserted. For these reasons, the Court granted Great Western's and the COGCC's Motions to Dismiss.

STANDARD OF REVIEW

1. COGCC Rule 520.c. provides that Pursuant to § 34-60-108(9), C.R.S., a recommended order becomes the Commission's final order unless, within 20 days or such additional time as the Commission may allow, any party or person whose petition to participate in the matter was denied files exceptions to the recommended order or the Commission orders the recommended order to be stayed. COGCC Rule 532.c. further provides that if exceptions are timely filed, the recommended order is stayed until the Commission rules upon them, and Parties may file responses to exceptions within 14 days following service of the exceptions.

2. COGCC Rule 520.c.(1) provides that the Commission will conduct a review upon the same record before the Administrative Law Judge or Hearing Officer, and a de novo review of the law.

3. Section 24-4-105(15)(a), C.R.S., provides, in relevant part, that any party who seeks to reverse or modify the initial decision of the administrative law judge or the hearing officer shall file with the agency, within twenty days following such decision, a designation of the relevant parts of the record described in subsection (14) of this section and of the parts of the transcript of the proceedings which shall be prepared and advance the cost therefor. Section 24-4-105(15)(a), C.R.S., further provides that no transcription is required if the agency's review is limited to a pure question of law, that the grounds of the decision shall be within the scope of the issues presented on the record, and that the record shall include all matters constituting the record upon which the decision of the administrative law judge or the hearing officer was based, the rulings upon the proposed findings and conclusions, the initial decision of the administrative law judge or the hearing officer, and any other exceptions and briefs filed.

4. Section 24-4-105(15)(b), C.R.S., provides that the findings of evidentiary fact, as distinguished from ultimate conclusions of fact, made by the administrative law judge or the hearing officer shall not be set aside by the agency on review of the initial decision unless such findings of evidentiary fact are contrary to the weight of the evidence. Section 24-4-105(15)(b), C.R.S. further provides that the agency may remand the case to the administrative law judge or the hearing officer for such further proceedings as it may direct, or it may affirm, set aside, or modify the order or any sanction or relief entered therein, in conformity with the facts and the law.

5. The Commission has the authority to overturn the Hearing Officer's order if the ultimate determinations of fact "are based on an incorrect legal conclusion." See § 24-4-105(15)(b), C.R.S. (2021); *Barrett v. Univ. of Colo. Health Sciences Ctr.*, 851 P.2d 258, 261 (Colo. App. 1993); see also *Bd. of Assessment Appeals v. A.M./F.M. Int'l*, 940 P.2d 338 (Colo. 1997) (holding that finding should be overturned if there is no reasonable basis in law).

6. The standard for setting aside a hearing officer's findings of fact, stated in § 24-4-105(15)(b), C.R.S., establishes the assumption that the hearing officer's findings are accurate. *Samaritan Inst. v. Prince-Walker*, 883 P.2d 3 (Colo. 1994). If the evidence would equally support alternative findings, the hearing officer's determination may not be set aside. *Id.* The party challenging the hearing officer's findings has the burden of proving the weight of the evidence. *Id.*

RESPONSE TO PROTESTANT'S EXCEPTION

In the Exception, the Lambrights make numerous unsupported allegations regarding the terms of the Byron and Starlight Leases, the standard of review, and attempt to create new legal standards for pooling that fall outside any established rule, the Act, or legal precedent. Focusing on the relevant question of the Hearing Officer's conclusions of law, the Lambrights' Exception provides no evidence based on the facts in the record or applicable law that the Hearing Officer's conclusions of law were improper in this matter. For the reasons outlined herein, the Hearing Officer was correct in his rulings as a matter of law, and the Orders must be upheld.

The Order Granting Great Western's Motion Correctly Concludes that the COGCC Mission Change Rules Did Not Alter the Obligations of Involuntary Pooling Applicants to Leased Mineral Owners.

As at threshold matter, the Hearing Officer's Order Granting Great Western's Motion to Dismiss contains a thorough legal analysis regarding the applicability of the COGCC Mission Change Rules on the subject pooling Application. Order Granting Motion, p. 5-7. The Hearing Officer correctly concludes that the Mission Change Rulemaking did not alter the involuntary pooling process under Commission Rules. *Id.* The Lambrights' Exception fails to demonstrate how the Hearing Officer erred in his legal conclusions. As properly concluded in the Order Granting Great Western's Motion, the Lambrights have asserted no factual allegations of harm to their leased mineral interest resulting from approval of the pooling Application. *Id.* at p. 7. The Lambrights' Exception makes the unsupported argument that the entirety of the Act, as amended by Senate Bill 19-181, applies to the specific deliberation of the subject pooling Application. Exception, p. 5. Notwithstanding the fact that the Lambrights' assertions regarding health, safety and welfare are conclusory allegations that are not entitled to an assumption that they are true (*Warne v. Hall*, 373 P.3d 588, 591 (Colo. 2016)), such allegations fall entirely outside of the scope of pooling. As correctly stated by the Hearing Officer in the Order Granting Great Western's Motion, operators are not required to file an application for pooling or

obtain a pooling order from the Commission in order to obtain a Form 2A or a Form 2 drilling permit. Order Granting Motion, p. 11. It is also important to note that because the Lambrights' mineral interests are subject to valid oil and gas leases, Great Western is not seeking cost recovery penalties against the Lambrights' mineral interests. See Recommended Order Approving the Application. The Lambrights' Exception provides no legal basis in the Rules or Act, nor any factual allegation, that pooling the minerals underlying an established drilling and spacing unit would result in harm or endangerment to the Lambrights' leased interests. Nor, for that matter, does the Exception provide legal or factual support for the alleged harm to the health, safety and welfare of surrounding residents. The Exception cites no evidence in the record that Great Western failed to comply with the specific requirements for pooling in COGCC Rules or the Act. For these reasons, the Hearing Officer's Order with respect to the applicability of the Mission Change Rules and the Lambrights' allegations on alleged harm to their leased mineral interest and to health, safety and welfare must be upheld.

The Order Granting Great Western's Motion Correctly Concludes that the Commission has no Jurisdiction over Contractual Interpretation or Dispute.

Turning to the specific allegations in the Lambrights' Exception with respect to the Hearing Officer's rulings under C.R.C.P. 12(b)(1) and 12(b)(5), the Lambrights' Exception confuses the Hearing Officer's findings on these legal issues. The Order Granting Motion to Dismiss dismisses the Lambrights' allegations regarding the terms of the Byron Lease and Starlight Lease under C.R.C.P. 12(b)(1) for lack of subject matter jurisdiction. Order Granting Motion, p. 8, citing *Chase v. Colo. Oil & Gas Conservation Comm'n*, 284 P.3d 161-167-68 (Colo. App. 2012); *Grynberg v. Colo. Oil & Gas Conservation Comm'n*, 7 P.3d 1060, 1063 (Colo. App. 1999); *Brice v. Pugh*, 354 P.2d 1024 (Colo. 1960); *Kugel v. Young*, 291 P.2d 695 (Colo. 1955); *Hill v. Stanolind Oil & Gas Co.*, 205 P.2d 643 (Colo. 1949). The Exception does not even acknowledge the substantial case law cited in the Order Granting Great Western's Motion establishing that the Commission does not retain jurisdiction to enforce or interpret the terms of a private lease or otherwise adjudicate any controversy involving a bona fide dispute regarding contract interpretation. Order Granting Motion, p. 8. Instead, the Exception makes the illogical argument that the Commission is required to review lease terms that "go back 50 years" to "safeguard, protect, or enforce correlative rights." Exception, p. 9. In addition, the Exception raises the new legal argument contained within the Lambrights' Response to Great Western's Motion that the Lambrights' lease terms violate public policy. *Id.* Not only do these claims fall squarely outside of the Commission's jurisdiction, but the Exception attempts to create entirely new legal standards for the Commission that counter all relevant precedent on these issues and were not raised in the Lambrights' Protest. For these reasons, the Hearing Officer's Order with respect to the dismissal of the Lambrights' allegations on the lease terms for lack of subject matter jurisdiction must be upheld.

The Order Granting Great Western's Motion Correctly Concludes that the Remaining Claims Raised in the Lambright Protest Fail to State a Claim for which Relief can be Granted.

The Order Granting Motion to Dismiss dismisses the following allegations raised by the Lambrights under C.R.C.P. 12(b)(5) for failure to state a claim for which relief can be granted: 1) Great Western failed to offer unleased mineral owners in the Application Lands a reasonable offer to lease; 2) current market conditions are not favorable to mineral owners; 3) the pooling Application will cause waste, drilling of unnecessary wells, and will not protect correlative rights; and 4) endangerment of health, safety and welfare of residents. Order Granting Motion, p. 6-12. The Lambrights generally allege that the claims raised in the Protest were made under the notice pleading requirements, and the Lambrights are not required “to go into great pains to further describe these claims.” Exception, p. 4. However, the Lambrights offer no evidence in the record or valid legal precedent to support how any of the claims asserted result in an injury-in-fact to the Lambrights’ leased mineral interest based on the requirements for pooling in the Act and COGCC Rules. The Order Granting Great Western’s Motion cites the applicable legal standard for ruling on a C.R.C.P. 12(b)(5) motion to dismiss for failure to state a claim upon which relief can be granted, which is set forth in *Warne v. Hall*, 373 P.3d 588 (Colo. 2016). The Order applies the *Warne* standard on every allegation raised in the Lambrights’ Protest by accepting the plausible factual allegations in the Lambrights’ Protest as true, and dismissing conclusory allegations and allegations that fail to state a claim for relief. The Lambrights’ Exception does not even cite or acknowledge the applicable standards set forth in *Warne*, and instead makes an unsubstantiated claim that C.R.C.P. 12(b)(5) does not apply to Protestors, which has been dismissed by the Commission in Order No. 1-240 (“C.R.C.P. 12(b)(5) and the dismissal process may apply in Commission proceedings...C.R.C.P. 12(b)(5) is not inconsistent with any provision of the Commission Rules or the Act.” Order No. 1-240, Commission Conclusion No. 5).

First, the Hearing Officer correctly rules that leased mineral owners are not entitled to a new offer to lease or participate under the Act and Commission Rules, and the Act and Rules repeatedly and expressly state that operators are required, among other things, to send lease offers and election letters to unleased mineral owners. Order Granting Motion, p. 7, citing C.R.S. § 34-60-116(7)(d)(I) (emphasis added). The Lambrights Exception offers no evidence in the record or relevant legal authority that rebuts this finding or otherwise demonstrates that the Hearing Officer’s finding is based on an incorrect conclusion of law. In addition, the Hearing Officer correctly rules that the implementation of SB 19-181 and the Mission Change Rules did not alter the obligations of involuntary pooling applicants to leased mineral owners. *Id.* Again, the Lambrights Exception offers no evidence in the record or relevant legal authority that rebuts this finding or otherwise demonstrates that the Hearing Officer’s finding is based on an incorrect conclusion of law.

Second, the Hearing Officer correctly rules that with respect to the allegation of unfavorable market conditions, the Lambrights’ argument is a conclusory allegation not supported by specific facts, and the Hearing Officer is not required to assume the truth of such facts. *Id.* p. 9, citing *Warne* at 591; *Scott v. Scott*, 428 P.3d 626, 632-33 (Colo. App. 2018); *Campaign Integrity Watchdog, LLC v. Colorado Republican Party Independent Expenditure Committee*, 395 P.3d 1192, 1195 (Colo. App. 2017). The Hearing Officer further rules that even accepting these allegations as true, the Lambrights’ argument does

not state a plausible claim for relief as permitted by the Act or Rules. *Id.* Again, the Lambrights Exception offers no evidence in the record or relevant legal authority that rebuts this finding or otherwise demonstrates that the Hearing Officer's finding is based on an incorrect conclusion of law.

Third, the Hearing Officer correctly rules that the Lambrights' allegations of waste, drilling of unnecessary wells and protection of correlative rights must be dismissed because the allegations are conclusory and unsupported by factual allegations. *Id.* at p. 10. The Lambrights' Exception again ignores the standards of *Warne* and cites to the Act to claim that the Lambrights may raise correlative rights concerns as a defense to pooling. Exception, p. 8. While Great Western does not dispute that the protection of correlative rights is a tenant of the Act and relevant to the establishment of a drilling and spacing unit, the Exception cites to zero factual allegations in the record regarding how granting the pooling Application will harm the Lambrights' correlative rights. The Hearing Officer correctly acknowledges that notice pleading is still the norm, and allegations can still be made on information and belief; however, the allegations must be factual, and conclusory allegations are not entitled to an assumption that they are true. Order Granting Motion, p. 4, citing *Warne* at 595, 596. For these reasons, the Order dismissing these allegations must be upheld.

Fourth, as addressed above, the Order correctly dismisses the Lambrights' allegation that approval of the pooling Application will result in the endangerment of health, safety and welfare and residents who live in the surrounding area. Not only do these conclusory allegations fail under the *Warne* standard, as found by the Hearing Officer, but they are not relevant to the determination of a pooling application under COGCC Rules and the Act.

CONCLUSION

The Lambrights' Exception raises no relevant fact in the record or applicable law to support a finding that the Hearing Officer made erroneous conclusions of law in dismissing the Protest. The Exception ignores the simple undisputed fact that the Lambrights are leased, that the Commission has no jurisdiction to interpret or adjudicate a private contract, and that the Protest makes no plausible factual allegations that are entitled to relief under the Act or COGCC Rules. As stated in the Notice of Exception in this matter, written statements expressing general dissatisfaction with the Recommended Order or Interim Decision do not constitute a valid exception. The Lambrights' Exception does nothing more than reiterate the unsubstantiated claims in the Protest while failing to acknowledge the vast amount of legal precedent supporting the findings of the Hearing Officer in the Order Granting Great Western's Motion. The Hearing Officer was correct in his rulings on these issues as a matter of law, and for these reasons the Order Granting Great Western's Motion to Dismiss and the Recommended Order to Approve the Application must be upheld.

WHEREFORE, for the foregoing reasons, Great Western respectfully requests that the Commission deny the Lambrights' Exception to the Hearing Officer's Orders,

uphold the Hearing Officer's Order Granting Great Western's Motion to Dismiss, consider the Recommended Order to Approve the Application as the final Order of the Commission, and grant such further relief as necessary and required in this matter.

DATED this 10th day of December, 2021.

Respectfully submitted,

Great Western Operating Company, LLC



By: _____

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2021, Jost Energy Law, P.C. caused Great Western Operating Company, LLC's Response to the Lambrights Exception in Colorado Oil and Gas Conservation Commission Docket No. 190900569 to be served via electronic mail to the Commission and to counsel for Eric and Stacy Lambright at the addresses listed below:

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A handwritten signature in blue ink, appearing to be "Jost", is positioned above a horizontal line.

Jost Energy Law, P.C.