



**FINAL ORDER**

**BEFORE THE WELD COUNTY 1041 WOGLA HEARING OFFICER**

Docket Number 1041WOGLA22-0022 (Ruh State South Pad)

1041 WOGLA Hearing Officer Dave Kulmann heard this matter on April 6, 2023 at the Weld County Oil & Gas Energy Hearing Room, 1402 N. 17<sup>th</sup> Ave, Greeley, CO 80631 and through a remotely held audio and video connection led by the Oil & Gas Energy Department Director upon application for a 1041 WOGLA Permit located in the SE/4NE/4 of Section 11, Township 6 North, Range 62 West, 6<sup>th</sup> P.M., Weld County, Colorado. Present for the hearing were Kelly Holliday, Lead Regulatory Analyst, Weld County; Elisa Kunkel, Oil & Gas Energy Technician, Weld County; Shanee Turner, Weld County, Oil & Gas Energy Technician; Jason Maxey, Oil & Gas Energy Department Director, Weld County; Matthew Conroy, Assistant County Attorney, Weld County; Natalie DeLaCroix, Engineer II, Weld County's Development Review and Planning; Ryan Fernandez, Environmental Health Specialist I, Weld County's Department of Public Health and Environment; and Bennett Neale, Vice President of Land, HERV Oil, LLC. Having heard the testimony presented and considering documents submitted for review, including the application, the Hearing Officer makes the following Findings of Fact and Law:

**Findings of Fact and Law**

The Hearing Officer makes the following findings of fact:

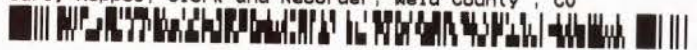
1. The name of the location is the Ruh State South Pad.
2. HERV Oil, LLC. ("HERV" or "Applicant") as Applicant for the above referenced Docket delivered its 1041 WOGLA Permit Application ("Application" or "Permit") dated December 30, 2022, to the Weld County Oil & Gas Energy Director ("Director" or "Staff").
3. Upon review of the Application, Ms. Holliday found the Application to be complete and forwarded the Application to the Hearing Officer for the purpose of scheduling a hearing pursuant to the Weld County 1041 Regulations ("WCC" or "Code").
4. At the scheduled Hearing on April 6, 2023, the Hearing Officer took testimony for this Application from Staff, Weld County's Development Review and Planning, Weld County's Department of Public Health and Environment, and from the Applicant.
5. At the scheduled Hearing on April 6, 2023, Ms. Holliday provided the following detailed testimony:
  - a. The Application is located just east of highway 392, south of highway 14, and roughly seven miles from the Morgan County line.
  - b. The proposed Oil and Gas Location ("OGL" of "Location") is within the Ag-Rural Planning Area as defined by the Code.



- c. The Application is located outside of any floodplain, floodway, geologic hazard, MS4 area, or airport overlay district.
- d. The Application is within a High Priority Habitat ("HPH") area for Pronghorn Winter Concentration Area as designated by the Colorado Parks and Wildlife ("CPW").
- e. The pre-Application meeting was held on June 29, 2022, and was attended by Weld County staff, Colorado Oil and Gas Conservation Commission ("COGCC") staff, CPW staff, and HERV staff. Several alternative site locations were discussed at the pre-application meeting.
- f. HERV also hosted an onsite with CPW and COGCC that Weld County participated in.
- g. At the pre-application meeting, no attendee gave any reasons why HERV should not proceed with the Application.
- h. Staff conducted a site visit and found no issues.
- i. The proposed Location is a well pad and associated production facility developing eight horizontal wells and will be 10.9 acres of disturbance that will be reduced to 8.54 acres after interim reclamation.
- j. The Applicant has a Surface Use Agreement ("SUA") in place with William G. Ruh and Marjorie L. Ruh.
- k. HERV certified that they sent out all required notices.
- l. There are two Building Units ("BU") within the 1041WOGLA Zone. The closest BU is to the northeast roughly 1,567 feet from the proposed Location.
- m. There are no High Occupancy Building Units, Schools, School Facilities, Child Care Centers, or Designated Outdoor Activity Areas (all as defined within the Code) within the 1041 WOGLA Zone.
- n. All property owners within the 1041WOGLA Zone were notified by Weld County of the scheduled Hearing including how to apply for intervention. This notice was sent to three property owners.
- o. There was one application for intervention request by Ms. Chris Schultz that was approved by the Hearing Officer. Ms. Schultz owns both BUs within the 1041WOGLA Zone.
- p. Staff sent referral requests for the Application to three Weld County departments, three state agencies, the relevant fire protection district, and the applicable school district. Responses were received from all referral agencies except the school district. The Staff Report summarizes these responses.
- q. The Weld County Office of Emergency Management approved the Applicant's Emergency Action Plan and Tactical Response Plan in coordination with Briggsdale Fire Protection District.
- r. A final drainage report has been approved by Development Review for the Application.
- s. Weld County has approved the access permit.



- t. HERV has agreed to implement the following Best Management Practices ("BMPs"):
    - i. Install a natural gas pipeline and produced oil pipeline prior to first production.
    - ii. Temporary lay flat lines will be used to bring fresh water to location during completions operations.
    - iii. Run the production facility on the electric grid.
    - iv. Install sound walls around the entire Location and install source point mitigation around certain production equipment.
    - v. Comply with the Lighting Zone 1 ("LZ-1") levels.
    - vi. No permanent production lighting on the location.
    - vii. Use of automation with remote monitoring and shut-in capabilities.
    - viii. Comply with Noise Level 4 ("NL-4") for Construction Phase operations and Noise Level 1 ("NL-1") for Production Phase operations.
  - u. The Applicant submitted an odor mitigation plan and waste management plan and these were deemed to be compliant.
6. Ms. Holliday gave further testimony that the Application was viewed as complete and testified that the Application was found to be in compliance with the Code including the Application Requirements described within Sec. 21-5-320 of the Code and the Development Standards within Division 4 of Article 5 ("Development Standards") of the Code.
7. Ms. Holliday testified that the Applicant selected the location that best consolidates impacts while protecting health and safety of community residents, wildlife, and the environment.
8. Ms. Holliday gave testimony that Staff recommends approval of the Application with the two COAs stated in the Staff Report (one prior to construction Condition and one prior to drilling Condition) as the location remains protective of the residents, wildlife, and environment while maintaining compatibility of nearby land uses.
9. Upon questioning at the April 6, 2023 Hearing, Ms. Holliday further testified that:
- a. The Applicant has not submitted their COGCC permits yet.
  - b. No issues with driving the haul route.
  - c. She is satisfied with the alternatives the Applicant has provided including those that Weld County asked the Applicant to assess during the pre-application meeting.
  - d. She is not aware of any other alternatives requested to be assessed by either Weld County, CPW, or COGCC that were not assessed by the Applicant.
  - e. She has not had any additional contact with CPW other than the pre-application meeting and the referral.
  - f. She received one response back from the noticed party that successfully applied for intervention.
  - g. All parties required to be noticed by the Code were in fact noticed.



- h. The wells in the Application are greater than 200 feet from a property line as required per Sec. 21-5-490 of the Code.
  - i. The Applicant received copies of the Staff Report and all referrals.
  - j. She is satisfied with all the BMPs listed in the Application.
- 10. At the April 6, 2023 Hearing, Ms. DeLaCroix from Development Review and Planning testified that:
  - a. Development Review and Planning see no compatibility conflicts with surrounding land uses.
  - b. An access permit has been approved by Weld County.
  - c. An RMA has been approved by Weld County.
  - d. The Applicant has fulfilled all requirements for the final drainage report for the Application.
  - e. She is satisfied that the OGL is outside of the County ROWs.
  - f. She has no concerns about the proposed haul route for the Application.
- 11. At the April 6, 2023 Hearing, Mr. Fernandez from Weld County's Department of Public Health and Environment testified that:
  - a. He reviewed the Applicant's noise mitigation plan and did not have any major concerns remaining.
  - b. He is recommending NL-4 for Construction Phase operations and NL-1 for Production Phase operations per Sec. 21-5-435 of the Code.
  - c. The Applicant will be required to install a partial perimeter sound wall during drilling and completions operations, interior sound walls during both drilling and production operations, and other required mitigations.
  - d. He reviewed the revised odor mitigation plan that updated where used oil can be disposed. He advised the Applicant that the oil may need to be attempted to be recycled before being allowed at an oil disposal location.
- 12. On May 17, 2023, Weld County received an application for intervention from Ms. Chris Schultz over concerns of dust, traffic, noise, lights, and visual disturbance. The Hearing Officer approved the application for intervention on March 20, 2023.
- 13. Ms. Schultz owns both BUs within the 1041WOGLA Zone.
- 14. At the April 6, 2023 Hearing, Ms. Schultz provided the following testimony:
  - a. Her biggest concerns over the proposed Location are related to noise, traffic, and her property values.
  - b. She received several phone calls and mailings from HERV.
  - c. She believes HERV has been responsive overall.
  - d. There is an existing facility to the west of her house that she would prefer HERV locate this development there as a natural hill exists that would block the operations from her house.
  - e. The haul route goes right by her house.



15. The Hearing Officer stated at the Hearing that there is nothing in the Code related to property values so there is nothing the Hearing Officer can do regarding that issue but that the Hearing Officer would discuss noise and traffic with the Applicant.
16. At the scheduled Hearing on April 6, 2023, Mr. Neale from HERV testified that:
  - a. The COGCC permits have not been submitted and HERV will do so once emission estimates are completed. The goal is to submit the permit within the next 30 days.
  - b. The following noise Best Management Practices ("BMPs") will be implemented on the proposed Location:
    - i. Partial sound wall to the east and north of the Location during drilling and completions operations.
    - ii. Sound walls will be installed by the cuttings shakers during drilling operations.
    - iii. Sound walls will be installed by the north side of the VRUs and injection compressor during production operations.
    - iv. A quiet frac fleet will be used.
    - v. Continuous noise monitoring will be in place during drilling and completions operations and the first six months of production operations. A noise monitor will be placed on Ms. Schultz's property if allowed.
      1. Ms. Schultz testified that she would allow a noise monitor on her property.
  - c. Mr. Neale testified that if issues arise related to C scale noise based on the continuous noise monitoring at Ms. Schultz's house, that HERV will implement additional noise mitigations immediately.
  - d. The following are additional BMPs that will be implemented:
    - i. Lights will be directed downward and inward.
    - ii. No permanent production lighting will be installed.
    - iii. Pipeline takeaway for oil and gas.
    - iv. Temporary lay-flat lines will be used to bring fresh water on the Location for completions operations.
    - v. Automation with remote shut in will be implemented.
    - vi. Electrified equipment, including the drilling rig, VRUs, and compressors will be used.
    - vii. LDAR and VRO inspections according to state requirements.
    - viii. Group II drilling fluid will be used for production hole drilling.
17. The following information was included in the Application or was part of testimony from Mr. Neale at the April 6, 2023, Hearing related to siting and the Alternative Location Analysis:
  - a. HERV was looking for two Locations to develop four total mineral acres and both locations had to be on the same side of the sections. HERV came to the proposed Location and the Ruh State North pad as the two locations.



- b. HERV explored the idea of one large Location to develop all four sections, but the only potential location was between Sections 1 and 12 which would be right across the street from Ms. Schultz's Residential Building Unit ("RBU"). HERV did not find this as a viable alternative because of that reason.
- c. The proposed location has several advantages including:
  - i. No impact to agricultural operations.
  - ii. No impact to wetlands.
  - iii. Not located within a floodplain or floodway.
  - iv. No major cultural features within the 1041WOGLA Zone.
  - v. An oil pipeline and gas pipeline both exist just to the north of the proposed Location.
- d. HERV had extensive consultations with CPW which resulted in the following:
  - i. Location size reduced 50% from initial conception.
  - ii. Location moved closer to the county road as requested by CPW.
- e. Ms. Schultz's home is roughly 1,567 feet from the Location and 1,762 feet from the nearest piece of equipment.
- f. Eight total alternatives ("ALA") were assessed by HERV during analysis for both the proposed Location and the Ruh State North pad and all of these alternatives were in the same Pronghorn Winter Concentration HPH.
- g. ALAs #1 and #2
  - i. These two alternatives are located to the south of the entire development area.
  - ii. Directly adjacent to a floodplain and CPW and COGCC had issues with potential impact to water resources.
  - iii. Greater infrastructure disturbance as the existing pipeline infrastructure is to the north of the development area.
  - iv. There is no county road that goes near these alternatives so this would require a much larger access road to be built disturbing significantly greater land.
  - v. Weld County asked for ALA #2 to be assessed and Ms. Holliday testified Staff is satisfied with HERV's analysis and does not believe this alternative is more protective than the proposed Location.
- h. ALAs #3 and #4
  - i. These two alternatives are located to the east of the entire development area.
  - ii. Greater infrastructure disturbance as the existing pipeline infrastructure and access roads are to the north of the development area.
  - iii. CPW asked HERV to avoid these alternatives as there are significant water resources in these locations.

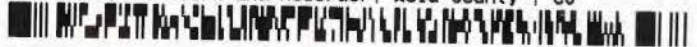


- iv. Weld County asked for ALAs #3 and #4 to be assessed and Ms. Holliday testified Staff is satisfied with HERV's analysis and does not believe these alternatives are more protective than the proposed Location.
- i. ALAs #5 and #6
  - i. These two alternatives are located to the north of the entire development area.
  - ii. ALA #5 still has an RBU within the 1041WOGLA Zone.
  - iii. ALA #5 did not have a true benefit over the proposed Location.
  - iv. ALA #6 is within 500 feet of an RBU which was not an acceptable alternative.
  - v. Weld County asked for ALA #5 to be assessed and Ms. Holliday testified Staff is satisfied with HERV's analysis and does not believe this alternative is more protective than the proposed Location.
- j. The Hearing Officer asked the Applicant why HERV did not consider one large location between ALAs #5 and #6 in the center of Sections 1 and 6 to the north of the development area. Mr. Neale testified to the following:
  - i. This would put the location closer to RBUs.
  - ii. This would still be within the same HPH.
  - iii. There is a water feature that would be directly adjacent to this potential alternative location and HERV wanted to avoid water features based on feedback from both CPW and COGCC.
- k. ALAs #7 and #8
  - i. These two alternatives are located to the west of the entire development area both adjacent to the proposed Location for this Application and the proposed Location for the Ruh State North Pad Application.
  - ii. ALA #7 and #8 were requested to be assessed by the COGCC.
  - iii. ALA #7 has an active water well right at the potential alternative, there are active cattle operations on the land, would still have RBUs within the 1041WOGLA Zone, and would still be within the same HPH.
  - iv. ALA#7 would have longer step outs for the southernmost wells and that was concerning to HERV.
  - v. ALA #7 is owned by McKee Ranch LLP and had concerns with the existing water well on the property.
  - vi. ALA #8 is still within the same HPH. Ms. Schultz testified that even though ALA#\* brings the location further from her house she does not believe that ALA #8 provides any benefits to her over the proposed Ruh State South Pad.
- l. The Hearing Officer asked HERV about the existing facility to the west of Ms. Schultz's RBU that she brought up during her testimony. Mr. Neale provided the following testimony:



- i. The existing facility Ms. Schultz brought up is owned by Civitas and has horizontal wells in production.
  - ii. HERV does not believe that co-location with another operator is possible currently. There is no historical precedent for these actions.
- m. The Hearing Officer found that based on the Application and testimony at the Hearing that no assessed or other potential alternatives brought up during the Hearing were superior to the proposed Location.
- 18. Mr. Neale provided the following testimony relayed to CPW consultations and HPH:
  - a. HERV had an onsite meeting with CPW where the proposed size of the location was reduced by 50% and the location was moved closer to the county road as requested by CPW.
  - b. HERV has a Wildlife Mitigation Plan ("WMP") that was reviewed by CPW.
  - c. HERV is agreeing to a wildlife timing stipulation where Construction Phase operations will not take place between January 1<sup>st</sup> and April 30<sup>th</sup> of any year.
  - d. HERV will do the following surveys as requested by CPW in their referral:
    - i. Nesting surveys for raptors prior to construction.
    - ii. Biologist survey for Burrowing Owls if construction takes place between March 15<sup>th</sup> and October 31<sup>st</sup>.
    - iii. Biologist survey for songbirds if construction takes place between January 15<sup>th</sup> and August 31<sup>st</sup>.
  - e. HERV will implement all 16 requirements listed in Sec. 21-5-540.A of the Code related to operating within an HPH.
- 19. Upon questioning from the Hearing Officer on the need for six oil tanks when HERV firmly committed to an oil pipeline for takeaway, Mr. Neale testified to the following:
  - a. HERV's position is the tanks will be for storage in case something happens to the oil pipeline.
  - b. HERV will reduce the number of oil tanks if possible.
  - c. In response to the Hearing Officer's concern that allowing this many oil tanks could potentially incentivize the Applicant to start trucking oil for an extended period if there are issues with the oil pipeline, Mr. Neale testified:
    - i. It is more costly and riskier for HERV to truck oil than use an oil pipeline.
    - ii. HERV will agree to a notification process with Weld County to ensure extended trucking of produced oil won't occur.
  - d. HERV agreed to the following notification process with Weld County:
    - i. If both the oil pipeline is shut down for whatever reason AND HERV desires to truck oil from the tanks on the proposed Location, HERV must notify the Director and RBUs within the 1041WOGLA Zone immediately. The Director can allow oil trucking for up to seven calendar days. After the seven calendar days, if the oil pipeline is not once again operational, the facility shall be shut in.

20. At the scheduled Hearing on April 6, 2023, the Applicant provided the additional testimony upon questioning from the Hearing Officer:
- a. HERV understands the North Weld Landfill issue from Mr. Fernandez's referral and testified HERV will address those concerns.
  - b. HERV agrees to be bound by the 19 standard conditions outlined in Weld County's Department of Public Health and Environment referral.
  - c. The Applicant agrees to be bound by LZ-1 light limits in the Code.
  - d. HERV will not install permanent production lights at the proposed Location.
  - e. HERV will point lights downward and inward at the proposed Location.
  - f. HERV agrees to be bound to all BMPs in their submitted light mitigation plan.
  - g. HERV will be in full compliance with NL-4 for Construction Phase operations and NL-1 for Production Phase operations for both A and C Scale noise.
  - h. The OGL will have remote shut-in capabilities that will be monitored 24 hours a day, seven days a week.
  - i. HERV will use water-based mud for surface hole drilling and Group II drilling mud for production hole drilling.
  - j. HERV will conduct AVO and LDAR inspections.
  - k. There will be no Off-Location Flowlines as defined by the Code from this location.
  - l. HERV will conduct annual tests of flowlines and will provide results to Weld County if requested.
  - m. HERV will implement all BMPs listed in their submitted odor mitigation plan and dust mitigation plan.
  - n. HERV did not explore a haul route to the south thereby avoiding Ms. Schultz's house as there are additional RBUs to the south.
    - i. Ms. Schultz testified that she was not in favor of a haul route going to the south of the proposed Location as that would impact other houses.
  - o. HERV agrees to be bound by the Development Standards in the Code, all BMPs in their Application, and all COAs in the Staff Report.
21. The Hearing Officer discussed the process with Ms. Schultz and reiterated that while the proposed Location will be approved that Staff and the Hearing Officer worked to ensure appropriate BMPs were implemented to address her concerns over noise and traffic.
22. Mr. Neale further testified his understanding that by granting approval of this Permit that the Applicant would be subject to certain Rescission Procedures in Sec. 21-S-370 of the Code should at any time the Applicant is found to be out of compliance with the Permit.
23. Upon review of the Application and the Staff Report and upon taking testimony from Ms. Holliday, Ms. DeLaCroix, Mr. Fernandez, and the Applicant; the Hearing Officer found the Application to be complete.
24. Based on the facts stated in the Application, having received no applications for intervention, and based on the testimony presented to the Hearing Officer at the April 6, 2023 Hearing, the Hearing Officer found that a final order ("Final Order") to approve the Application should be entered.



## FINAL ORDER

NOW, THEREFORE, IT IS ORDERED, that:

1. HERV's 1041 WOGLA Permit heard under Docket Number 1041WOGLA22-0022 and located in the SE/4NE/4 of Section 11, Township 6 North, Range 62 West, 6<sup>th</sup> P.M., Weld County, Colorado, is hereby approved.
2. HERV and its successors and assigns ("Permittee") is hereby bound to the Development Standards within the Code; the COAs within the Staff Report; the Best Management Practices within the Application; the Development Standards and Conditions within the referral agency comments received from the Weld County Department of Public Health and Environment, and the Development Standards and Conditions received from Weld County Development Review (the contents of which can be located at <https://accela-aca.co.weld.co.us/citizenaccess/>).
3. It is ordered that Permittee shall comply with the one Prior to Construction Condition of Approval listed in the Staff Report and shown below:
  - 3.1. If more than one (1) acre is to be disturbed, a Weld County Grading Permit will be required.
4. It is ordered that Permittee shall comply with the one Prior to Drilling Condition of Approval listed in the Staff Report and shown below:
  - 4.1. Applicant must provide initial baseline groundwater sampling data, or information related to how the site is exempt from COGCC Rule 61S to the Weld County Department of Public Health and Environment.
5. It is ordered that Permittee shall comply with NL-4 for noise during the Construction Phase at the Location and the NL-1 for noise during the Production Phase.
6. It is ordered that Permittee shall install a perimeter sound wall to the east and north of the Location during drilling and completion operations.
7. It is ordered that Permittee shall install sound walls by the cuttings shakers during drilling operations.
8. It is ordered that Permittee shall install sound walls on the north side of the VRUs and injection compression during production operations.
9. It is ordered that Permittee shall use a quiet frac fleet.
10. It is ordered that Permittee shall implement continuous noise monitoring during drilling and completion operations and shall place a monitor at Ms. Schultz's RBU if allowed.
11. It is ordered that Permittee shall immediately address any C scale noise issues that arises at Ms. Schultz's house.
12. It is ordered that Permittee shall comply with LZ-1 lighting during the Construction Phase at the Location.
13. It is ordered that Permittee shall shield and direct lights downward and inward.
14. It is ordered that Permittee shall not install permanent production lighting.
15. It is ordered that Permittee shall use Group II drilling mud during production hole drilling.



16. It is ordered that Permittee shall have a natural gas pipeline and an oil pipeline in place prior to first production.
17. It is ordered that Permittee shall use temporary lay-flat lines to bring fresh water on the Location for completions operations.
18. It is ordered that Permittee shall not flare gas at the Location in the absence of upset conditions.
19. It is ordered that the Location shall be monitored remotely 24 hours a day seven days a week with remote shut-in capabilities.
20. It is ordered that Permittee shall not have Off-Location flowlines as defined by the Code.
21. It is ordered that Permittee shall comply with all Best Management Practices listed in the submitted light mitigation plan, odor mitigation plan, and dust mitigation plan.
22. It is ordered that Permittee shall comply with the 19 standard conditions listed in the Weld County's Department of Public Health and Environment referral comments.
23. It is ordered that Permittee shall conduct AVO and LDAR inspections.
24. It is ordered that Permittee shall electrify the production facility.
25. It is ordered that Permittee shall stage in the production facility as required and remove unneeded tanks once production starts to decline.
26. It is ordered that Permittee agrees to be bound by all BMPs within the submitted Wildlife Mitigation Plan to the COGCC.
27. It is ordered that Permittee shall not conduct Construction Phase operations between January 1<sup>st</sup> and April 30<sup>th</sup> of any year.
28. It is ordered that Permittee shall perform nesting surveys for raptors prior to construction, perform a biologist survey for Burrowing Owls if construction takes place between March 15<sup>th</sup> and October 31<sup>st</sup>, and a biologist survey for songbirds if construction takes place between January 15<sup>th</sup> and August 31<sup>st</sup>. These survey requirements can be waived if Permittee provides a written waiver from CPW to the Director.
29. It is ordered that Permittee shall comply with the 16 HPH requirements listed in Sec. 21-S-540.A of the Code.
30. It is ordered that Permittee shall immediately notify the Director via Sundry Form if an oil transport truck is planned to leave the Location. Permittee shall also immediately contact those within the 1041WOGLA Zone. The Director shall process the Sundry Form in accordance with Sec. 21-5-360.
31. It is ordered that the data collected from Permittee's AVO, LDAR, stormwater inspections, and flowline testing programs shall be made available to the Weld County Department of Public Health and Environment if requested.
32. Approval of this 1041 WOGLA Permit creates a Vested Property Right as an approved Site-Specific Development Plan pursuant to Article 68 of Title 24, C.R.S., as amended

IT IS FURTHER ORDERED that this Final Order shall be recorded in the records of the Weld County Clerk and Recorder. Additionally, a notice describing generally the type and intensity of USE approved, the specific parcel or parcels of property affected and stating that a VESTED PROPERTY RIGHT has been created shall be published at once, not more than fourteen (14) days after approval of the 1041 WOGLA Permit. The Permit shall be effective upon recording and publication.

Weld County Oil & Gas Energy

By:



Dave Kulmann, Hearing Officer

Dated: April 19, 2023



**1041 WOGLA PERMIT  
STAFF REPORT**

Record Number	1041WOGLA22-0022	Hearing Date:	April 6, 2023
Staff Specialist:	Kelly Holliday		
Company/Applicant:	HERV Oil, LLC		
Location Name:	Ruh State South Pad		
Parcel Number(s):	079711100004		
Assigned Address:	34601 County Road 83		
Legal Description:	SE1/4NE1/4 of Section 11 Township 6 North, Range 62 West, 6th P.M., Weld County, Colorado		
Proposed Use:	8 well oil and gas location		

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**SUMMARY**

Pursuant to Weld County Code Ordinance 2021-17, Sec. 21-5-315. HERV Oil, LLC (HERV or Applicant) submitted a request for a pre-application meeting on June 20, 2022. The pre-application meeting was held on June 29, 2022. Invitees included Colorado Oil & Gas Conservation Commission (COGCC), Colorado Parks and Wildlife (CPW), HERV, Ascent Geomatics on behalf of HERV, the Weld County Oil and Gas Energy Department (OGED Staff), and representatives of other Weld County departments (Weld County Staff). All invitees were in attendance. In preparation of the pre-application meeting OGED Staff conducted a site visit and drove the identified haul route.

On July 6, 2022, HERV provided 1041 WOGLA notice to OGED Staff stating their intent to submit a 1041 WOGLA Permit application for the referenced Ruh State South Location. The Application was received on December 30, 2022 and reviewed according to the requirements of Weld County Code Ordinance 2021-17 (Code). The criteria for submission of the 1041 WOGLA Permit (Application) is outlined in Section 21-5-320. of the Code.

OGED Staff completed their review of the Application as submitted. The submitted Application was found to be in compliance with the applicable Code requirements and was scheduled for hearing.

Pursuant to Sec. 21-5-330. notice of the 1041 WOGLA hearing was sent to required property owners on February 13, 2023, and published in the Greeley Tribune on February 15, 2023.

OGED Staff referred the Application to various agencies as required by Sec. 21-5-330.C. of the Code. Where appropriate, conditions of approval are being recommended to address comments received from those referral agencies. Copies of those comments have been made part of the Application record and are viewable through the E-Permit Center on the Weld County website.

**1. Response was received from the following referral agencies:**

- a. Weld County Department of Public Health and Environment, referral request sent 2/10/2023. Revised response received with comments and conditions dated 3/2/2023.



- b. Weld County Development Review, representing the Department of Public Works and the Department of Planning Services, referral request sent 2/10/2023. Response with comments and conditions received 3/7/2023.
    - i. On March 29, 2023, the Applicant provided a revised location drawing stamped by a licensed professional surveyor, showing all County right-of-way, satisfying the prior to recording requirement, letter A as listed in the Development Review referral document.
  - c. Weld County Office of Emergency Management, referral request sent 2/10/2023. Emergency Action Plan and Tactical Response Plan card approved 3/8/2023.
  - d. Briggsdale Fire Protection District, referral sent 2/10/2023. Response received 3/8/2023, finding no conflict.
  - e. Colorado Oil and Gas Conservation Commission, referral request sent 2/10/2023. Response with advisory comments received 3/8/2023.
  - f. Colorado Department of Public Health and Environment, referral request sent 2/10/2023. Response with advisory comments received 3/10/2023.
  - g. Colorado Parks and Wildlife, referral request sent 2/10/2023. Response with advisory comments received 3/13/2023.
2. No response was received from the following referral agencies:
- a. Briggsdale RE-10J School District, referral request sent 2/10/2023.

### RECOMMENDATION

The OGED Staff recommends **1041WOGLA22-0022** be **APPROVED** based on review of the Application material submitted by HERV, comments provided by referral agencies, and other relevant information.

1. As stated in the summary above, OGED Staff has determined that the Application complies with the provisions of Sec. 21-5-320.
2. OGED Staff has complied with the notice and processing requirements in Sec. 21-5-330.
3. Pursuant to Sec. 21-5-315. HERV certifies that they have provided notice to all required parties.
4. HERV certifies that a Surface Use Agreement (SUA) is in place with the Surface Owners, identified as Marjorie L. and William G. Ruh (Reception #4703940).
5. HERV attests there are two (2) Building Unit (BU) within the two thousand (2,000) foot 1041 WOGLA Zone, the nearest is located approximately one thousand five hundred sixty-seven (1,567) feet to the north of the Oil and Gas Location.
6. There are no High Occupancy Building Units, Designated Outside Activity Areas, School, School Facilities, or Child Care Centers within one (1) mile of the Oil and Gas Location.
7. Pursuant to Sec. 21-5-340.A.1. the OGED Staff received an Application for Intervention regarding this Oil and Gas Location. This Application for Intervention was submitted by Chris Schultz, owner of the two (2) BUs located within the 1041WOGLA Zone, on March 17, 2023. Ms. Schultz was formally granted intervention by the Hearing Officer on March 20, 2023.



8. The Applicant's chosen site is compatible with the surrounding Land Use, which is dry cropland and low density residential.
9. HERV has shown compliance with the Development Standards outlined in Chapter 21, Article 5, Division 4 of the Code as applicable to the Ag-Rural Planning Area.
  - a. HERV's Ruh State South Pad was reviewed under the LZ-1 Lighting Zone standard. The submitted Lighting Plan illustrates that the total amount of lumens proposed does not exceed the allowable lumens for Lighting Zone 1, pursuant to Sec. 21-5-405.B for the Construction Phase. There is no permanent Production Phase lighting planned at this Location.
  - b. Pursuant to Sec. 21-5-435. Weld County Department of Public Health and Environment has identified that the compliance noise level for HERV to adhere to is the NL-4 standard during the Construction Phase and NL-1 standard during the Production Phase. HERV has committed to a partial perimeter, engineered sound wall during drilling and completions operations along the north and eastern sides of the Location.
10. HERV has committed to certain Best Management Practices outlined in the Application, to promote the health, safety, security, and general welfare of the present and future residents of Weld County while protecting both the environment and wildlife.

The attached location drawing provides a depiction of the Oil and Gas Location with all visible improvements within two thousand (2,000) feet.

#### **CONDITIONS OF APPROVAL**

The OGED Staff recommendation for approval is conditional based upon the following requirements of the Applicant:

1. Prior to Construction:
  - a. If more than one (1) acre is to be disturbed, a Weld County Grading Permit will be required by the Department of Planning – Development Review.
2. Prior to Drilling:
  - a. Applicant must provide initial baseline groundwater sampling data, or information related to how the site is exempt from the COGCC Rule 615, to the Weld County Department of Public Health and Environment.

**RUH STATE SOUTH PAD  
1041 WOGLA LOCATION DRAWING**

WCR 72 RESERVED RESOLUTION ROW (60')

WCR 72 ROW (60')

WCR 83 ROW (60')

SCALE: 1" = 700'



RUH STATE SOUTH PAD  
1041 WOGLA LOCATION DRAWING

MEASUREMENTS MADE FROM EDGE OF DISTURBANCE AREA

1. UNDERGROUND GAS LINE IS  $\pm 12'$  E
2. WELD COUNTY ROAD 83 IS  $\pm 52'$  E
3. FENCE IS  $\pm 87'$  E
4. OVERHEAD UTILITY IS  $\pm 89'$  E
5. WATER WELL IS  $\pm 1223'$  NE
6. PRIVATE ROAD ARE  $\pm 1464'$  NE,  $\pm 1491'$  S,  $\pm 1532'$  N,  $\pm 1847'$  N
7. BUILDINGS ARE  $\pm 1506'$  N,  $\pm 1650'$  N,  $\pm 1866'$  NE
8. RESIDENTIAL BUILDING UNITS ARE  $\pm 1567'$  N,  $\pm 1701'$  N
9. EXISTING OIL & GAS WELL ARE  $\pm 1858'$  NW,  $\pm 1866'$  NW,  $\pm 1872'$  NW,  $\pm 1883'$  NW
10. EXISTING FACILITY IS  $\pm 1856'$  NW

MEASURED FROM EDGE OF DISTURBANCE AREA:

BUILDING	$\pm 1506'$ N
RESIDENTIAL BUILDING UNIT	$\pm 1567'$ N
PUBLIC ROAD (WELD COUNTY ROAD 83)	$\pm 52'$ E
PROPERTY LINE (MILLER HANNAH TIRZAH)	$\pm 25'$ S
UTILITY (POWERLINE)	$\pm 89'$ E
RAILROAD	$\pm 5280'$ SW
SCHOOL FACILITY	$\pm 5280'$ SW
SCHOOL PROPERTY LINE	$\pm 5280'$ NW
CHILD CARE FACILITY	$\pm 5280'$ NW
DESIGNATED OUTDOOR ACTIVITY AREA	$\pm 5280'$ SW

NEAREST RESIDENTIAL BUILDING UNIT TO WELL: 1871' NE

NEAREST BUILDING TO WELL: 1811' NE

NEAREST PROPERTY LINE TO WELL: 323' S

SWH & RSO - N/A  
SCHOOLS -  $\pm 5280'$  NW FROM DA

REFERENCE LOCATION

\*\*RUH STATE 11-12-7 1HC\*\*

LAT: 40.503048° N, LONG: 104.281345° W  
ELEVATION: 4718'  
2085' FNIL & 417' FEL  
PDOP: 1.2  
GPS OPERATOR: STEVE ROERIG

DATA SOURCE:  
AERIAL IMAGERY: NAIP 2021  
WATER WELLS: COLORADO DWR  
NHD: USGS

PUBLICLY AVAILABLE DATA SOURCES HAVE NOT  
BEEN INDEPENDENTLY VERIFIED BY ASCENT.

DISCLAIMER:  
THIS PLOT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND SHOULD NOT BE  
RELIED UPON TO DETERMINE BOUNDARY LINES, PROPERTY OWNERSHIP OR OTHER PROPERTY  
INTERESTS. PARCEL LINES, IF DEPICTED HAVE NOT BEEN FIELD VERIFIED AND MAY BE BASED  
UPON PUBLICLY AVAILABLE DATA THAT ALSO HAS NOT BEEN INDEPENDENTLY VERIFIED.  
SURFACE IMPROVEMENTS BEYOND THE 500' COGCC BUFFER MAY NOT BE SURVEY GRADE.  
SAID IMPROVEMENTS MAY HAVE BEEN LOCATED USING PUBLICLY AVAILABLE SOURCES.

SHEET 2 OF 2



FIELD DATE:  
09-14-22  
DRAWING DATE:  
03-28-23  
BY:  
CSG  
CHECKED:  
HJL

SITE NAME:  
RUH STATE SOUTH PAD  
SURFACE LOCATION:  
SE 1/4 NE 1/4 SEC. 11, T6N, R62W, 6TH P.M.  
WELD COUNTY, COLORADO

PREPARED FOR:



BRANDON A. MOSER, PLS 38412  
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR  
FOR AND ON BEHALF OF P.F.S., LLC  
d.b.a. ASCENT GEOMATICS SOLUTIONS

4893397 Pages: 17 of 17  
04/19/2023 01:52 PM R Fee: \$0.00

Carly Kopas, Clerk and Recorder, Weld County, CO