

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

IN THE MATTER OF AN AMENDED APPLICATION)	
BY 8 NORTH LLC FOR AN ORDER ESTABLISHING)	
A 1,280-ACRE DRILLING AND SPACING UNIT FOR)	CAUSE NO. 407
SECTIONS 35 AND 36, TOWNSHIP 1 NORTH,)	
RANGE 69 WEST, 6 TH P.M., FOR HORIZONTAL)	DOCKET NO. 171000694
WELL DEVELOPMENT OF THE CODELL AND)	
NIOBRARA FORMATIONS, WATTENBERG FIELD,)	TYPE: SPACING
BOULDER COUNTY, COLORADO)	

**PROTEST AND INTERVENTION BY BOULDER COUNTY
AND CITY OF LAFAYETTE**

Pursuant to Commission Rule 509, the Board of County Commissioners of the County of Boulder (the "County"), and the City Council for the City of Lafayette (the "City"), by their undersigned counsel, file this protest and intervention by right ("Protest") to the above-referenced Amended Application originally submitted on September 19, 2017, by 8 North, LLC ("Applicant").

**A. GENERAL STATEMENT OF FACTUAL AND/OR LEGAL BASIS
FOR THE PROTEST AND INTERVENTION**

1. The County is a body corporate and politic in the state of Colorado with powers conferred under applicable law, including §30-11-101, C.R.S.
2. The City is a home rule city established pursuant to applicable law, including § 31-2-201 et. seq., C.R.S. and Article XX, Section 6 of the Colorado Constitution.
3. The County and the City are Local Governments with land use jurisdiction for the Application Lands and have elected to intervene as a matter of right on behalf of their citizens pursuant to Rule 509. In their capacity as regulators with oversight of land use, the City and the County state: (i) that the public issues raised by the Application reasonably relate to significant adverse impacts to the public health, safety and welfare of their citizens, including environmental and wildlife resources, that are within the Commission's jurisdiction to remedy; (ii) that potential impacts are not adequately addressed by the Application; and (iii) that the potential impacts are not adequately addressed by the Rules and Regulations of the Commission. While the Application requests authorization for a single well to be drilled in the proposed spacing unit, Applicant has not specified the proposed location of the well as required by § 34-60-113(3), C.R.S. Therefore, the County and the City cannot adequately address the adverse impacts to the public health, safety and welfare, posed by the

proposed well but can easily foresee significant impacts if the well is drilled closed to habitation. Moreover, establishment of the proposed unit may allow for infill drilling and requests for additional well density (See, e.g., Application for Additional Density, Cause No. 407, Docket No. 171200773), all of which can yield significant and adverse public health, safety and welfare impacts.

4. The County and the City filed a request that a Rule 508 local public forum be completed before the Application is considered, which has not yet been resolved but must precede a hearing on the Application.
5. The Commission has a duty to foster the responsible, balanced development of oil and gas natural resources and to protect public health, safety and welfare. It also has the authority to prevent waste and the drilling of unnecessary or uneconomic wells, and to protect correlative rights. *See* C.R.S. §§34-60-102, 116.
6. Applicant is requesting an order that creates a new spacing unit and for permission to drill and complete “one horizontal well in the approximate 1,280-acre drilling and spacing unit for the Amended Application Lands, for the production of oil, gas and associated hydrocarbons from the Codell and Niobrara Formations. . . .” Applicant further requests the right for the permitted well to be drilled, with the treated intervals of the wellbore not less than 460 feet from the unit boundaries with an inter-well setback of not less than 150 feet from the treated interval of a well producing from the Codell and Niobrara Formations.
7. The County and the City object because the Application may pose significant adverse impacts to public health, safety and welfare that will not be addressed by the Commission’s rules.
8. The County and City object because the Application Lands are subject to a spacing order, Order 407-87 establishing 80-acre units for the Codell and Niobrara Formations, and Applicant has provided no evidence or argument to support either vacating Order 407-87 or establishing overriding spacing units.
9. The County and the City object to the Application because it fails to allege facts that satisfy the health, safety and welfare standard set by the Colorado Court of Appeals in *Martinez, et al. v. Colorado Oil and Gas Conservation Commission, et al.*, 2017 COA 37 (March 23, 2017).
10. The County and the City reserve all other objections which it has the right to present, as well as its right to amend this Protest.
11. The County and the City request that the Commission deny the Application for the reasons set forth above.

B. RELIEF REQUESTED

WHEREFORE, Boulder County and the City of Lafayette respectfully request the following relief:

1. That Boulder County and the City of Lafayette be allowed to intervene as the local governments with land use jurisdiction;
2. That the provisions of Rule 508 be applied in this matter;
3. That the Commission deny the Application and enter such other findings and orders as the Commission may deem proper or advisable in this matter; and
4. That any hearing on the Application be held in Denver no earlier than 60 days after any Rule 508 and pre-hearing processes have been completed.

C. RESERVATION OF RIGHTS

The County and the City reserve all rights to supplement this Protest with additional factual information and/or legal arguments and to request additional relief. The County and the City further reserve the right to require Applicant to prove its case, and to file any motions or other responsive pleadings to the Application based upon a Scheduling Order from this Commission.

D. REQUEST FOR IMMEDIATE SCHEDULING ORDER

The County and the City respectfully request that the Commission Hearing Officer issue a Scheduling Order including, but not limited to, the following dates:

1. Motions Deadline, including dates to file motions, responses to motions and replies to motions and any necessary briefs in support;
2. Disclosure and Discovery Schedule;
3. Pre-Hearing Statement Deadline;
4. Witness List Deadline;
5. Exhibit List and Submission of Exhibit Deadline;
6. Deadline for Submission of Draft Order; and
7. Rule 508 hearing procedures.

The County and the City respectfully request that they be provided with a complete list of all interested parties in this Docket and any necessary updates thereto.

E. DESCRIPTION OF INTENDED PRESENTATION

1. The County and City will present testimony and evidence in support of the facts and arguments stated within this Protest.
2. The County and City reserve the right to present additional witnesses as necessary to supplement the above facts and/or rebut any evidence, argument or witness testimony presented by Applicant at the hearing.

F. TIME ESTIMATE FOR PROTEST

The County and the City estimate that they will require approximately one hour to present evidence and testimony in support of this Protest and in response to Applicant's case.

Dated this 16th day of October 2017.

Respectfully submitted,

BOULDER COUNTY ATTORNEY'S OFFICE

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ATTORNEYS FOR INTERVENOR
BOULDER COUNTY

CITY COUNCIL
CITY OF LAFAYETTE

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ATTORNEYS FOR INTERVENOR
CITY OF LAFAYETTE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **PROTEST AND INTERVENTION BY BOULDER COUNTY AND CITY OF LAFAYETTE** has been mailed or served electronically this 16th day of October 2017 to the following entities that require notice of such filing and an original and two copies have been sent or filed with the COGCC:

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