

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 2,720-ACRE DRILLING AND SPACING UNIT FOR) CAUSE NO. 407
SECTIONS 13, 14, 23, and 24, TOWNSHIP 2 NORTH,)
RANGE 69 WEST, 6TH P.M. AND SECTION) DOCKET NO. 171000695
18, TOWNSHIP 2 NORTH, RANGE 68 WEST, 6TH)
P.M., FOR HORIZONTAL WELL DEVELOPMENT OF) TYPE: SPACING
THE CODELL AND NIOBRARA FORMATIONS,)
WATTENBERG FIELD, BOULDER AND WELD)
COUNTIES, COLORADO)

PROTEST AND INTERVENTION BY BOULDER COUNTY

Pursuant to Commission Rule 509, the Board of County Commissioners of the County of Boulder (the "County"), by its undersigned counsel, files this protest and intervention by right ("Protest") to the 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 County is an Owner, as that term is defined by statute, of interests on, within and under the Application Lands. The County is also one of the Local Governments with land use jurisdiction for the Application Lands and has elected to intervene as a matter of right on behalf of its citizens pursuant to Rule 509. In its capacity with oversight of land use, Boulder County states: (i) that the public issues raised by the Application reasonably relate to significant adverse impacts to Boulder County's interests and the public health, safety and welfare of its citizens, including environment 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 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. 171200774), all of which can yield significant and adverse public health, safety and welfare impacts.

3. The County 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.
4. 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.
5. Applicant is requesting an order that creates a new spacing unit and for permission to drill and complete "one horizontal well in the approximate 2,720-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.
6. The County objects because the Application may pose significant adverse impacts to public health, safety and welfare that will not be addressed by the Commission's rules.
7. The County objects because the Application Lands are subject to two spacing orders, Order 407-87 establishing 80-acre units and Order 407-405 establishing a spacing unit covering Section 18, Township 2 North, Range 68 West. Applicant has provided no evidence or argument to support vacating Order 407-87 or Order 407-405 or establishing overlapping spacing units.
8. The County objects to the Application because it fails to allege facts that satisfy the 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).
9. It is widely recognized that current market conditions are not favorable to the owner of mineral interests. As the owner of mineral interests within the Application Lands, the County does not find it economically beneficial to move forward with development of its mineral interests at this time. Granting the Application may lead to the County's mineral rights being taken without due process of law and just compensation in violation of the United States and Colorado Constitutions and Article XI, Sec. 1 (No Pledge of Credit) of the Colorado Constitution.

10. The County reserves all other objections which it has the right to present, as well as its right to amend this Protest.
11. The County requests that the Commission deny the Application for the reasons set forth above.

B. RELIEF REQUESTED

WHEREFORE, Boulder County respectfully requests the following relief:

1. That Boulder County be allowed to participate as a local government 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

Boulder County reserves all rights to supplement this Protest with additional factual information and/or legal arguments and to request additional relief. Boulder County further reserves 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 respectfully requests 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 respectfully requests that it 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 will present testimony and evidence in support of the facts and arguments stated within this Protest.
2. The County reserves 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.

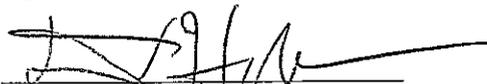
F. TIME ESTIMATE FOR PROTEST

The County estimates that it will require approximately one hour to present its 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

By: 

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**ATTORNEYS FOR INTERVENOR
BOULDER COUNTY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **PROTEST AND INTERVENTION BY BOULDER COUNTY** 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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