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Dear Oil and Gas Commissioners,

I am pleased to present the draft Oil and Gas Conservation Commission rules (“Draft Rules”). These Draft Rules reflect the recommendation of staff experts within the Oil and Gas Conservation Commission (OGCC), Department of Public Health and Environment (DPHE) and Division of Wildlife (DOW) based on extensive input received from constituents across Colorado. They strike a responsible balance between expanding energy development and environmental and wildlife protection and will help to ensure that such development leaves our state as beautiful as today.

### Background

Colorado is experiencing an unprecedented oil and gas boom. In 1999, the OGCC approved 1010 Applications for Permit to Drill (APDs). By 2007, this number had grown to 6368. This has provided many Coloradans with good-paying jobs and increased local tax revenues. But in some areas it has also created noxious odors, polluted state waters, and fragmented wildlife habitat. In response, the General Assembly enacted two laws last year requiring the OGCC to consider impacts to human health, safety, welfare and the environment, including wildlife habitat. These laws also require the Commission to promulgate rules to reflect this new policy direction.

After an initial round of constituent discussions, the OGCC staff created an initial pre-draft proposal last fall to frame the potential issues and facilitate public input prior to development of the draft rules. This public input has included five public meetings during January in energy-impacted communities across Colorado, which were attended by more than 1,500 individuals. In addition, five technical work groups were convened to address more than 60 separate issues associated with the initial proposal. More than 250 stakeholders participated in this process, and they collectively met for more than 150 hours during January and February. Each meeting averaged more than 40 attendees with specific expertise in their respective fields and included staff experts from each of the three state agencies. Thus, more than 6,000 hours were invested in these meetings to discuss and refine the initial concepts. Finally, more than 2,000 written and electronic comments were received and considered. This extensive public dialogue has led to significant changes to the initial proposal.

### Summary of Draft Rules

**Expanded Form 2A for New Information.** To better evaluate potential impacts to the environment and wildlife, additional information will be required. The Draft Rules utilize an expanded Form 2A for this purpose rather than the Form 34 reflected in the initial proposal. Except in the Piceance Basin or where consultation with DPHE or DOW occurs, the expanded Form 2A will be a reference document that does not require approval. Even when approval is required, it should take less than the 65 days currently required for APDs provided that OGCC staffing is increased as proposed. If action on a permit application is not taken within 75 days, then applicants may obtain a prompt hearing from the Commission.

**Notice, Comment, and Hearings.** The OGCC will post applications on their website and provide them to the DPHE and DOW, and the operator will be required to send copies to the local government, surface owner and adjacent landowners within 500 feet of the pad site. In most circumstances, the public will have 30 days to comment. The operator, surface owner, local government, DPHE, and DOW may request a hearing before the Commission. After much discussion among stakeholders, the original concept of “standing” for adjacent landowners has been removed from the Draft Rules.

**Consultations with DPHE and DOW.** In limited circumstances, the OGCC will consult with DPHE or DOW regarding specific applications. Generally, such consultations will occur only when an operator requests a variance from OGCC rules protecting the environment or wildlife. These consultations will occur within a 40 day period and should not materially extend the timeframes discussed above. They should also occur more rarely than was contemplated in the initial proposal.

**New Environmental Standards.** The Draft Rules update and modernize our environmental standards, many of which were developed over a decade ago under different circumstances. The new standards reflect various changes from the initial proposal. For example, they will require operators to use “green completion” practices where practicable to reduce odors, and certain equipment in the Piceance and San Juan Basins will utilize odor control devices if located within a half mile of occupied buildings. They will require operators to maintain inventories of all chemicals used at a facility or released into the environment, and to provide this information promptly to the OGCC upon request, subject to protection for trade secrets. Finally, they restrict drilling near designated tributaries upstream of public water supply intakes, and they include mandatory setbacks and the use of best management practices in these areas.

**New Wildlife Standards.** Although the Draft Rules contain several new wildlife standards, the new standards are less extensive than originally contemplated. They include specified periods when drilling is restricted in designated areas (primarily in Western Colorado) to protect important wildlife habitat. These periods are limited to 90 days and may not be combined. In the event that an operator or surface owner finds a timing restriction to be unacceptable, they may consult with the OGCC and DOW to find a mutually agreeable solution that will allow drilling to occur during the restricted period in exchange for alternative mitigation. Any such alternative mitigation will be subject to surface owner consent, and disagreements will be promptly resolved by the Commission. Operators may also receive an exemption by limiting the density of their development to two pads per section (one pad per section in sage grouse habitat).

**Landscape Level Planning.** The Draft Rules provide for planning at the landscape level to better avoid and mitigate development impacts. Comprehensive Drilling Plans (CDPs) will generally include one operator and address the impacts in a discreet area, e.g., a drainage basin. Geographic Area Plans (GAPs) may include multiple operators and address a larger geographic area. These landscape planning tools will encourage proactive, collaborative planning and should generate more win-win solutions. To encourage operators to develop CDPs, the OGCC will make decisions on the resulting APDs and Form 2As within 30 days.

**Coordination with Local Governments.** The Draft Rules provide that interested local governments may enter into memoranda of agreement (MOAs) with the OGCC to clarify, coordinate, and harmonize the relationship between their regulations. Any such MOA would be approved by the Commission through a formal hearing process and must be consistent with the purposes and provisions of the Oil and Gas Conservation Act.

**Health studies.** The OGCC will develop an MOA with the DPHE to undertake a literature review on existing health studies and an air quality monitoring and impact study.

### **Conclusion**

The Draft Rules are intended to strike a balanced approach to dealing with Colorado's ongoing energy boom. We want to ensure that the oil and gas industry continues to thrive here. But we also want to ensure that our mountains, forests, streams, air, and wildlife are protected and that operators use the latest technologies and strategies for this purpose. To this end, we will continue to work with interested constituents throughout the formal rule making process to refine the Draft Rules and resolve issues as appropriate.

I am enclosing for your convenience a chart comparing the Draft Rules to the initial proposal and existing requirements, as well as answers to frequently asked questions.

Sincerely,

/s/

David Neslin  
Acting Director