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

IN THE MATTER OF THE AMENDED APPLICATION OF FIFTH CREEK ENERGY OPERATING COMPANY, LLC FOR ORDER TO VACATE ORDER NO. 421-29, TO ESTABLISH AN APPROXIMATE 1.280-ACRE DRILLING AND **SPACING** UNIT **FOR** SECTIONS 23 AND 26. TOWNSHIP 11 RANGE WEST. P.M., 62 **WELD HEREFORD** FIELD. COUNTY. COLORADO, TO AUTHORIZE UP TO SIX (6) NEW CODELL, FORT HAYS AND CARLILE HORIZONTAL WELLS AND FIFTEEN (15) NIOBRARA HORIZONTAL WELLS WITHIN THE PROPOSED 1,280-ACRE UNIT, AND TO ALLOW FOR 300-FOOT SETBACKS FROM THE **BOUNDARIES** OF PROPOSED UNIT FOR THE EFFICIENT AND **ECONOMIC** DEVELOPMENT AND OPERATION OF THE CODELL, FORT HAYS, **CARLILE** AND NIOBRARA FORMATIONS.

CAUSE NO. 421

DOCKET NO. 171000670

TYPE: SPACING

AMENDED APPLICATION

COMES NOW Fifth Creek Energy Operating Company, LLC (Operator No. 10629) ("Applicant"), by and through its attorneys, Jost Energy Law, P.C., and respectfully submits this Application to the Oil and Gas Conservation Commission of the State of Colorado (the "Commission") for an order to (1) vacate Order No. 421-29, (2) establish an approximate 1,280-acre drilling and spacing unit for Sections 23 and 26, Township 11 North, Range 62 West, 6th P.M., (3) authorize up to six (6) new horizontal wells for the efficient and economic development of oil, gas and associated hydrocarbons from the Codell, **Fort Hays and Carlile** Formations, (4) authorize up to fifteen (15) new horizontal wells for the efficient and economic development of oil, gas and associated hydrocarbons from the Niobrara Formation, and (5) provide for 300-foot reduced setbacks as to the boundaries of the approximate 1,280-acre drilling and spacing unit, for the efficient and economic development of oil, gas and associated hydrocarbons from the Codell, **Fort Hays, Carlile** and Niobrara Formations underlying the below-described lands. In support of its Application, Applicant states and alleges as follows:

1. Applicant is a limited liability company duly authorized to conduct business in the State of Colorado, and is a registered operator in good standing with the Commission.

2. Applicant owns leasehold interests or holds the right to operate on the following lands (hereafter "Application Lands"):

Township 11 North, Range 62 West, 6th P.M.

Section 23: All Section 26: All

1,280 acres, more or less, Weld County, Colorado

A reference map of the Application Lands is attached hereto.

- 3. Rule 318.a. of the Commission Rules provides a well to be drilled 2,500 feet or grater shall be located not less than 600 feet from any lease line, and shall be located not less than 1,200 feet from any other producible oil or gas well when drilling to the same common source of supply, unless authorized by the Commission upon hearing. Rule 318.a. applies to the Codell, **Fort Hays and Carlile** Formations on the Application Lands.
- 4. On October 21, 2010, the Commission entered Order No. 421-3 which, among other things, established 83 approximate 640-acre drilling and spacing units for certain lands, including the Application Lands, for the production of oil and gas and associated hydrocarbons from the Niobrara Formation, with no more than one horizontal well to be drilled in each unit from a surface location anywhere in the unit with the horizontal leg and bottom-hole location to be not closer than 600 feet from the boundaries of each unit.
- 5. On January 7, 2013, the Commission entered Order No. 421-29 which, among other things, vacated two approximate 640-acre drilling and spacing units established by Order No. 421-3 for Sections 26 and 35, Township 11 North, Range 62 West, 6th P.M., and established an approximate 1280-acre stand-up exploratory drilling and spacing unit for Sections 26 and 35, Township 11 North, Range 62 West, 6th P.M., and approved up to ten wells within the unit, for the production of oil, gas and associated hydrocarbons from the Niobrara Formation.
- 6. The records of the Commission reflect that no wells are currently producing in the Codell, **Fort Hays or Carlile** Formation**s** on the Application Lands. The records of the Commission reflect that one well is currently producing from the Niobrara Formation on the Application Lands, the Garden Creek #16-2314H well (API No. 05-123-32661), operated by Applicant. Applicant respectfully requests that Order No. 421-3 be maintained for purposes of the payment of proceeds for the Garden Creek #16-2314H well (API No. 05-123-32661), which also produces in Section 14, Township 11 North, Range 62 West, 6th P.M., adjacent to the Application Lands.
- 7. To promote efficient drainage of the Codell, **Fort Hays, Carlile** and Niobrara Formations within the Application Lands, to protect correlative rights and to

avoid waste, the Commission should vacate Order No. 421-29 and establish an approximate 1,280-acre drilling and spacing unit for the Application Lands for the development of the Codell, **Fort Hays, Carlile** and Niobrara Formations, and approve up to six (6) new horizontal wells for the production, development and operation of oil, gas and associated hydrocarbons from the Codell, **Fort Hays and Carlile** Formations, and approve up to fifteen (15) new horizontal wells for the production, development and operation of oil, gas and associated hydrocarbons from the Niobrara Formation, on the Application Lands.

- 8. Applicant maintains that there will be no more than a total of five (5) well pads in the proposed drilling and spacing unit to be located within such unit or adjacent thereto, unless an exception is granted by the Director.
- 9. The treated interval of each proposed horizontal well shall be no closer than 300 feet from the boundaries of the unit (regardless of the lease lines within the unit) and all horizontal wells shall be no closer than 150 feet from the treated interval of another well producing from the same source of supply within the unit, unless an exception is granted by the Director.
- 10. The undersigned certifies that copies of this Application will be served on each interested party as required by Rule 507 within seven (7) days of the filing hereof, as required by Rule 503.e.

WHEREFORE, Applicant respectfully requests that this matter be set for hearing in October 2017, that notice be given as required by law, and that upon such hearing, the Commission enter its order:

A. Vacating Order No. 421-29.

- B. Establishing an approximate 1,280-acre drilling and spacing unit for Sections 23 and 26, Township 11 North, Range 62 West, 6th P.M., allowing up to six (6) new horizontal wells in the unit in order to efficiently and economically develop and recover the oil, gas and associated hydrocarbons from the Codell, **Fort Hays and Carlile** Formations, and allowing up to fifteen (15) new horizontal wells in the unit in order to efficiently and economically develop and recover the oil, gas and associated hydrocarbons from the Niobrara Formation in the proposed drilling and spacing unit, for a total of up to twenty-one (21) new horizontal wells in the unit.
- C. Providing that Order No. 421-3 shall be maintained for purposes of the payment of proceeds for the Garden Creek #16-2314H well (API No. 05-123-32661).
- D. Providing that the treated interval any horizontal well in the proposed unit shall be no closer than 300 feet from the boundaries of the unit and not less than 150 feet from the treated interval of another well within the unit, and authorizing up to five (5) well pads in the unit, unless an exception is granted by the Director.

- E. Finding that the approximate 1,280-acre drilling and spacing unit for the development of the Codell, **Fort Hays, Carlile** and Niobrara Formations on the Application Lands, with the requested number of wells and the requested boundary setbacks, will prevent waste, protect correlative rights, and maximize the efficient and economic production of the Codell, **Fort Hays, Carlile** and Niobrara Formations on the Application Lands.
- F. For such other findings and orders as the Commission may deem proper or advisable in this matter.

DATED **September 20**, 2017.

Respectfully submitted:

FIFTH CREEK ENERGY OPERATING COMPANY, LLC

By:

Jamie L. Jost

Kelsey H. Wasylenky Jost Energy Law, P.C. Attorneys for Applicant 1401 17th Street, Suite 370

Denver. Colorado 80202

(720) 446-5620

Applicant's Address:

Fifth Creek Energy Operating Company, LLC

Attn: Cody Truitt

5251 DTC Parkway, Suite 420 Greenwood Village, CO 80111

VERIFICATION

STATE OF COLORADO)
824) ss.
GITY AND COUNTY OF Arapahoe)

Cody Truitt, of lawful age, being first duly sworn upon oath, deposes and says that he is the Vice President of Engineering for Fifth Creek Energy Operating Company, LLC and that he has read the foregoing Amended Application and that the matters therein contained are true to the best of his knowledge, information and belief.

Cody Truitt

Vice President - Engineering

Fifth Creek Energy Operating Company, LLC

Subscribed and sworn to before me this 20th day of September, 2017.

Witness my hand and official seal.

[SEAL]

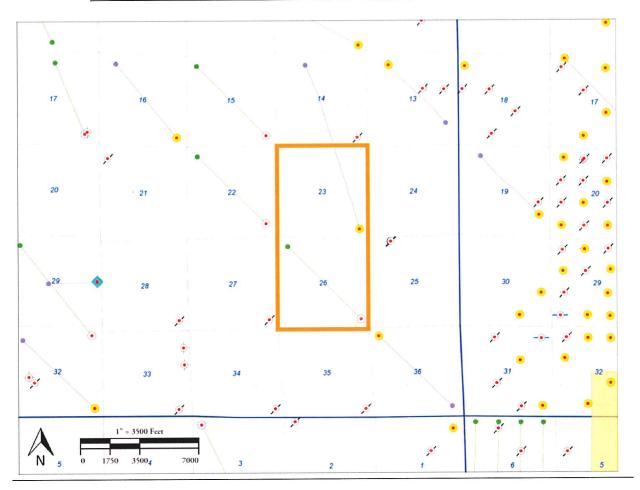
STEPHANIE A GROFF NOTARY PUBLIC STATE OF COLOHADO NOTARY ID # 20124040932 MY COMMISSION EXPIRES 06-25-2020

My commission expires:

Notary Public

Reference Map Fifth Creek Energy, Inc.

Sections 23 and 26, Township 11 North, Range 62 West, 6th P.M.



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

IN THE MATTER OF THE AMENDED APPLICATION OF FIFTH CREEK ENERGY OPERATING COMPANY. LLC FOR AN ORDER TO VACATE ORDER NO. 421-29, TO ESTABLISH AN APPROXIMATE 1,280-ACRE AND DRILLING **SPACING** UNIT SECTIONS 23 AND 26, TOWNSHIP 11 NORTH, RANGE 62 WEST, 6TH P.M., **HEREFORD** FIELD, WELD COUNTY, COLORADO, TO AUTHORIZE UP TO SIX (6) NEW CODELL, FORT HAYS AND CARLILE HORIZONTAL WELLS AND FIFTEEN (15) NIOBRARA HORIZONTAL WITHIN THE PROPOSED 1,280-ACRE UNIT, AND TO ALLOW FOR 300-FOOT SETBACKS FROM THE **BOUNDARIES** OF PROPOSED UNIT FOR THE EFFICIENT AND **ECONOMIC** DEVELOPMENT AND OPERATION OF THE CODELL, FORT HAYS, **CARLILE** AND NIOBRARA FORMATIONS.

CAUSE NO. 421

DOCKET NO. 171000670

TYPE: SPACING

AFFIDAVIT OF MAILING FOR AMENDED APPLICATION

STATE OF COLORADO)
)ss.
CITY AND COUNTY OF DENVER)

The undersigned, of lawful age, and being first duly sworn upon my oath, state and declare that I am the attorney for Fifth Creek Energy Operating Company, LLC, and that on or before the 25th day of September 2017, I caused a copy of the attached Amended Application to be deposited in the United States Mail, postage prepaid, addressed to the parties listed on Exhibit A to this Affidavit.

Jamie L. Jost

Kelsey H. Wasylenky

Subscribed and sworn to before me this 20th day of September 2017.

Witness my hand and official seal.

[SEAL]

Notary Public:

KERRY LEBLEU
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19934018734
MY COMMISSION EXPIRES JULY 24, 2021

EXHIBIT A FIFTH CREEK - T11N-R62W Section 23 and 26

Fifth Creek Energy Operating Company, LLC 5251 DTC Parkway Suite 420 Greenwood Village, CO 80111

8 North, LLC, a Delaware Limited Liability Company 370 17th St. Suite 5300 Denver, CO 80202

Okreek Oil and Gas, LLC 475 17th Street Suite 1350 Denver, CO 80202

Lincoln Energy Partners II, LLC, a Colorado limited liability company 852 Broadway Suite 300 Denver, CO 80203

Charles L. Gunn c/o Robert J. Gunn 906 Rambling Drive Estes Park, CO 80517

Charles L. Gunn c/o Catherine J. Simmering 1335 North Wilson # 103 Loveland, CO 80537

Charles L. Gunn c/o Rebecca L. Gunn P.O. Box 3455 Idyllwild, CA 92549

Charles L. Gunn c/o Jeanne M. Elmes 328 Jackson Avenue Morgantown, WV 26501 Clara Gunn Pierce Charitable Remainder Annuity UAD 3/26/1991, as amended and restated c/o Wells Fargo Bank, NA Trustee P. O. Box 5383 Denver, CO 80217

Judith Gunn Pierce Trust UAD 3/26/1991, as amended and restated c/o Wells Fargo Bank, NA Trustee P. O. Box 5383
Denver, CO 80217

Ralph B. Gunn, c/o Robert J. Gunn 906 Rambling Drive Estes Park, CO 80517

Ralph B. Gunn c/o Catherine J. Simmering 1335 North Wilson # 103 Loveland, CO 80537

Ralph B. Gunn c/o Rebecca L. Gunn P.O. Box 3455 Idyllwild, CA 92549

Ralph B. Gunn c/o Jeanne M. Elmes 328 Jackson Avenue Morgantown, WV 26501

Donna Gowdy 589 Christy Kay Lane Rhome, TX 76078

Dixie Pierce 6810 Tate Road Cheyenne, WY 82001

Delores Tormey 1502 East Sundown Lane Amarillo, TX 79118 Charles A. Dunlap 2512 Timber Court Fort Collins, CO 80521

Jeffery L. Dunlap 154 Briarwood Road #332 Fort Collins, CO 80521

Robert S. McCormick 235 Antibes Street West Mandiville, Louisiana 70448

James Dale Philp (spouse Mary Beth Philp) P.O. Box 1032 Big Sandy, TX 75755

Susan Carol Philp 15 Harborview Drive #13 Kingston, MA 02364

Anita Jeanne Hartinger 63594 County Road #75 Grover, CO 80729

Edna's Farm, LLC 239 Charmony Place Sterling, CO 80751

Dorothy Lola Nussbaum 59994 WCR 126 Grover, CO 80729

Donald D. Porter Route 1, Box 18 Grover, CO 80729

Roth Minerals Partnership, LLLP 9729 Niwot Road Longmont, CO 80504

Charles Paul Nussbaum Carla Kay Nussbaum 40104 CR 26 Grover, CO 80729

Charles Paul Nussbaum Carla Kay Nussbaum 39994 County Road 126 Grover, CO 80729 Charles E. Nussbaum Dorothy Lola Nussbaum 39994 County Road 126 Grover, CO 80729

Charles Dunlap 4519 Mockingbird Land Laramie, WY 82070

Raymond L. Dunlap 1219 East 7th Street Cheyenne, WY 82007

Christine Christensen 764 Hyde Merritt Road Cheyenne, WY 82009

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Kristine J. Dunlap 7860 Mountain View Drive Frederick, CO 80530

Raymond Arthur Dunlap P.O. Box 1454 Landers, WY 82520

Tina Kirlin P.O. Box 433 Guernsey, WY 82214

Frank Dunlap 1250 Larkspur CT Pingree Grove, IL 60140

Shelly D. Wood P.O. Box 291 Loami, IL 62661

Delbert R. Dunlap 3933 F. Celtic Lane Fort Collins, CO 80524

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Fifth Creek Energy Operating Company, LLC 5251 DTC Parkway Suite 420 Greenwood Village, CO 80111

Okreek Oil and Gas, LLC 475 17th St, Suite 1350 Denver, CO 80202

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Morning Gun Exploration, LLC 547 Entrada Dr. Golden, CO 80401

DJ Resources Holding, LP One Riverway Suite 1870 Houston, TX 77056

Willow Street Partners 510 Bering Street #300 Houston, TX 77057

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Edward A. Hirs III 6255 Burgoyne Rd. Houston, TX 77057

Dan A. Magee 136 Thunder Rd. Kerville, TX 78028 Harry Fendrich, The Fendrich Family Partnership, L.P. 28 Warren St. Charleston, SC 29403

Nancy W. Fendrich The Fendrich Family Partnership, L.P. 28 Warren St. Charleston, SC 29403

James H. Glanville, In care of Jill S. Glanville, Robert S. Parsley and Shawn Milton Glanville, as Trustees of The James H. Glanville 2007 Irrevocable Trust dated June 7, 2007 421 Buckingham Dr. Houston, TX 77024-5802

James H. Glanville, c/o Jill S.Glanville 421 Buckingham Dr. Houston, TX 77024-5802

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Mitch W. Hale 5472 Lynbrook Dr. Houston, TX 77056

William A. Kelly 2371 Lake Village Dr. Kingwood, TX 77325

Gary L. Price PO Box 5945 Kingwood, TX 77325

Randall B. Rice 249 Northridge New Braunfels, TX 78132

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Jack Rosenthal 877 S. Pearl St. Denver, CO 80209

Billy Shaw 2726 Bissonnet Suite 240 PMB 63 Houston, TX 77005-1362

Karen Rae Dawson 20806 Tallow Views Ln. Cypress, TX 77433

Fraiser Ian Dawson Special Needs Trust c/o Allstair B Dawson 11518 Shadow Way Houston, TX 77024

Erin K. Goerges 4265 San Felipe Ste. 1100 Houston, TX 77027

Freddie L. Daume 2414 Watts Rd. Iowa Park, TX 77244

LRW Royalties LLC PO Box 440483 Houston, TX 77244

K. Denton Cranford 3707 Villa Pines Drive Kingwood, TX 77339

Richard S. Bishop 13622 Kingsride Ln. Houston, TX 77079

Donna Gowdy 589 Christy Kay Lane Rhome, Texas 76078

Dixei Pierce, aka Dixie Pierce 6810 Tate Road Cheyenne, Wy 82001 Robert Lee Dunlap PO Box 272 Burns, Wyoming 82053

Charles A. Dunlap 2512 Timber Ct. Ft. Collins, Co 80521

Jeffery Dunlap 154 Briarwood Road, #332 Ft. Collins, Co 80521

Frank Leroy Dunlap PO Box 193 Gilbert, IL 60136

Wray E. Nicklas and Cristie L. Nicklas, joint tenants PO Box 99 Grover, CO 80729

Kathryn E. Boyden, in care of heir Robert W. Boydston 400 Fox Road Sedona, AZ 86336

AOG Mineral Partners, LTD. P.O. Box 1015 Midland, TX 79702

Eric J. Freytag P.O. Box 1168 Mason, TX 76856

Ryan D. Senior 1410 CR 4759 Sulphur Springs, TX 75482

Hoy Mineral Properties, LLC P.O. Box 2911 Amarillo, TX 79105

Westco Family Limited Partnership, a Texas Limited Partnership P.O. Box 1888 Gilmer, TX 75644

Valentina Enterprises, LLC 1676 CR 100 Carbondale, CO 81623 Bauman Ranch, Inc., a Wyoming corporation Road 156, Box 55 Caprenter, WY 82054

Gallegos Family Propertiers, LLC 6731 Lowell Blvd.
Denver, CO 80221

Bank of Oklahoma, N.A., as Agent for U.S. Bank, N.A., Trustee of the T. E. McClintock T/U/W fbo Mary M. Swift P.O. Box 3499 Tulsa, OK 74101

Colorado State Bank and Trust Company, N.A., Trustee of the T.E. McClintock T/U/W fbo Elizabeth M. Nikoloric P.O. Box 3499 Tulsa, OK 74101

Lincoln Energy Partners II, LLC, a Colorado limited liability company 852 Broadway Suite 300 Denver, CO 80203

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Mustang Minerals, LLC P.O. Box 2073 Edmond OK 73083

James Michael Morris 2121 Redhead Drive Johnstown, CO 80534

DAPCO LLC 1776 South Jackson Street Denver, CO 80210

Lemon Creek Oil & Gas, Ltd. P.O. Box 192199 Dallas, TX 75219 MAP2009-OK c/o MAP Royalty, Inc. 101 North Robinson, Suite 1000 Oklahoma City, OK 73102

Aspen Leaf, LLC P.O. Box 1488 Mustang, OK 73064

Charles W. and Patty N. Brown, LLC P.O. Box 587 Marlow, OK 73055

Duncan D. Philp P.O. Box 483 Carpenter, WY 82054

Sherril B. Scharf PO Box 42 Merino, Colorado 80741

Arnold G. Fiscus PO Box 200313 Evans, Colorado 80620

Bernice G. Aldrich 626 Elwood Sterling, Colorado 80751

Marsha J. Clark 1102 South 11th Ave. Sterling, Colorado 80751

Robin Lyn Fiscus 2520 Channel Vista Drive Juneau, AK 99801

Holly Mercer 7358 Lacerta Drive Sparks, Nevada

Kimberly Reddig 4060 Culpepper Drive Sparks, Nevada

Ralph L. Fiscus PO Box 165 Laporte, Colorado 80535 Bonnie G. Kirschbaum PO Box54 Merino, Colorado 80741

Charles Dunlap 4519 Mockingbird Lane Laramie, Wyoming 82070

Delores Tormey 2125 North Esplanade Cuero, TX 77954

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Tina Kirlin, aka Tina Sands PO Box 433 Guernsey, WY 82214

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Charles Paul Nussbaum 40104 WCR 126 Grover, Colorado 80729

Gallegos Family Propertiers, LLC 6731 Lowell Blvd. Denver, CO 80221

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McClintock & Nikoloric LLC BOKF, NA dba Colorado State Bank and Trust, Agent P.O. Box 3499 Tulsa, OK 74101

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Mustang Minerals, LLC P.O. Box 2073 Edmond OK 73083

U.S. AgBank District Farm Credit Council, Inc., a/k/a U.S. AgBank, FCB, f/k/a Farm Credit Bank of Wichita, Kansas P.O. Box 2940 Wichita, KS 67201-2940

Lee Ann Moll Birgenheier Trust c/o First National Bank Trust Dept. 215 W. Oak Street, Suite 400 Fort Collins, CO 80521 Gregg David Rasmussen Trust c/o First National Bank Trust Dept. 215 W. Oak Street, Suite 400 Fort Collins, CO 80521

Bryan Moll c/o First National Bank Trust Dept. 215 W. Oak Street, Suite 400 Fort Collins, CO 80521

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Leroy Hale and Kelli S. Hale, as joint tenants 2666 Appaloosa Avenue Brighton, CO 80601

Daphne T. Boydston P.O. Box 260498 Lakewood, CO 80226

Family Tree Corporation, a Wyoming corporation P.O. Box 260498 Lakewood, CO 80226

Robert P. Dykes, as Trustee of the Robert P. Dykes
Revocable Trust, dated October 14, 2011
P.O. Box 260498
Lakewood, CO 80226

J. Christopher Dykes, as Trustee of the J. Christopher Dykes Revocable Trust, dated October 10, 2012 P.O. Box 260498 Lakewood, CO 80226

Michael L. Dykes, as Trustee of the Michael L. Dykes Revocable Trust, dated October 10, 2012 P.O. Box 260498 Lakewood, CO 80226

Craig L. Emmanuel P.O. Box 86 Laramie, WY 82073 Keith Michael Foster and Lisa Marie Foster, as joint tenants 13824 W. Amherst Way Lakewood, CO 80228

Brian M. Foster 13824 W. Amherst Way Lakewood, CO 80228 Amber Leigh Garcia 1321 Private Road 3329 Greenville, TX 75402

Rory G. Owens 220 Chapel Hill Drive Prosper, TX 75078

Amber D. McCallum 77 Sylvester Place Highlands Ranch, CO 80129

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Walter L. Farrington III P.O. Box 670766 Dallas, TX 75367

Robert P. Dykes, as Trustee of the Robert P. Dykes Revocable Trust, dated October 14, 2011 P.O. Box 260498 Lakewood, CO 80226

J. Christopher Dykes, as Trustee of the J. Christopher Dykes Revocable Trust, dated October 10, 2012 P.O. Box 260498 Lakewood, CO 80226

Michael L. Dykes, as Trustee of the Michael L. Dykes Revocable Trust, dated October 10, 2012 P.O. Box 260498 Lakewood, CO 80226

Dorothy Lola Nussbaum 59994 County Road 126, #1 Grover, CO 80729 Charles Paul Nussbaum 40104 CR 26 Grover, CO 80729

State of Colorado 2850 Youngfield St, Lakewood, CO 80215

Brandon Marette - Energy Liaison Colorado Parks and Wildlife Northeast Regional Office 6060 Broadway Denver, CO 80216

Kent Kuster Colorado Department of Public Health & Environment 4300 Cherry Creek Drive South Denver, CO 80246-1530

Troy Swain Weld County Department of Planning Services 1555 N. 17th Ave. Greeley, CO 80631