

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

IN THE MATTER OF THE APPLICATION OF DAN A. HUGHES CO. FOR AN ORDER TO ESTABLISH AN APPROXIMATE 160-ACRE EXPLORATORY DRILLING AND SPACING UNIT IN THE LYONS FORMATION AND POOL ALL INTERESTS IN CERTAIN LANDS IN SECTIONS 1 AND 12, TOWNSHIP 9 NORTH, RANGE 57 WEST, 6TH P.M., WELD COUNTY, COLORADO

CAUSE NO:

DOCKET NO: 171000704

TYPE: SPACING and POOLING  
ORDER

**SECOND AMENDED VERIFIED APPLICATION**

COMES NOW, Dan A. Hughes Co. ("Company" or "Applicant"), Operator No. 10346, by and through its attorneys, Poulson, Odell & Peterson, LLC, and respectfully submits its **Second** Amended Verified Application to the Oil and Gas Conservation Commission of the State of Colorado ("Commission" or "COGCC") for an order establishing a 640 acre exploratory drilling and spacing unit in the Lyons formation and pooling all interests in a 640 acre drilling and spacing unit established for the S $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 1, and the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 12, Township 9 North, Range 57 West, 6th P.M., Weld County, Colorado for the development and production of the Lyons Formation drilling and spacing unit. In support thereof, the Applicant states as follows:

1. Applicant is a Limited Partnership duly authorized to conduct business before the Colorado Oil and Gas Conservation Commission.
2. Applicant owns a leasehold interest in the following lands ("Application Lands"):

Township 9 North, Range 57 West, 6th P.M

Section 1: S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 12: N $\frac{1}{2}$ NE $\frac{1}{4}$

Weld County, Colorado

3. A reference map of the Application Lands is attached hereto.
4. Rule 318.a. of the Rules and Regulations of the Oil and Gas Conservation Commission requires that, on un-spaced lands, wells drilled in excess of 2,500 feet in depth be located not less than 600 feet from any lease line, and located not less than 1,200 feet from any other producible or drilling oil or gas well when drilling to the same common source of supply. The Applications Lands are subject to Rule 318.a. for the Lyons Formation.

5. Commission records indicate that no wells are currently producing from the Lyons Formation underlying the Application Lands. There are no producing wells located in the Application Lands.

6. To promote efficient drainage within the Lyons Formation of the Application Lands, to protect correlative rights and to avoid waste, Applicant respectfully requests that the Commission establish an approximate 160 acre drilling and spacing unit for the Application Lands for the production of oil, gas, and associated hydrocarbons from the Lyons Formation.

7. The proposed unit will allow efficient drainage of the Lyons Formation; will prevent waste; will not adversely affect correlative rights and will assure the greatest ultimate recovery of gas and associated hydrocarbon substances from the reservoir. The unit requested is not smaller than the maximum area that can be economically and efficiently drained by the proposed well therein.

8. Applicant respectfully requests that the Commission authorize one (1) vertical well within the unit in order to efficiently and economically recover the oil, gas, and associated hydrocarbons from the Lyons Formation within the proposed unit. Applicant currently plans to drill this vertical well at the location reflected on Exhibit "B", being 1670' FEL of the proposed drilling and spacing unit, and 1150' FSL of the proposed drilling and spacing unit, *i.e.*, not less than 600' feet from any unit boundary, and shall be located not less than one thousand two hundred (1,200) feet from any other producible or drilling oil or gas well when drilling to the same common source of supply, unless authorized by order of the Commission upon hearing.

9. Pursuant to the relevant provisions of Colo. Rev. Stat. § 34-60-116(6)&(7) and COGCC Rule 530, Applicant also seeks an order pooling all interests in the Application Lands for development and operation of the Lyons Formation in Weld County, Colorado.

10. Applicant certifies that, at least thirty-five (35) days prior to the date of the scheduled protest deadline for this Application, each owner which Applicant was able to locate, not already leased or voluntarily pooled, was provided with the well proposals and information required by Rule 530 and tendered a reasonable offer to lease (if an unleased mineral owner), or participate and bear costs associated with the drilling and completion of the Wells.

11. Applicant request that a pooling order be entered as a result of this Application and that it be made effective as of the earlier of the date of this Application, or the date costs specified in Colo. Rev. Stat. § 34-60-116(7)(b)(II) are first incurred for the drilling of the Wells in the wellbore units for the Lyons Formation.

12. The names and addresses of the interested parties (persons who own an interest in the mineral estate of the tracts to be pooled, except owners of overriding royalty interest) are attached hereto and marked Exhibit A. Applicant certifies that copies of this Application will be served on all locatable interested parties within seven

(7) days of the date hereof, as required by Commission Rule 507.b.(1), (2), and that at least thirty-five (35) days prior to the date of the scheduled protest deadline for this Application, each such owners not already leased or voluntarily pooled will be offered the opportunity to lease, or to participate in the drilling of the Wells, and will be provided with the information required by Rule 530.

13. The granting of this Application is in accord with the Oil and Gas Conservation Act, found at Colo. Rev. Stat. § 34-60-101, *et. seq.*, and the Commission rules.

14. Applicant requests the relief granted under this Application be effective upon oral order by the Commission, and the Applicant hereby agrees to be bound by said order.

15. The Applicant certifies that copies of this Application will be served on each interested party 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, that notice be given as required by law, and that upon such hearing this Commission enter its order:

A. Establishing an approximate 160-acre exploratory drilling and spacing unit for the Application Lands, which is no smaller than the maximum area which can be efficiently and economically drained by one well, for the drilling of one vertical well to the Lyons Formation consistent with the above identified setbacks;

B. Eliminating all internal lease line setbacks;

C. Finding the proposed drilling and spacing unit prevents waste and protects correlative rights;

D. Pooling all interest in the Application Lands for the development and operation of the Lyons Formation;

E. Providing that the pooling order is made effective as of the date of this Application, or the date that the costs specified in Colo. Rev. Stat. § 34-60-116(7)(b) are first incurred for the drilling of a Lyons Formation Well;

F. Provide that the interests of any owner, with whom the Applicant has been unable to secure a lease or other agreement to participate in the drilling of the authorized wells, are pooled by operation of statute, pursuant to Colo. Rev. Stat. § 34-60-116(7) and are made subject to the cost recovery provisions thereof;

G. For such other legal, equitable or factual findings and orders to which Applicant is entitled.



**EXHIBIT A  
INTERESTED PERSONS LIST**

**MINERAL OWNERS**  
**T9N-R57W**  
**SECTION 1: S/2SE**  
**T9N-R57W**  
**SECTION 12: N2NE**  
**WELD COUNTY, COLORADO**

**FOLLOWING ARE THE LAST KNOWN ADDRESSES FOR THE MINERAL OWNERS IN THE CAPTIONED  
ACREAGE:**

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Two Mile Ranch, a  
Colorado General  
Partnership  
60773 North Highway  
71  
Stoneham, CO 80754

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Cervi Enterprises, Inc.  
PO Box 1930  
Greeley, CO 80632

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City of Wray, CO  
PO Box 35  
Wray, CO 80758

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Wray Area  
Foundation, Inc.  
PO Box 314  
Wray, CO 80758

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The United  
Methodist Church of  
Wray, in Trust  
500 Blake Street  
Wray, CO 80758

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Clarence R. Motis, a  
married man dealing  
in his sole and  
separate property  
6676 N. Double Eagle  
Meridian, ID 83646

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Mary Ann Motis Ritz,  
a married woman  
dealing in her sole  
and separate  
property  
56 W. Ranch Trail  
Morrison, CO 80465

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Robert F. Motis, a

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married man dealing  
in his sole and  
separate property  
2048 21st Ave. Ct  
Greeley, CO 80631

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Edward Deane Motis,  
a married man  
dealing in his sole  
and separate  
property  
4141 Chilberg Ave.  
SW  
Seattle, WA 98116

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Daniel J. Motis, a  
married man dealing  
in his sole and  
separate property  
1410 E. 24th Street  
Greeley, CO 80631

**THE FOLLOWING MINERAL OWNERS ARE ALL DECEASED AND, TO DATE, WE HAVE BEEN UNABLE TO LOCATE ANY HEIRS. NO ADDRESSES FOUND OF RECORD.**

**Andrew Schmelter**

Born 4/24/1910  
Died 12/21/1975  
Married to Delphine Miedzianowski

**Lorraine Michalski**

Born: 4/3/26  
Died: 5/6/1990

**Alvina Schmelter O'Brien (Albina?)**

Born 8/16/05  
Died 12/26/94

**Eugene Schmelter**

No information found.

**Marie Schmelter Waggoner (Weggoner?)**

Born 1918

**Rosela Schmelter (adopted child)**

No information found.

**EXHIBIT B  
LAND MAP**

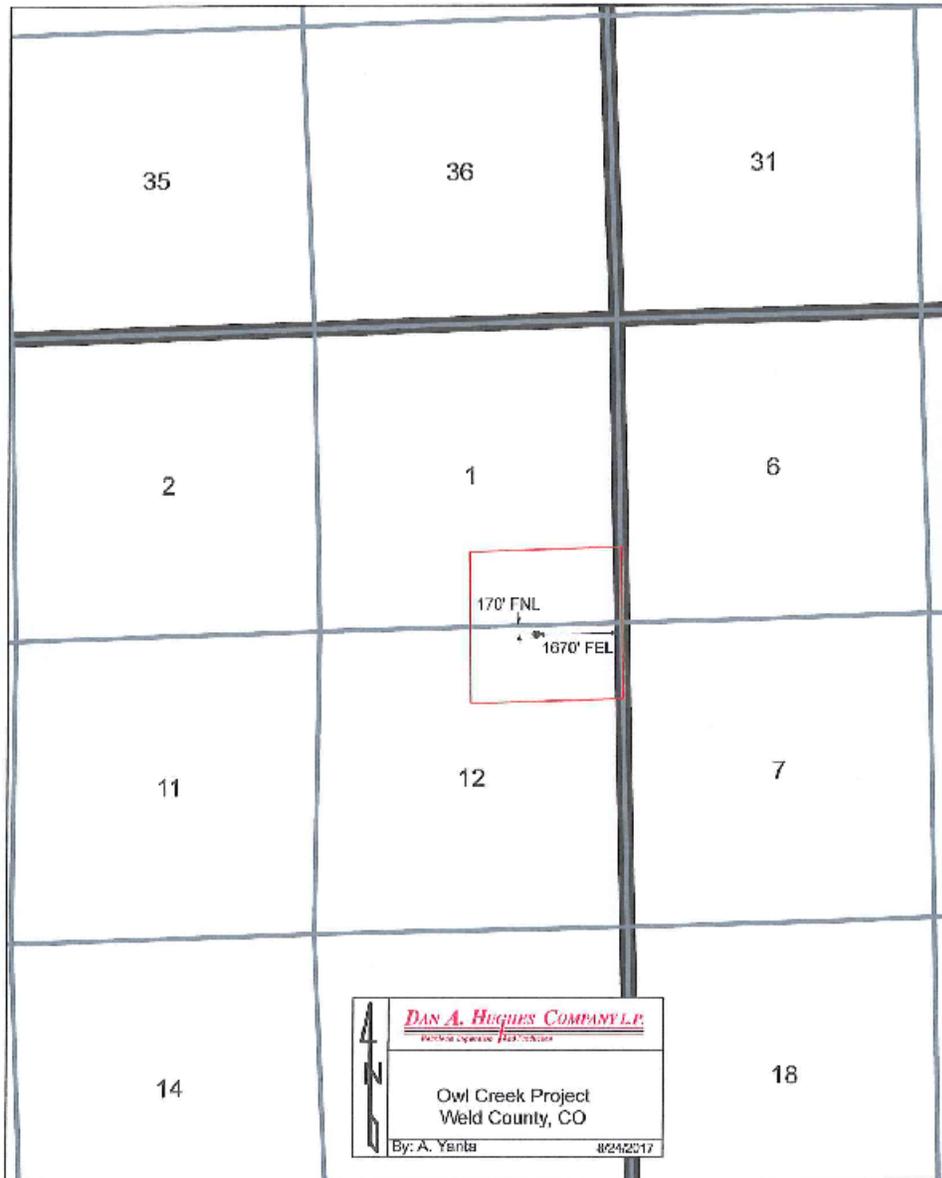


EXHIBIT B  
SPACING/POOLING

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
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IN THE MATTER OF THE APPLICATION  
OF DAN A. HUGHES COMPANY, L.P. FOR  
AN ORDER TO ESTABLISH AN  
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EXPLORATORY DRILLING AND SPACING  
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6TH P.M., WELD COUNTY, COLORADO

CAUSE NO:

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**Motion for Service by Publication**

COMES NOW, Dan A. Hughes Company, L.P. ("Applicant"), Operator No. 10346, by and through its attorneys, Poulson, Odell & Peterson, LLC, pursuant to Colo. Rev. Stat. § 34-60-108(4), Commission Rule 519.a, and C.R.C.P. 4(g), and respectfully requests an Order for service by publication upon the following interested parties: Andrew Schmelter, Alvina Schmelter O'Brien, Albina Schmelter O'Brien, Lorraine Michalski, Eugene Schmelter, Marie Schmelter Waggoner, Marie Schmelter Weggoner, Rosela Schmelter, All Unknown Heirs And devisees of the Above-Named Persons, and All Unknown Persons Who Claim Any Interest in the Subject Matter of this Action (collectively, the "Publication Parties").

As grounds for the motion, Applicant states as follows:

1) On August 31, 2017, Applicant filed the above docketed application pursuant to C.R.S. § 34-60-116 for an order establishing an approximate 160-acre exploratory drilling and spacing unit for the following described lands:

Township 9 North, Range 57 West, 6th P.M

Section 1: S½SE¼

Section 12: N½NE¼

and to pool all interests in the Application Lands for the production of oil, gas, and associated hydrocarbons from the Lyons Formation.

2) Applicant, through landmen and other agents, has diligently searched the following resources to locate Publication Parties:

- a. The public records of the Clerk and Recorder of Weld County, Colorado;
- b. The district court, county court, and probate records of Weld County, Colorado; and

c. Internet websites, paid subscription services, search engines and databases including, but not limited to, the following:

- i. <https://www.beenverified.com>;
- ii. <https://www.familytree.com>;
- iii. <https://www.myheritage.com>;
- iv. <https://www.findagrave.com>; and
- v. <https://www.google.com>.

3) Despite Applicant's efforts, Applicant is unable to personally serve the Publication Parties.

4) Therefore, Applicant seeks an Order for Service by Publication to effect service upon: Andrew Schmelter, Alvina Schmelter O'Brien, Albina Schmelter O'Brien, Lorraine Michalski, Eugene Schmelter, Marie Schmelter Waggoner, Marie Schmelter Weggoner, Rosela Schmelter, whose last addresses are unknown.

5) Applicant also seeks an Order for Service by Publication to effect service upon any unknown persons not individually named as an interested party including, but not limited to, all unknown heirs and devisees of the persons named in paragraph No. 4 hereinabove and all unknown persons who may claim any interest in the subject matter of this action.

6) Neither the Oil and Gas Conservation Act nor Commission Rules prescribe a process for service of unknown or unlocatable parties by publication, but the Act does allow for service by publication "in the same manner as is provided in the Colorado Rules of Civil Procedure." C.R.S. § 34-60-108(4), *see also* Commission Rule 519.a (providing that the "Colorado Rules of Civil Procedure apply to Commission proceedings unless they are inconsistent with Commission Rules or the . . . Act").

7) Pursuant to the Colorado Rules of Civil Procedure, the Commission may grant a motion for service by publication in proceedings in rem or actions affecting specific real property if efforts to effect personal service have been unsuccessful or would be futile. C.R.C.P. 4(g). When the Commission is satisfied that the party seeking to effect service has exercised due diligence or that any effort to complete personal service would have been futile, the Commission may authorize service by publication, which entails publication of a summons by publication once a week for five weeks in a newspaper published in the county in which the action is pending, or an adjoining county when no newspaper is published in the county. *Id.*

8) Should Applicant's request be granted, it will publish the summons in the Denver Daily Journal pursuant to C.R.C.P. 4(g)(2).

WHEREFORE, Applicant requests that the Commission authorize it to serve Andrew Schmelter, Alvina Schmelter O'Brien, Albina Schmelter O'Brien, Lorraine Michalski, Eugene Schmelter, Marie Schmelter Waggoner, Marie Schmelter Weggoner, Rosela Schmelter, All Unknown Heirs And Devisees of the Above-Named Persons, and All Unknown Persons Who Claim Any Interest in the Subject Matter of this Action by

