

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

IN THE MATTER OF AN APPLICATION BY
EXTRACTION OIL & GAS INC. FOR A HEARING ON
OBJECTIONS TO THE DESIGNATED HORIZONTAL
WELLBORE SPACING UNITS PROPOSED FOR THE
CBJ FED 15W-25-1, 2, 12, AND 13 WELLS LOCATED
IN PORTIONS OF SECTIONS 15, 16, 17, 20, 21, AND
22, TOWNSHIP 5 NORTH, RANGE 65 WEST, 6TH
P.M., FOR THE DEVELOPMENT OF THE NIOBRARA
AND CODELL FORMATIONS, WATTENBERG FIELD,
WELD COUNTY, COLORADO

CAUSE NO. 407

DOCKET NO.

TYPE: SPACING

APPLICATION

Extraction Oil & Gas Inc., Operator No. 10459, ("Extraction" or "Applicant"), by and through its attorneys, Beatty & Wozniak, P.C., respectfully submits this Application to the Oil and Gas Conservation Commission of the State of Colorado ("Commission" or "COGCC") requesting a hearing on objections received for the designated horizontal wellbore spacing units proposed for the CBJ FED 15W-25-1, 2, 12, and 13 Wells located in portions of Sections 15, 16, 17, 20, 21, and 22, Township 5 North, Range 65 West, 6th P.M., for horizontal well development of the Niobrara and Codell Formations. In support of its Application, Applicant states and alleges as follows:

1. Applicant is a corporation duly authorized to conduct business in the State of Colorado, and has registered as an operator with the Commission.

2. Applicant is an Owner in the below-listed lands:

Township 5 North, Range 65 West, 6th P.M.

Section 15: S $\frac{1}{2}$ N $\frac{1}{2}$; N $\frac{1}{2}$ S $\frac{1}{2}$

Section 16: S $\frac{1}{2}$ N $\frac{1}{2}$; N $\frac{1}{2}$ S $\frac{1}{2}$

Section 17: S $\frac{1}{2}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$

Wellbore Spacing Unit ("WSU") Nos. 1 and 2

CBJ FED 15W-25-1 and 2 Wells

800 acres, more or less, Weld County, Colorado

Township 5 North, Range 65 West, 6th P.M.

Section 15: S $\frac{1}{2}$ S $\frac{1}{2}$

Section 16: S $\frac{1}{2}$ S $\frac{1}{2}$

Section 17: S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 20: N $\frac{1}{2}$ NE $\frac{1}{4}$

Section 21: N $\frac{1}{2}$ N $\frac{1}{2}$

Section 22: N $\frac{1}{2}$ N $\frac{1}{2}$

WSU Nos. 3 and 4

CBJ FED 15W-25-12 and 13 Wells
800 acres, more or less, Weld County, Colorado.

These lands are hereinafter referred to as the "Application Lands" and depicted in Exhibit A attached hereto.

3. Rule 318A.e.(5) provides for notice and hearing procedures when proposing horizontal wellbore spacing units as described by Rule 318A.a.(4)D. for lands located within the Greater Wattenberg Area.

4. Acting pursuant to Rule 318A.e.(5)A., Extraction sent notices by certified mail of the proposed horizontal wellbore spacing units for the CBJ FED 15W-25-1, 2, 12, and 13 Wells (sometimes collectively referred to as the "Subject Wells"), which were received by the relevant parties between October 2, 2018, and October 4, 2018.

5. On November 1, 2018, and within the 30-day Rule 318A.e.(5)B. comment period, PDC Energy, Inc. ("PDC") filed a written objection to WSU Nos. 1-4 proposed for the Subject Wells ("Objection"). As the basis for its Objection, PDC states that (1) Extraction is not an "owner" under Rule 318A.e.(5)B. and (2) Extraction's proposed operations will violate correlative rights. The Objection is attached hereto as Exhibit B.

6. As approval of WSU Nos. 1-4 proposed for the Subject Wells is impeded by the Objection, Extraction hereby requests a hearing before the Commission on the respective objections pursuant to Rule 318A.e.(5)C.

7. Further, Extraction requests the merits of the written objection be first presented to a hearing officer of the Commission pursuant to Rule 318A.e.(5)C.

8. That, following an administrative hearing held pursuant to Rule 318A.e.(5)C., the hearing officer recommend dismissing the Objection, as WSU Nos. 1-4 are properly configured pursuant to Rule 318A.a.(4)D., were properly noticed pursuant to Rule 318A.e.(5)A., will prevent waste, will increase the ultimate recovery of the reserves, and protect correlative rights.

9. That, should the Commission decide not to uphold the recommendation of the hearing officer pursuant to Rule 318A.e.(5)D., the Commission enter an order approving WSU Nos. 1-4.

10. The undersigned certifies that copies of this Application will be served on each interested party as required by Rules 507 and 503.

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. Dismissing the Objection of WSU Nos. 1-4, as applicable, proposed for the Subject Wells.

B. Approving the designated horizontal wellbore spacing units, comprised of the Application Lands, for the Subject Wells, for the production of oil, gas, and associated hydrocarbons from the Niobrara and Codell Formations.

C. For such other findings and orders as the Commission may deem proper or advisable in the premises.

DATED this 10th day of January, 2019.

Respectfully submitted,

EXTRACTION OIL & GAS INC.

By: Jill Fulcher

Jillian Fulcher

James Parrot

Jobediah Rittenhouse

Beatty & Wozniak, P.C.

Attorneys for Applicant

216 16th Street, Suite 1100

Denver, Colorado 80202

(303) 407-4499

jfulcher@bwenergylaw.com

jparrot@bwenergylaw.com

jrittenhouse@bwenergylaw.com

Address of Applicant

Extraction Oil & Gas Inc.

ATTN: Drew Stout

370 17th Street, Suite 5300

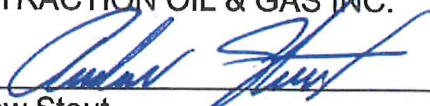
Denver, CO 80202

VERIFICATION

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

Drew Stout, Landman for Extraction Oil & Gas Inc., upon oath deposes and says that he has read the foregoing Application and that the statements contained therein are true to the best of his knowledge, information, and belief.

EXTRACTION OIL & GAS INC.

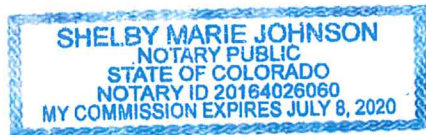



Drew Stout

Subscribed and sworn to before me this 10th day of January, 2019, by Drew Stout, Landman for Extraction Oil & Gas Inc.

Witness my hand and official seal.

My commission expires: 7/8/2020

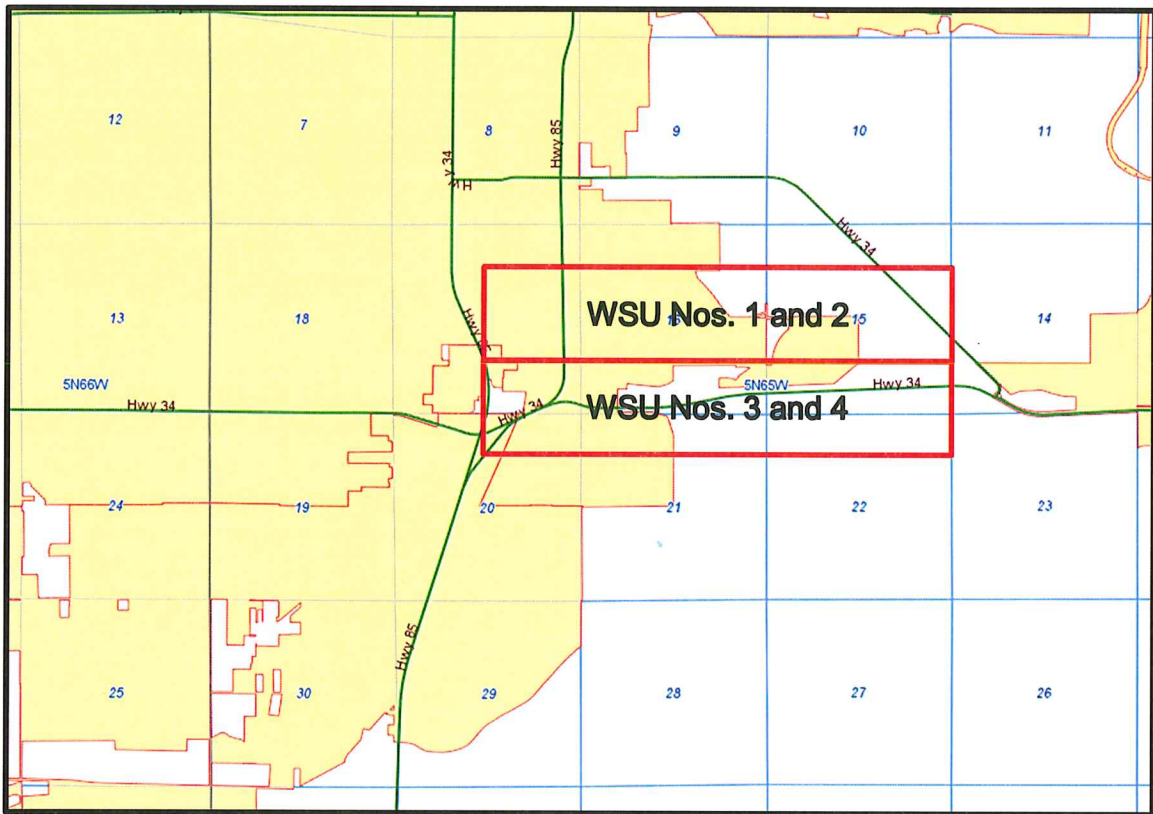




Notary Public

Exhibit A

Reference Map for Application



= Application Lands



Michael T. Jewell, Esq.
Shareholder
mjewell@bfwlaw.com

November 1, 2018

Ms. Julie Murphy, Director
c/o Ms. Jane Stanczyk, Permit and Technical Services Manager
Colorado Oil & Gas Conservation Commission
1120 Lincoln Street - Suite 801
Denver, Colorado 80203

RE: Protest for Technical Objections Under 318A.e.(5)
Extraction Oil & Gas, Inc. ("XOG" and/or "Operator")

Township 5 North, Range 65 West, 6th P.M.

Section 15: S $\frac{1}{2}$ S $\frac{1}{2}$
Section 16: S $\frac{1}{2}$ S $\frac{1}{2}$
Section 17: S $\frac{1}{2}$ SE $\frac{1}{4}$
Section 20: N $\frac{1}{2}$ NE $\frac{1}{4}$
Section 21: N $\frac{1}{2}$ N $\frac{1}{2}$
Section 22: N $\frac{1}{2}$ N $\frac{1}{2}$

Containing 800 acres, +/-, Weld County, Colorado ("CBJ FED 15W #1 Lands")

For the development of the:
CBJ FED 15W-25-12, and
CBJ FED 15W-25-13 proposed wells ("CBJ FED 15W #1 Wells")

AND:

Township 5 North, Range 65 West, 6th P.M.

Section 15: S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$
Section 16: S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$
Section 17: S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$

Containing 800 acres, +/-, Weld County, Colorado ("CBJ FED 15W #2 Lands")

For the development of the:
CBJ FED 15W-25-1, and
CBJ FED 15W-25-2 proposed wells ("CBJ FED #2 Wells")

The CBJ FED #1 Wells and the CBJ FED #2 Wells, together, "CBJ FED Wells."
The CBJ FED #1 Lands and the CBJ FED #2 Lands, together, "Lands."

Exhibit A contains maps of the proposed wellbore of each Well.

Dear Director Murphy:

Burns, Figa & Will, P.C. represents PDC Energy, Inc. ("PDC") in its protest against XOG for technical objections based in Rule 318A.e.(5)(B) ("Objection"). PDC owns leases in the Lands, thereby qualifying PDC as an Owner under the 100-series Rules with proper standing to submit this Objection. We respectfully request that the COGCC suspend any acceptance or review of Applications for Permit to Drill ("APD") for the CBJ FED Wells until the following items are properly addressed under Rule 318A.e.(5):

Technical Objections Under Rule 318A.e.(5)(B.)

PDC states its objection to the CBJ FED Wells based on the technical requirements of Rule 318A.e.(5)(B.), which provide that "either waste will be caused, correlative rights will be adversely affected, or that that the operator is not an "owner", as defined in the Act, of the mineral estate(s) through which the wellbore penetrates within the target formation."

A. **XOG IS NOT AN "OWNER" UNDER RULE 318A.e.(5)(B.)**

On or around September 21, 2018, XOG sent PDC "Notice(s) of Intent to Propose Rule 318A.a.(4)D Horizontal Wells" for the CBJ FED #1 Wells, and on or around September 20, 2018, XOG sent PDC "Notice(s) of Intent to Propose Rule 318A.a.(4)D Horizontal Wells" for the CBJ FED #2 Wells ("Notices"). The Notices indicate XOG's intention to drill from surface locations from the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15 of the Lands and penetrate several tracts in which PDC is the sole owner of 100% leasehold. These include, but are not limited to:

Township 5 North, Range 65 West, Section 15: S $\frac{1}{2}$ S $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ ("PDC 100% Lands")

Under the COGCC Rules, an Owner of a mineral estate may object where the "operator is not an 'Owner,' as defined in the Act, of the mineral estate(s) through which the wellbore penetrates within the target formation."¹ Under the Oil and Gas Conservation Act, "Owner" is defined as "the person who has the right to drill into and produce from a pool and to appropriate the oil and gas he produces therefrom either for himself or others or for himself and others, including the Owner of a well capable of producing oil or gas, or both."² The COGCC Rules provide an identical definition of "Owner."³

XOG is not an Owner in the PDC 100% Lands, as XOG does not own any minerals or leasehold within the PDC 100% Lands.

Furthermore, XOG lacks a Joint Operating Agreement, or any other appropriate contract, that would allow XOG to drill into, manage, or otherwise exercise any rights with PDC's interests. PDC asserts that XOG therefore lacks any right to drill into and/or through PDC 100% Lands, and will

¹ Rule 318A.e.(5).B.

² C.R.S. § 34-60-103(7)

³ Rule 100

commit trespass if XOG drills into and/or through PDC 100% Lands for the development of the CBJ FED Wells.

B. XOG's PROPOSED OPERATIONS WILL VIOLATE CORRELATIVE RIGHTS

PDC asserts that it has drilling and development plans currently in process for the PDC 100% Lands that PDC believes will result in the most efficient drainage of the PDC 100% Lands.

XOG's proposed CBJ FED Wells would prevent PDC from efficiently developing its interest in the Lands. PDC invested its assets in acquiring its interests in the Lands, which included an investment in engineering plans and geological understanding that will maximize and protect the correlative rights of PDC's mineral lessors.

COGCC Rule 318A.e.(5)(B) allows for a objection of a well based upon a claim that with such a proposed well "correlative rights will be adversely affected." The Colorado Oil & Gas Conservation Act gives the authority to prevent waste and protect correlative rights to the COGCC, which includes the power to regulate drainage under the provision that "each property will have the opportunity to produce or receive its just and equitable share, subject to the reasonable necessities for the prevention of waste."⁴ This statute reflects other authorities, which state that the doctrine of correlative rights provides:

- 1) As a corollary of the rule of capture, each person has? [the] right to produce oil from his land and capture such oil or gas as may be produced from his well, and
- 2) A right of the land owner to be protected against damage to a common source of supply...⁵

The best way to honor the Colorado law on correlative rights, and the concept of correlative rights as generally presented above, is by allowing PDC to develop the PDC 100% Lands from adjacent lands in which PDC owns a substantial leasehold interest.

Furthermore, by drilling into PDC's interests in the Lands with this imminent threat to correlative rights, XOG would be violating the reasonably prudent operator standard ("RPO")⁶ by failing to recognize PDC's right to develop its leasehold and conferring with PDC before submitting proposals for the CBJ FED Wells that would penetrate PDC 100% Lands. The RPO fits hand-in-hand with the duty of the COGCC to protect correlative rights for the benefit not only of operators, but also of the lessor mineral owners. Therefore, the COGCC must block the drilling of the CBJ FED Wells until amended drilling plans that protect correlative rights are formulated and agreed between XOG and PDC.

⁴ C.R.S. § 34-60-117 (1-2)

⁵⁵ "Correlative Rights," Williams & Meyers' Manual of Oil & Gas Terms, 14th ed. (2009) (Martin and Kramer, eds.)

⁶ See, generally, *Rogers et al. v. Westerman Farm Co.*, 29 P.3d 887 (Colo. 2001); *Davis v. Cramer*, 808 P.2d 358 (Colo. 1991)

Ms. Julie Murphy, Director
c/o Ms. Jane Stanczyk, Permit and Technical Services Manager
Colorado Oil & Gas Conservation Commission
November 1, 2018
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PDC asserts this Objection with utmost concern for its developmental rights. PDC therefore intends to preserve all its legal and administrative rights with the COGCC by filing this Objection while representing that PDC will rescind this Objection immediately upon resolution of the matter.

My signature below also certifies that we have provided an electronic copy of this Objection to Mr. Drew Stout at XOG. Counsel for XOG for this matter is not known at this time.

Thank you for your time. We appreciate your attention to this Objection.

Sincerely,
BURNS, FIGA & WILL, P.C.

A handwritten signature in blue ink, appearing to read "M. Jewell", is written over the printed name of the sender.

Michael T. Jewell, Esq.

cc: Drew Stout, Extraction Oil & Gas, Inc.

Ms. Julie Murphy, Director
c/o Ms. Jane Stanczyk, Permit and Technical Services Manager
Colorado Oil & Gas Conservation Commission
November 1, 2018
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Exhibit A

[ATTACHED]


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

IN THE MATTER OF THE PROMULGATION AND)	CAUSE NO. 1
ESTABLISHMENT OF FIELD RULES TO GOVERN)	
OPERATIONS FOR THE NIOBRARA AND CODELL)	DOCKET NO. 190300243
FORMATIONS, WATTENBERG FIELD, WELD)	
COUNTY, COLORADO)	TYPE: GENERAL
)	ADMINISTRATIVE

CERTIFICATE OF SERVICE

I hereby certify that on or before February 4, 2019, a true and correct copy of the Application and Notice of Hearing in the above-referenced docket were deposited in the U.S. Mail, postage pre-paid, addressed to the parties in the list attached hereto.

DATED this 4th day of February, 2019


Name _____

LIST OF INTERESTED PARTIES

PDC Energy, Inc.
1775 Sherman St Suite 3000
Denver, CO 80203