



## Mineral Extraction Intensifies in 2006

On December 5, 2005, The Colorado Oil and Gas Conservation Commission granted companies like Kerr-McGee, EnCana Oil and Gas and Noble expanded drilling rights in an area of Colorado known as the Wattenburg Field in Northern Colorado. In the past, the Commission considered a fully spaced oil field would contain only four shallow wells (each well located on a separate 40 acre parcel) and one deep well in the center on a 160-acre parcel. Now the Commission has agreed to reduce the spacing between wells in parts of Weld and Adams counties meaning the spacing would allow a well on every 20 acres instead of 40 acres.

As reported in the Rocky Mountain News, Tuesday, August 2, 2005, Denver lawyer Lance Astrella predicted tens of thousands of new wells in a 1.8 million acre area and a huge loss in property value for thousands of landowners. Local ranchers, developers, and landowners rejected the plan and called the Commission's ruling a land grab as reported in the Denver Post, Tuesday December 6, 2005.



As the Denver Post reported, the Commission attempted to minimize conflicts between the landowners and the oil exploration and extraction companies by at least requiring the operators to use directional methods for drilling and reduced the area affected by carving out Brighton, Thornton and Broomfield. In addition, the Commission also requires the operators to perform additional water-quality tests and to utilize existing roads. However, 200 to 300 more wells a year will be drilled under this new ruling from the Commission.

A Denver Post editorial stated on Wednesday, November 16, 2005, "This newspaper often criticizes the oil and gas industry in cases where companies refuse to use existing pads or do directional drilling. In the Wattenburg Field, though, the companies are offering to do both."

By increasing the density of oil and gas wells, it will force a real estate developer to decrease the density of home sites and thus cut the developer's already thin profit margins. A title insurer is often requested to

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provide “mineral protection” to the ultimate purchasers and their lenders. In the areas where real estate development and mineral extraction are occurring simultaneously, a title company will probably require a surface use agreement between the surface owner (developer), the exploration and extraction operator and the mineral owner which will not permit platting of lots within a certain radius from the center of a pad. In addition, easements for pipelines must be granted on the plat as well as the roads being built usually at the developers’ expense that can withstand the weight of oil field equipment.

The surface use agreement should also set forth sites for existing wells, for future wells, for gathering pits and storage tanks. All access routes for servicing wells and other well appurtenances should be described.

Mineral protection is occasionally easier to evaluate if the property is under fully drilled spacing.

This agreement will usually cause a title insurer to meet its underwriting requirements and insuring

methodology to provide the requested mineral protection; thus, permitting the ultimate purchaser and lender to receive the protections as it relates to damage to improvements by reason of surface removal of the

minerals. This protection is provided through an endorsement issued in connection with an owner or lender policy or both usually at a fee of 20% of the basic rate for an owner’s protection and 10% of the basic fee for the lender

protection. The title industry will issue either the 100.29 endorsement, which protects current improvements (including damage to aesthetics), or the 100.30 (lender) or 100.31(owner) which protects current and future improvements but does not protect against aesthetic damage.

According to U.S. Energy Information Agency there are nearly 29,000 operating wells in Colorado. New permits are up nearly one third in 2005 over the previous year, 2004. “Colorado is the No. 2 State for gas production behind Wyoming...” Eric Marsh, VP of EnCana Oil and Gas as reported in the Denver Post, Sunday, September 25, 2005.



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