

STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

March 30, 2010

Mr. David Neslin, Director COGCC
1120 Lincoln Street, Suite 801
Denver, CO 80203

Re: Colorado Department of Public Health and Environment (CDPHE) Consultation for the McElvain Oil and Gas Properties proposed variance request to Rule 603.a.(1) Form 2A #2589135 in La Plata County

Dear Mr. Neslin:

This letter describes CDPHE's decision to recommend that the COGCC grant the request for a variance to COGCC Rule 603.a.(1) submitted by McElvain Oil and Gas Properties for well name Bulleye, well number 22, located in Section 20, Township 33N, Range 8W. Rule 603a.(1) establishes setback for drilling and well serving operations, stating that "at the time of initial drilling of the well, the wellhead shall be located a distance of one hundred and fifty (150) feet or one and one half (1-1/2) times the height of the derrick, whichever is greater, from a building unit, public road, major above utility or railroad."

Facts learned during consultation include:

- McElvain Oil and Gas Properties is requesting approval to locate a well 118 feet from an existing above ground utility power line; and
- La Plata Electric Association has verified the utility line is no longer live or energized.
- CDPHE has verified that there are no building units or public roads within 150 feet of this location.

In view of the foregoing, CDPHE believes that granting this variance will result in adequate protection of the public health, safety, welfare and environment. CDPHE reserves the right to consult on any future variance requests from rules this agency may consult on (pursuant to COGCC Rule 306) within this location. If you have questions regarding this recommendation or discussion would be helpful, please contact me at (303) 692-3662.

Sincerely,

Kent Kuster
Oil and Gas Consultation Coordinator
CDPHE

ec: Jeff Lawrence, Director CPD, CDPHE
Kate Fay, Energy Manager, CDPHE
Ron Millet, McElvain Oil and Gas Properties
Victoria Schmitt, LGD, La Plata County