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March 8, 2012

## VIA EMAIL – HARD COPY TO FOLLOW

Director Matthew Lepore  
Colorado Oil and Gas Conservation Commission  
1120 Lincoln Street, Suite 801  
Denver, CO 80203

**Re: Expedited Request for Rule 502.b. Variance from Rule 908.b.  
Hunter Ridge Energy Services, LLC - Divide Road Water Facility  
Legal Description: SW¼SE¼ of Section 26, Township 4 South, Range 96 West  
Garfield County, Colorado**

Dear Director Lepore,

Our firm represents Hunter Ridge Energy Services, LLC ("Hunter Ridge") and, on behalf of Hunter Ridge, we respectfully request a Rule 502.b. variance to Rule 908.b. as it pertains to the above-referenced Divide Road Water Facility ("Facility").

Rule 908.b. provides, in part, that "before any person shall commence construction of a centralized E&P waste management facility, such person shall file with the Director an application on Form 28 and pay a filing and service fee established by the Commission [see Appendix III], *and obtain the Director's approval.*" See Colorado Oil and Gas Conservation Commission ("COGCC") Rule 908.b. Specifically, Hunter Ridge is seeking a variance to only that portion of Rule 908.b. requiring Director approval prior to the commencement of construction on the Facility. Based on the information contained herein, Hunter Ridge requests that it be allowed to commence construction, on or about May 1, 2013, prior to the approval of the Form 28 for the Divide Road Water Facility.

### Overview of Divide Road Water Facility

The Facility is proposed on an eighteen (18) acre site, after interim reclamation. When construction on the Facility is complete, the Facility will include three (3) 206,000 bbl water tanks and ancillary equipment used in the recycling, treatment, and reuse of produced water from Encana Oil & Gas (USA) Inc. (Encana) gas wells in the Big Jimmy Federal Unit. The Facility is located on Encana's North Parachute Ranch where Encana owns the surface and holds a majority of the leasehold interests in the Big Jimmy Federal Unit. *See attached Exhibit 1, which is an illustration of the location of the Big Jimmy Federal Unit and the location of the Facility.*

### Current Permitting Process

Hunter Ridge is currently in the process of permitting the Facility, which is classified as an E&P Waste Facility, using the Form 2A and Form 28 process. Hunter Ridge has received many of the necessary permits required for the Facility:

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- A. Garfield County: The Facility has been permitted and approved by Garfield County through its Limited Impact Review process and the County's Land Use Change Permit is expected to be issued on March 11, 2013.
- B. CDPHE: The Facility location is currently permitted through the CDPHE under a construction permit.
- C. COGCC: The COGCC staff is in the final stages of review of the Form 2A for the Facility. During the Form 2A process, CDPHE, CPW, and the Local Government Designee each approved the Facility's location assessment with conditions of approval. Hunter Ridge is in the process of preparing and submitting the required Form 28 for the Facility, however, the timing of the review and approval is driving the need for the variance to Rule 908.b.

Further, Hunter Ridge is prepared to secure a bond in the amount required to fully reclaim the site of the Divide Road Water Facility if the Facility closes in the future.

#### Hardship to Hunter Ridge and Encana

As set forth above, Hunter Ridge has obtained many of the necessary approvals for the Facility. The Rule 908.b. requirement that construction cannot commence until Form 28 is approved will cause Hunter Ridge and Encana significant operational and financial hardship if a variance to Rule 908.b. is not granted.

First, it takes approximately five (5) months and approximately seventy (70) construction workers to build one of the three (3) 206,000 bbl tanks and ancillary facilities. Delaying the commencement of construction on the Facility until the Form 28 is approved could result in the Facility construction being postponed for approximately one (1) year due to concerns for severe winter weather delaying the completion of the project, and potential surface use/wildlife limitations under the Encana North Parachute Ranch – CPW Wildlife Mitigation Plan. Further, a one (1) year delay in this project will require gas production to be shut-in due to operational constraints in handling the produced water and substantially increases the costs of Facility development.

Second, Hunter Ridge's water infrastructure network depends on this Facility coming online in the third quarter of 2013 to maximize the system's efficiency and designed purpose which is why it is critical that the first tank be constructed and operational by this fall. Delaying this Facility will require Hunter Ridge to rent multiple pumps and other equipment to substitute for the engineered equipment included in the Facility.

Finally, Hunter Ridge currently uses open produced water pits as storage for produced water. The process of recycling, treating, and reusing water requires the operating team to constantly balance the outflows and inflows of water while using the pits as buffer inventory in this process. The large tanks at the Facility will eliminate the need for up to six (6) earthen pits.

Based on the administrative nature of reviewing and approving the Form 28, there is a substantial benefit as well as minimal risk to all interested parties in approving the requested variance from Rule 908.b.

#### Variance Request

Hunter Ridge hereby respectfully requests that the Director grant a Rule 502.b. variance to the specific requirements of Rule 908.b. requiring Director approval of Form 28 prior to the commencement of construction on the Facility. Hunter Ridge will be submitting the required Form 28 within the immediate



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future in order to initiate the Form 28 review process and such Form 28 will comply with the specific terms set forth in Rule 908.

Hunter Ridge recognizes that Rule 908.c. requires the Director to endeavor to approve or deny the Form 28 thirty (30) days after receipt, but due to the short time frame associated with this matter Hunter Ridge, it is necessary for Hunter Ridge to seek this variance so the planning and implementation of the commencement of construction on the Facility can occur on or about May 1, 2013, and not once the Form 28 is approved.

Based on the foregoing, no violation of the basic intent of the Oil & Gas Conservation Act will occur by the granting of this variance. Encana, therefore, respectfully requests that the Director administratively grant a variance to Rule 908.b. as set forth herein at its earliest convenience. Due to the short time frame associated with this matter, Hunter Ridge respectfully requests that this matter be placed on the docket of the next regularly scheduled COGCC hearing, or March 25, 2013, if this variance is not approved before such hearing date.

Please contact me at (303) 407-4458 or via email at [jjost@bwenergylaw.com](mailto:jjost@bwenergylaw.com) if you have any questions. Hunter Ridge would also welcome a meeting with you and the COGCC staff in order to expedite this Rule 502.b. variance request. Thank you in advance for your prompt attention to this matter.

Sincerely,

James L. Fost

Jamie L. Jost  
Counsel for Hunter Ridge Energy Services, LLC

cc w/ enclosures: Julia Carter – Hunter Ridge Energy Services, LLC  
Jason Oates – Encana Oil & Gas (USA) Inc.  
Kirby Winn – Garfield County, Colorado  
Kent Kuster – CDPHE  
Jim Komatinsky c/o Michael Warren - CPW

# EXHIBIT 1

