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From: BARCO Attorneys

Date: 5/26/05

Fax Number: _____ (970) 384-5005

Number of pages including Cover Sheet: 4

Comments: _____



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May 26, 2005

William A. Keefe, Esq.
POULSON, ODELL & PETERSON, LLC
1775 Sherman Street, Suite 1400
Denver, CO 80203

By Fax: 303-861-1225

RE: Order 139-43; Colorado Oil & Gas Conservation Commission

Dear Mr. Keefe:

I am in receipt of your letter of May 24, 2005, responding to Garfield County proposed alterations to Order 139-43. Your letter is consistent with our discussions of May 23rd and 24th, 2005, concerning those issues. As you and the COGCC staff are aware, the Board of County Commissioners may be unavailable for discussion of any items concerning Presco's applications until June 6, 2005. In the interim, I will attempt to communicate with individual Commissioners concerning their involvement in the June 6, 2005, consideration of the proposal to amend the COGCC's existing Order.

After reviewing your letter of May 24, 2005, I have the following comments which have not been reviewed and approved by the Board of County Commissioners:

1. There clearly has been a misunderstanding concerning Presco's desire to drill multiple wells commencing inside of the Rulison Blast Site buffer zone with completion outside of that zone. In meetings with Doug Dennison, myself, Larry McCown and Geoffrey Thyne, all County representatives clearly understood Presco's intent to be the drilling of a single well. Indeed, the location, direction and extent of drilling that was the subject of the discussion was always limited to one (1) well. As I noted in our discussions this week, Mr. Richter presented no alternative locations to Dr. Thyne during the course of their discussions. Before the BOCC can consider whether or not multiple sites can go forward without its objection, Dr. Thyne will need to be presented with the

location and plan for development of additional wells. Given the status of the BOCC, as well as the lack of full information provided to our advisors, it seems unlikely we will achieve resolution of this issue before the COGCC meeting on June 6, 2005.

2. From recent discussions with DOE representatives, it appears likely we will have a written position letter from the DOE Nevada office during the course of next week. Their attorneys and staff remain firm that the 2007 study has been funded and will be completed by September of that year. While that study may be subsequently reviewed by the Colorado Department of Health, it will be a document upon which all parties, including the Oil & Gas Commission, may rely. The BOCC request does not imply, either directly or indirectly, that the COGCC will lose its jurisdiction to site wells. Rather, we are asking that the COGCC hold its decision-making process to await the most accurate and reliable information, the report of the DOE, if adequate information cannot be provided to Garfield County advisors. As described above, given the status of the BOCC, it is unlikely that its position in regard to this issue will be altered before the hearing of June 6, 2005.
3. The COGCC will determine the conditions under which its Order will be amended. Garfield County, through the BOCC, will not agree that such Order should be amended to allow the current proposed well permit, unless Presco agrees to incorporation of the conditions specified by Garfield County as part of that amended Order. If the COGCC includes all Garfield County recommendations in its amended Order and Presco complies with all provisions of the Order so amended, then Garfield County would agree that Presco may re-file its current application for inside buffer down-hole locations with June 2006 being the earliest date at which such application could be accepted by the COGCC.
4. The Department of Energy has specified through its representatives that the Colorado Department of Health is an oversight agency for its 2007 modeling report. Additionally, they have specified that the Colorado Department of Health is the oversight agency for all public health, safety and welfare concerns emanating from the Rulison Blast Site. While Colorado Department of Health representatives may not yet agree with that

position, it is our understanding that correspondence emanating from the DOE Nevada office next week should clarify their understanding of the role of the Colorado Department of Health.

With the foregoing in mind, I will reiterate that I believe it is unlikely that we will be able to achieve resolution of these remaining issues prior to the 6th of June, 2005. While I will request a special meeting of the Board of County Commissioners, it appears unlikely that they will physically be available to conduct such a session. Additionally, I will have no understanding of their desire to conduct such a session until the middle of next week. Please contact me as soon as possible if you have any questions regarding our position on these issues.

Respectfully,



DON K. DEFORD
Garfield County Attorney

DKD/kja

cc: BOCC
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