NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 07-237

BY SENATOR(S) Shaffer, Boyd, Taylor, Tochtrop, and Williams;
also REPRESENTATIVE(S) May M.

CONCERNING NOTIFICATION OF MINERAL ESTATE OWNERS IN CONNECTION WITH APPLICATIONS FOR SURFACE DEVELOPMENT, AND, IN CONNECTION THEREWITH, SPECIFYING REQUIREMENTS FOR DRILLING OIL AND GAS WELLS IN THE GREATER WATTENBERG AREA.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-65.5-101, Colorado Revised Statutes, is amended to read:

24-65.5-101. Legislative declaration - intent. The general assembly recognizes that the surface estate and the mineral estate are separate and distinct interests in real property and that one may be severed from the other. ~~The general assembly further recognizes that if the surface estate and mineral estate are severed, the owners of these estates shall be entitled to the notice specified in section 31-23-215 or 34-60-106 (14), C.R.S.~~ It is the intent of the general assembly that this article provide a streamlined procedure for providing notice to owners of mineral interests concerning impending surface development AND TO FACILITATE THE NEGOTIATION OF A SURFACE USE AGREEMENT PROVIDING FOR THE JOINT USE

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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OF THE SURFACE AND A MECHANISM FOR RESOLUTION IF AN AGREEMENT IS NOT REACHED. Further, it is the intent of the general assembly to include local governments in ~~the notification~~ THIS process without creating additional liabilities for local governments.

SECTION 2. 24-65.5-102 (2), (4), and (6), Colorado Revised Statutes, are amended, and the said 24-65.5-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-65.5-102. Definitions - legislative declaration. As used in this article, unless the context otherwise requires:

(1.5) "AFFILIATE" MEANS A PERSON CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH ANOTHER PERSON AND ANY OFFICER, DIRECTOR, SHAREHOLDER, MEMBER, PARTNER, OR OWNER OF ANY SUCH PERSON.

(2) (a) "Application for development" means an INITIAL application for a SKETCH PLAN, A preliminary or final plat for a subdivision, a planned unit development, or any other similar land use designation that is used by a local government. "Application for development" includes applications for general development plans and special use permits OR ANY APPLICATIONS FOR ZONING OR REZONING TO A PLANNED UNIT DEVELOPMENT THAT WOULD CHANGE OR CREATE LOT LINES where such applications are in anticipation of new surface development, but does not include AMENDMENTS TO AN URBAN GROWTH BOUNDARY, APPLICATIONS FOR ANNEXATION AND ZONING, APPLICATIONS FOR ZONING OR REZONING THAT WILL NOT CHANGE OR CREATE LOT LINES, AN APPLICATION FOR DEVELOPMENT THAT IS A SPECIAL USE PERMIT FOR THE EXTRACTION OF CONSTRUCTION MATERIALS, AS THAT TERM IS DEFINED IN SECTION 34-32.5-103, C.R.S., building permit applications, applications for a change of use for an existing structure, applications for boundary adjustments, applications for platting of an additional single lot, applications for lot site plans, or applications with respect to electric lines, CRUDE OIL OR natural gas pipelines, steam pipelines, chilled and other water pipelines, or appurtenances to said lines or pipelines.

(b) (I) The general assembly hereby finds that:

(A) Pursuant to section 2-4-202, C.R.S., statutes are presumed to

have only prospective effect, and under applicable case law this presumption applies unless the general assembly's contrary intent is clearly expressed; and

(B) House Bill 01-1088, which enacted this article, did not contain an applicability clause and was silent with regard to the issue of whether the requirements of this article apply to applications for development that were pending on July 1, 2001, the effective date of House Bill 01-1088.

(II) The general assembly hereby determines that, notwithstanding the fact that House Bill 01-1088 did not clearly express any intent of the general assembly that the requirements of this article would apply retroactively, there is uncertainty concerning whether such requirements should apply retroactively.

(III) To clarify its intent, the general assembly hereby declares that this article was intended to apply, and should only be applied, to applications for development that were filed on or after July 1, 2001, EXCEPT AS SPECIFIED IN SUBPARAGRAPHS (IV) AND (V) OF THIS PARAGRAPH (b).

(IV) TO FURTHER CLARIFY ITS INTENT, THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE PROVISIONS OF SECTION 24-65.5-103 AS AMENDED ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (IV) ARE INTENDED TO APPLY, AND SHOULD ONLY BE APPLIED, TO APPLICATIONS FOR DEVELOPMENT WHERE THE INITIAL PUBLIC HEARING HAD NOT BEEN HELD PRIOR TO THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (IV), AND THAT NOTHING IN SECTION 24-65.5-103 SHALL BE DEEMED TO SUPERSEDE OR MODIFY THE PROVISIONS OF ANY SURFACE USE AGREEMENT OR THE PROVISIONS OF ANY OIL AND GAS OR MINERAL LEASE ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (IV).

(V) TO FURTHER CLARIFY ITS INTENT, THE GENERAL ASSEMBLY HEREBY DECLARES THAT NOTHING IN THIS ARTICLE SHALL BE DEEMED TO AFFECT OR ESTABLISH THE APPLICATION OF THE DOCTRINE OF REASONABLE ACCOMMODATION TO DETERMINE THE RESPECTIVE RIGHTS AND OBLIGATIONS OF THE SURFACE OWNER OR MINERAL ESTATE OWNER EXCEPT UPON LANDS THAT ARE QUALIFYING SURFACE DEVELOPMENTS BURDENED BY OIL AND GAS OPERATIONS AREAS UNDER SECTION 24-65.5-103.5.

(2.5) "COMMISSION" MEANS THE COLORADO OIL AND GAS CONSERVATION COMMISSION CREATED IN SECTION 34-60-104, C.R.S.

(2.6) "DRILLING WINDOW" MEANS AN AREA ESTABLISHED BY THE COMMISSION WITHIN WHICH THE SURFACE LOCATION OF A WELL OR WELLS MAY BE ESTABLISHED. IN THE GREATER WATTENBERG AREA, SUCH DRILLING WINDOWS ARE REFERRED TO GENERALLY AS THE "GWA WINDOW" AND MORE SPECIFICALLY AS THE "FOUR-HUNDRED-FOOT WINDOW" AND THE "EIGHT-HUNDRED-FOOT WINDOW".

(2.7) "GOVERNMENTAL QUARTER SECTION" MEANS AN AREA, APPROXIMATELY SQUARE, CONSISTING OF FOUR CONTIGUOUS QUARTER-QUARTER SECTIONS AS DEFINED BY AN OFFICIAL GOVERNMENTAL SURVEY.

(2.8) "GREATER WATTENBERG AREA" MEANS THOSE LANDS FROM AND INCLUDING TOWNSHIPS 2 SOUTH TO 7 NORTH AND RANGES 61 WEST TO 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN.

(4) "Mineral estate" means a mineral interest in real property that is shown by the real estate records of the county in which the real property is situated. ~~and that is not owned as part of the full fee title to the real property.~~

(5.5) "OIL AND GAS OPERATIONS" HAS THE MEANING ESTABLISHED IN SECTION 34-60-103, C.R.S.

(5.6) "OIL AND GAS OPERATIONS AREA" MEANS AN AREA DESIGNATED PURSUANT TO SECTION 24-65.5-103.5 AS THE EXCLUSIVE AREA FOR THE CONDUCT OF OIL AND GAS DRILLING AND PRODUCTION OPERATIONS AND THE LOCATION OF ASSOCIATED PRODUCTION FACILITIES IN QUALIFIED SURFACE DEVELOPMENTS.

(5.7) "QUALIFYING SURFACE DEVELOPMENT" MEANS AN APPLICATION FOR DEVELOPMENT COVERING AT LEAST ONE HUNDRED SIXTY GROSS ACRES, PLUS OR MINUS FIVE PERCENT, WITHIN THE GREATER WATTENBERG AREA , INCLUDING ANY APPLICATIONS FOR DEVELOPMENT FILED BY AFFILIATES SHARING A COMMON BOUNDARY, IN WHOLE OR IN PART.

(6) "Surface estate" means ~~an interest in~~ A FEE TITLE INTEREST IN

THE SURFACE OF real property that ~~is less than full fee title and that does~~ MAY OR MAY not include mineral rights as shown by the real estate records of the county in which the real property is situated.

SECTION 3. 24-65.5-103, Colorado Revised Statutes, is amended to read:

24-65.5-103. Notice requirements. (1) Not less than thirty days before the date scheduled for the initial public hearing by a local government on an application for development, the applicant shall send notice, by ~~first class~~ CERTIFIED mail, RETURN RECEIPT REQUESTED, OR BY A NATIONALLY RECOGNIZED OVERNIGHT COURIER, to:

(a) (I) ~~The~~ A mineral estate owner WHO EITHER:

(A) IS IDENTIFIED AS A MINERAL ESTATE OWNER IN THE COUNTY TAX ASSESSOR'S RECORDS, IF THOSE RECORDS ARE SEARCHABLE BY PARCEL NUMBER OR BY SECTION, TOWNSHIP, AND RANGE NUMBERS OR OTHER LEGALLY SUFFICIENT DESCRIPTION; OR

(B) HAS FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN WHICH THE REAL PROPERTY IS LOCATED A REQUEST FOR NOTIFICATION IN THE FORM SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

(II) Such notice shall contain the time and place of the initial public hearing, the nature of the hearing, the location AND LEGAL DESCRIPTION BY SECTION, TOWNSHIP, AND RANGE of the property that is the subject of the hearing, and the name of the applicant.

(b) The local government considering the application for development. Such notice shall contain the name and address of the mineral estate ~~owner~~ OWNERS TO WHOM NOTICES WERE SENT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (1).

(1.5) If an applicant files more than one application for development for the same new surface development with a local government, the applicant shall only be required to send notice pursuant to subsection (1) of this section of the initial public hearing scheduled for the first application for development to be considered by the local government. Local governments shall, pursuant to section 24-6-402 (7), provide notice of

subsequent hearings to mineral estate owners who register for such notification.

(2) (a) The applicant shall identify the mineral estate ~~owner~~ OWNERS ENTITLED TO NOTICE PURSUANT TO THIS SECTION by examining the records in the office of the county TAX ASSESSOR AND clerk and recorder of the county in which the real property is located, INCLUDING THE APPROPRIATE REQUEST FOR NOTIFICATION PURSUANT TO SUBSECTION (3) OF THIS SECTION. Notice shall be sent to the last-known address ~~of record~~ of the mineral estate owner ~~if the records in the office of the county clerk and recorder establish:~~ AS SHOWN BY SUCH RECORDS.

~~(I) The identity and address of record of the owner of the mineral estate; or~~

~~(II) That an applicable request for notification form pursuant to subsection (3) of this section is of record; or~~

~~(III) That the mineral estate owner has recorded an instrument satisfying any applicable dormant mineral interest act.~~

(b) If such records do not identify any mineral estate owners, including their addresses of record, the applicant shall be deemed to have acted in good faith and shall not be subject to further obligations under this article. The applicant shall not be liable for any errors or omissions in such records.

(3) A mineral estate owner WHO REQUESTS OR DESIRES TO OBTAIN NOTICE UNDER THIS ARTICLE or THE mineral estate owner's agent may file in the office of the county clerk and recorder of the county in which the real property is located a request for notification form that identifies the mineral estate owner's mineral estate and the corresponding surface estate by parcel number and by section, township, and range numbers OR OTHER LEGALLY SUFFICIENT DESCRIPTION. The clerk and recorder shall file request for notification forms in the real estate records for the county and shall also keep an index of request for notification forms BY SECTION, TOWNSHIP, AND RANGE NUMBERS OR BY SUBDIVISION LOTS AND BLOCKS.

(4) PRIOR TO CONVENING AN INITIAL PUBLIC HEARING ON AN APPLICATION FOR DEVELOPMENT, A local ~~governments~~ GOVERNMENT shall

~~as a condition of approval of an application for development,~~ require the applicant to certify that notice has been provided to the mineral estate owner pursuant to subsection (1) of this section.

(5) A mineral estate owner may waive the right to notice under this section in writing to the applicant. FAILURE OF A MINERAL ESTATE OWNER TO BE IDENTIFIED IN THE RECORDS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION OR TO FILE A REQUEST FOR NOTIFICATION UNDER SUBSECTION (3) OF THIS SECTION SHALL NOT WAIVE THE RIGHT OF SUCH MINERAL ESTATE OWNER TO FILE AN OBJECTION WITH THE LOCAL GOVERNMENT TO SUCH APPLICATION FOR DEVELOPMENT NO LATER THAN THIRTY DAYS FOLLOWING THE INITIAL PUBLIC HEARING FOR APPROVAL OF THE APPLICATION FOR DEVELOPMENT OR TO EXERCISE THE REMEDIES SET FORTH IN SECTION 24-65.5-104.

(6) Before completing the sale of a mineral estate, a mineral estate owner who has received notice as the owner of the mineral estate of a PENDING public hearing with respect to an application for development pursuant to this section shall notify the buyer of the mineral estate of the existence of the application for development. A TRANSFER OF AN INTEREST IN A MINERAL ESTATE BY A MINERAL ESTATE OWNER FOLLOWING THE FILING OF A REQUEST FOR NOTIFICATION PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL NOT MODIFY THE ADDRESS TO WHICH THE APPLICANT MAY DELIVER NOTICE UNDER PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION UNTIL THE TRANSFEREE OF SUCH INTEREST HAS FILED AN AMENDMENT TO THE REQUEST FOR NOTIFICATION DESCRIBING THE ADDRESS TO WHICH SUCH NOTICES SHALL BE SENT.

SECTION 4. Article 65.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

24-65.5-103.3. Local government approval. (1) A LOCAL GOVERNMENT SHALL, AS A CONDITION OF FINAL APPROVAL OF AN APPLICATION FOR DEVELOPMENT, REQUIRE THE APPLICANT TO CERTIFY:

(a) THAT NOTICE HAS BEEN PROVIDED TO MINERAL ESTATE OWNERS PURSUANT TO SECTION 24-65.5-103; AND

(b) WITH RESPECT TO QUALIFYING SURFACE DEVELOPMENTS, THAT

EITHER:

(I) NO MINERAL ESTATE OWNER HAS ENTERED AN APPEARANCE OR FILED AN OBJECTION TO THE PROPOSED APPLICATION FOR DEVELOPMENT WITHIN THIRTY DAYS AFTER THE INITIAL PUBLIC HEARING ON THE APPLICATION;

(II) THE APPLICANT AND ANY MINERAL ESTATE OWNERS WHO HAVE FILED AN OBJECTION TO THE PROPOSED APPLICATION FOR DEVELOPMENT OR HAVE OTHERWISE FILED AN ENTRY OF APPEARANCE IN THE INITIAL PUBLIC HEARING REGARDING SUCH APPLICATION NO LATER THAN THIRTY DAYS FOLLOWING THE INITIAL PUBLIC HEARING ON THE APPLICATION HAVE EXECUTED A SURFACE USE AGREEMENT RELATED TO THE PROPERTY INCLUDED IN THE APPLICATION FOR DEVELOPMENT, THE PROVISIONS OF WHICH HAVE BEEN INCORPORATED INTO THE APPLICATION FOR DEVELOPMENT OR ARE EVIDENCED BY A MEMORANDUM OR OTHERWISE RECORDED IN THE RECORDS OF THE CLERK AND RECORDER OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED SO AS TO PROVIDE NOTICE TO TRANSFEREES OF THE APPLICANT, WHO SHALL BE BOUND BY SUCH SURFACE USE AGREEMENTS; OR

(III) THE APPLICATION FOR DEVELOPMENT PROVIDES:

(A) ACCESS TO MINERAL OPERATIONS, SURFACE FACILITIES, FLOWLINES, AND PIPELINES IN SUPPORT OF SUCH OPERATIONS EXISTING WHEN THE FINAL PUBLIC HEARING ON THE APPLICATION FOR DEVELOPMENT IS HELD BY MEANS OF PUBLIC ROADS SUFFICIENT TO WITHSTAND TRUCKS AND DRILLING EQUIPMENT OR THIRTY-FOOT-WIDE ACCESS EASEMENTS;

(B) AN OIL AND GAS OPERATIONS AREA AND EXISTING WELLSITE LOCATIONS IN ACCORDANCE WITH SECTION 24-65.5-103.5; AND

(C) THAT THE DEPOSIT FOR INCREMENTAL DRILLING COSTS DESCRIBED IN SECTION 24-65.5-103.7 HAS BEEN MADE.

(2) A LOCAL GOVERNMENT APPROVAL OF AN APPLICATION FOR DEVELOPMENT WITHOUT THE CERTIFICATION REQUIRED BY SUBSECTION (1) OF THIS SECTION WHEN A MINERAL OWNER HAS TIMELY ENTERED AN APPEARANCE OR FILED AN OBJECTION SHALL BE SUSPENDED AND SHALL NOT CONSTITUTE A VALID FINAL APPROVAL UNTIL THE REQUIRED CERTIFICATION

IS PROVIDED, ANY REQUIRED LOCAL GOVERNMENT PROCEEDINGS FOLLOWING NOTICE TO AFFECTED MINERAL ESTATE OWNERS ARE HELD, AND THE LOCAL GOVERNMENT APPROVAL IS CONFIRMED, AMENDED, OR REVOKED IN RESPONSE TO THE CERTIFICATION.

24-65.5-103.5. Oil and gas operations areas. (1) (a) WITHIN THE BOUNDARIES OF A QUALIFYING SURFACE DEVELOPMENT, AN OIL AND GAS OPERATIONS AREA SHALL MEET AT LEAST ONE OF THE FOLLOWING REQUIREMENTS:

(I) IF THREE OR MORE WELLS HAVE BEEN OR ARE BEING DRILLED IN THREE SEPARATE DRILLING WINDOWS IN ANY GOVERNMENTAL QUARTER SECTION, THE OIL AND GAS OPERATIONS AREA SHALL PROVIDE FOR A SETBACK NOT TO EXCEED:

(A) A TWO-HUNDRED-FIFTY-FOOT RADIUS AROUND ONE OF THE EXISTING WELLS LOCATED IN EACH OF THREE SEPARATE DRILLING WINDOWS;

(B) A TWO-HUNDRED-FOOT RADIUS AROUND ANY OTHER EXISTING WELLS;

(C) A TWO-HUNDRED-FOOT PERIMETER AROUND TANKS; AND

(D) AN ADEQUATE RIGHT-OF-WAY OR EASEMENT FOR EXISTING AND FUTURE FLOWLINES AND PIPELINES AND A NONEXCLUSIVE RIGHT OF WAY FOR ROADS REASONABLY NECESSARY TO ACCESS THE WELLS AND OPERATIONS LOCATED WITHIN SUCH AREAS; OR

(II) IF TWO OR FEWER WELLS HAVE BEEN OR ARE BEING DRILLED IN ANY GOVERNMENTAL QUARTER SECTION, THE OIL AND GAS OPERATIONS AREA SHALL PROVIDE FOR:

(A) A SIX-HUNDRED-FOOT BY SIX-HUNDRED-FOOT AREA, REFERRED TO IN THIS PARAGRAPH (a) AS THE SIX-HUNDRED-FOOT WINDOW, THE CENTER OF WHICH SHALL BE LOCATED NO FURTHER THAN TWO HUNDRED FEET FROM THE CENTER OF THE GOVERNMENTAL QUARTER SECTION. THE SIX-HUNDRED-FOOT WINDOW SHALL ESTABLISH A SETBACK FROM WELLS AND TANKS NOT TO EXCEED TWO HUNDRED FEET FROM ANY OCCUPIED STRUCTURE, ONE-HUNDRED-FIFTY FEET OF SUCH SETBACK TO BE LOCATED INSIDE THE BOUNDARY OF THE OIL AND GAS OPERATIONS AREA AND FIFTY

FEET TO BE LOCATED OUTSIDE THE BOUNDARY OF THE OIL AND GAS OPERATIONS AREA.

(B) A TWO-HUNDRED-FOOT RADIUS AROUND ANY EXISTING WELLS LOCATED OUTSIDE OF THE SIX-HUNDRED-FOOT WINDOW;

(C) A TWO-HUNDRED-FOOT PERIMETER AROUND TANKS; AND

(D) AN ADEQUATE RIGHT-OF-WAY OR EASEMENT FOR EXISTING AND FUTURE FLOWLINES AND PIPELINES AND ROADS REASONABLY NECESSARY TO ACCESS THE WELLS AND OPERATIONS LOCATED WITHIN SUCH AREAS.

(b) THE OIL AND GAS OPERATIONS AREA CONFIGURED UNDER SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE THE EXCLUSIVE AREA FOR THE LOCATION OF WELLS AND ASSOCIATED SURFACE PRODUCTION FACILITIES, INCLUDING TANKS. THE APPROVED PLAT MAY PROVIDE THAT THE OUTER FIFTY FEET OF ANY SETBACK OF TWO HUNDRED FEET OR MORE MAY BE USED BY THE SURFACE OWNER FOR UNDERGROUND UTILITIES, SIDEWALKS, TRAILS, AND PARKING AND MAY BE LANDSCAPED WITH GRASSES OR SHALLOW-ROOT LANDSCAPING AND IRRIGATED BY SPRINKLERS, ALL AT THE COST OF THE SURFACE OWNER AND WITHOUT ANY LIABILITY TO THE MINERAL ESTATE OWNER IN THE EVENT OF ANY DAMAGE TO SUCH IMPROVEMENTS FROM THE RESUMPTION OR CONTINUATION OF OIL AND GAS OPERATIONS. THE SURFACE OWNER SHALL COOPERATE WITH THE OPERATOR TO ENSURE THAT ANY SIDEWALKS, TRAILS, OR PARKING AREAS WITHIN THE OUTER FIFTY FEET OF ANY SETBACK ARE RESTRICTED FROM PUBLIC ACCESS DURING ACTIVE OIL AND GAS OPERATIONS REQUIRING USE OF THE AREA BY HEAVY EQUIPMENT.

(2) A SURFACE OWNER MAY NOT ENCROACH ON AN OIL AND GAS OPERATIONS AREA OR INTERFERE WITH THE MINERAL ESTATE OWNER'S USE OF AN OIL AND GAS OPERATIONS AREA OR ANY ASSOCIATED RIGHTS OF WAY OR EASEMENTS DESIGNATED IN A PLAT OR OTHER APPLICATION FOR DEVELOPMENT APPROVED FOR RECORDATION EXCEPT AS SPECIFIED IN THIS SECTION.

(3) IN ADDITION TO THE CRITERIA SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE AREA INCLUDED WITHIN AN OIL AND GAS OPERATIONS AREA MAY BE MODIFIED OR MOVED AS REASONABLY NECESSARY TO TAKE INTO ACCOUNT LEGAL, TOPOGRAPHICAL, OR EXISTING SURFACE

DEVELOPMENT RESTRICTIONS IF SUCH MODIFICATION OR MOVEMENT DOES NOT ADVERSELY AFFECT OIL AND GAS OPERATIONS, BUT AN OIL AND GAS OPERATIONS AREA MAY NOT BE REDUCED OR INCREASED IN AREA.

(4) IF THE DEVELOPMENT PLAN CONTAINED IN AN APPROVED APPLICATION FOR DEVELOPMENT CONTAINING AN APPROVED OIL AND GAS OPERATIONS AREA IS VACATED, A MINERAL ESTATE OWNER OWNING A MINERAL ESTATE WITHIN THE BOUNDARIES OF SUCH DEVELOPMENT SHALL THEREAFTER BE FREE TO CONDUCT OPERATIONS WITHIN SUCH BOUNDARIES IN ACCORDANCE WITH ARTICLE 60 OF TITLE 34, C.R.S., AND THE COMMISSION'S RULES THEN OR THEREAFTER EXISTING AND SUBJECT TO THE PROVISIONS OF ANY APPLICABLE SURFACE USE AGREEMENT.

24-65.5-103.7. Deposit for incremental drilling costs. (1) THE DEPOSIT FOR INCREMENTAL DRILLING COSTS REQUIRED UNDER SECTION 24-65.5-103.3 (1) (b) (III) (C) SHALL BE AN AMOUNT FOR EACH WELL IN AN APPROVED OIL AND GAS OPERATIONS AREA THAT IS REQUIRED TO BE DRILLED DIRECTIONALLY IN ORDER TO ACCESS A BOTTOM-HOLE LOCATION IN ONE OF THE FIVE DRILLING WINDOWS PERMITTED BY THE COMMISSION UNDER ITS GREATER WATTENBERG RULE, 2 CCR 404-1, RULE 318A, AS IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION, EXCLUDING DIRECTIONAL WELLS REQUIRED BY THE COMMISSION'S GREATER WATTENBERG RULE, 2 CCR 404-1, RULE 318A (e), AS SUCH RULE WAS IN EFFECT ON DECEMBER 31, 2006, TO BE DRILLED AT THE OPERATOR'S EXPENSE, UP TO A TOTAL OF FOUR WELLS PER GOVERNMENTAL QUARTER SECTION, AND SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING CRITERIA:

(a) THE AMOUNT DEPOSITED BY THE APPLICANT FOR INCREMENTAL DRILLING COSTS SHALL BE EIGHTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS PER WELL, WHICH AMOUNT SHALL BE INCREASED OR DECREASED ON JULY 1 OF EACH YEAR IN ACCORDANCE WITH CORRESPONDING PERCENTAGE INCREASES OR DECREASES IN THE CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS FOR THE DENVER-BOULDER-GREELEY METROPOLITAN AREA.

(b) AS A CONDITION OF OBTAINING APPROVAL TO RECORD THE FINAL PLAT, THE APPLICANT SHALL PROVIDE CONFIRMATION TO THE LOCAL GOVERNMENT THAT THE APPLICANT HAS DEPOSITED INTO AN ESCROW ACCOUNT MAINTAINED AT A COMMERCIAL FINANCIAL INSTITUTION

APPROVED BY THE COMMISSION THE AMOUNT DETERMINED UNDER PARAGRAPH (a) OF THIS SUBSECTION (1) TO DEFRAY INCREMENTAL DRILLING COSTS TO BE INCURRED BY MINERAL ESTATE OWNERS FOR DRILLING WELLS TO PROSPECTIVE FORMATIONS ACCESSIBLE FROM THE OIL AND GAS OPERATIONS AREA THAT COULD OTHERWISE HAVE BEEN VERTICALLY DRILLED WITHIN DRILLING WINDOWS ESTABLISHED BY THE COMMISSION THAT ARE NOT INCLUDED IN SUCH OIL AND GAS OPERATIONS AREA. AS AN ALTERNATIVE TO SUCH DEPOSIT, THE APPLICANT MAY POST A LETTER OF CREDIT OR OTHER SECURITY FOR SUCH COSTS IN SUCH MANNER AS THE COMMISSION SHALL DETERMINE TO BE ADEQUATE. AN APPLICANT'S FAILURE TO MAKE SUCH DEPOSIT SHALL NOT OTHERWISE RESCIND, CURTAIL, ABROGATE, OR RESTRICT ANY FINAL APPROVAL OF AN APPLICATION FOR DEVELOPMENT. IF A DIRECTIONAL WELL IS COMMENCED WITHIN THE OIL AND GAS OPERATIONS AREA AFTER FINAL PLAT APPROVAL BY THE LOCAL GOVERNMENT AND BEFORE RECORDATION OF THE FINAL PLAT, THE OPERATOR SHALL GIVE WRITTEN NOTICE TO THE APPLICANT OF SUCH COMMENCEMENT AND THE APPLICANT SHALL BE REQUIRED TO MAKE THE ESCROW DEPOSIT REQUIRED UNDER THIS SECTION WITHIN TEN DAYS AFTER THE COMMENCEMENT FOR EACH WELL THAT IS SO COMMENCED.

(c) AT THE END OF THREE YEARS AFTER RECORDING THE PLAT, SUBJECT TO EXTENSION FOR A PERIOD OF UP TO ONE YEAR DURING THE PENDENCY OF ANY FEDERAL, STATE, OR LOCAL DRILLING PERMIT FILED WITHIN SUCH THREE-YEAR PERIOD, ANY FUNDS IN ESCROW OR POSTED AS SECURITY FOR WHICH A CLAIM HAS NOT BEEN MADE BY A MINERAL ESTATE OWNER SHALL BE RELEASED OR RETURNED TO THE APPLICANT OR ITS DESIGNATED SUCCESSOR.

(d) A MINERAL ESTATE OWNER THAT BEGINS TO DRILL A WELL PURSUANT TO A DRILLING PERMIT APPROVED NO LATER THAN THREE YEARS AFTER FINAL PLAT APPROVAL, AS SUCH PERIOD MAY BE EXTENDED AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (1), IS ENTITLED TO DRAW ON THE INCREMENTAL DRILLING COST ACCOUNT THE AMOUNT OF ITS ACTUAL INCREMENTAL DRILLING COSTS UP TO EIGHTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS PER DIRECTIONAL WELL, AS SUCH AMOUNT MAY BE ADJUSTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) AND BY ALLOCATION OF EARNED INTEREST, BY PRESENTING TO THE COMMISSION CONFIRMATION THAT THE WELL HAS BEEN DRILLED DIRECTIONALLY AND CONFIRMATION REGARDING THE AMOUNT OF INCREMENTAL DRILLING COSTS IT HAS INCURRED WITH RESPECT TO SUCH WELL. INCREMENTAL DRILLING

COSTS ELIGIBLE FOR REIMBURSEMENT SHALL NOT INCLUDE A MARK-UP FOR OVERHEAD, ADMINISTRATIVE, OR MANAGERIAL COSTS IN EXCESS OF THE ACTUAL COSTS DIRECTLY INCURRED AS THE RESULT OF DIRECTIONAL DRILLING OF WELLS WITHIN OIL AND GAS OPERATIONS AREAS. NO MINERAL ESTATE OWNER IS ENTITLED TO RECOVER MORE THAN THE AMOUNT OF INCREMENTAL DRILLING COSTS INITIALLY DEPOSITED IN THE ESCROW ACCOUNT, PLUS ITS PROPORTIONATE SHARE OF ACCRUED INTEREST, DIVIDED BY THE NUMBER OF WELLS FOR WHICH THE DEPOSIT WAS INITIALLY MADE. UPON THE COMMISSION'S APPROVAL OF SUCH INFORMATION, THE COMMISSION SHALL ISSUE A DIRECTIVE TO THE ESCROW ACCOUNT HOLDER OR SECURITY HOLDER TO RELEASE THE DESIGNATED INCREMENTAL DRILLING COSTS FOR SUCH WELL TO SUCH MINERAL ESTATE OWNER.

(e) EXHAUSTION OF THE INCREMENTAL DRILLING FUNDS IN AN ESCROW ACCOUNT OR TERMINATION OF THE ACCOUNT SHALL NOT MODIFY THE AVAILABILITY OF DESIGNATED OIL AND GAS OPERATIONS AREAS FOR FURTHER DRILLING AND OTHER OIL AND GAS OPERATIONS OR THE PROTECTION AFFORDED WELLSITES, TANKS, ACCESS ROADS, FLOWLINES, AND PIPELINES PURSUANT TO SECTION 24-65.5-103.5. THE COMMISSION SHALL RESOLVE DISPUTES BETWEEN THE APPLICANT AND A MINERAL ESTATE OWNER REGARDING THE AMOUNT OF INCREMENTAL DRILLING COSTS TO BE DEPOSITED IN ESCROW OR THE AMOUNT OF SUCH COSTS FOR WHICH REIMBURSEMENT IS SOUGHT.

SECTION 5. 24-65.5-104, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24-65.5-104. Enforcement - remedies. (1) (a) IF AN APPLICANT CERTIFIES TO THE LOCAL GOVERNMENT THAT SUCH APPLICANT HAS COMPLIED WITH THE NOTICE REQUIREMENTS OF SECTION 24-65.5-103 AND THAT NO MINERAL ESTATE OWNER HAS ENTERED AN APPEARANCE OR FILED AN OBJECTION AS PROVIDED IN THIS ARTICLE TO THE APPLICANT AND TO THE LOCAL GOVERNMENT, AFTER THE FINAL APPROVAL OF THE APPLICATION FOR DEVELOPMENT, NO DEVELOPMENT OR RELATED ACTIVITIES CONTEMPLATED BY SUCH APPLICATION, NO PERMIT OR OTHER APPROVAL BY SUCH LOCAL GOVERNMENT, AND NO PERMIT OR OTHER APPROVAL BY ANY OTHER LOCAL GOVERNMENT OR AGENCY THAT APPROVES OR PERMITS SUCH DEVELOPMENT OR RELATED ACTIVITIES OR ANY ASPECT THEREOF SHALL, EXCEPT AS PROVIDED IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (a), BE RESCINDED, CURTAILED, ABROGATED, OR OTHERWISE RESTRICTED IN

CONNECTION WITH ANY PURPORTED NONCOMPLIANCE WITH THE NOTICE REQUIREMENTS OF SECTION 24-65.5-103 THAT MAY BE ALLEGED BY ANY PARTY. IF THE APPLICANT COMPLIES WITH THE PUBLICATION AND POSTING NOTICE REQUIREMENTS OF THE LOCAL GOVERNMENT REVIEWING ITS APPLICATION FOR DEVELOPMENT, AND IF AN APPLICANT CERTIFIES THAT IT HAS PROVIDED THE REQUIRED NOTICE AS PROVIDED IN SECTION 24-65.5-103 IN A TIMELY MANNER, MINERAL ESTATE OWNERS SHALL BE DEEMED TO HAVE CONSTRUCTIVELY RECEIVED NOTICE OF THE APPLICATION FOR DEVELOPMENT. IN SUCH EVENT, IF THE APPLICANT OTHERWISE COMPLIES WITH THIS ARTICLE, THE APPLICANT SHALL NOT HAVE ANY LIABILITY TO A MINERAL ESTATE OWNER FOR ANY LEGAL OR EQUITABLE REMEDY OR RELIEF ARISING FROM, IN CONNECTION WITH, OR OTHERWISE RELATING TO THE APPLICATION FOR DEVELOPMENT, ANY DEVELOPMENT ACTIVITIES COMMENCED ON THE SURFACE OF THE REAL PROPERTY, ANY INABILITY OR IMPEDIMENT OR OTHER HINDRANCE TO DRILLING OPERATIONS OR OTHER DEVELOPMENT OF THE MINERAL ESTATE OR ANY PORTION THEREOF, OR ANY ACTUAL FAILURE TO RECEIVE ANY NOTICE REQUIRED BY SECTION 24-65.5-103 OR 31-23-215, C.R.S., UNLESS:

(I) THE APPLICANT KNOWINGLY AND WILLFULLY PROVIDES A FALSE CERTIFICATION WITH RESPECT TO THE PROVISION OF NOTICE, THE EXISTENCE OF A SURFACE USE AGREEMENT, THE DESIGNATION OF OIL AND GAS OPERATIONS AREAS, OR THE ESTABLISHMENT OF AN ESCROW ACCOUNT AS REQUIRED BY THIS ARTICLE, IN WHICH CASE ANY LOCAL GOVERNMENT APPROVAL OF THE APPLICATION FOR DEVELOPMENT IS NULL AND VOID AND ALL AGGRIEVED PARTIES SHALL HAVE ALL LEGAL AND EQUITABLE REMEDIES AVAILABLE TO THEM;

(II) THE CERTIFICATION BY THE APPLICANT WITH RESPECT TO THE PROVISION OF NOTICE IS INCORRECT DUE TO THE NEGLIGENCE OF THE APPLICANT OR ITS AGENT IN IDENTIFYING THE MINERAL ESTATE OWNERS ENTITLED TO ACTUAL NOTICE UNDER THIS ARTICLE, IN WHICH CASE A MINERAL OWNER ENTITLED TO ACTUAL NOTICE THAT WAS NOT SENT SUCH NOTICE IN THE MANNER REQUIRED BY SECTION 24-65.5-103 IS ENTITLED TO FILE AN OBJECTION TO THE APPLICATION FOR DEVELOPMENT AT ANY TIME PRIOR TO THE FINAL APPROVAL OF THE APPLICATION FOR DEVELOPMENT AND TO SEEK COMPENSATORY DAMAGES ONLY THEREAFTER, IN ACCORDANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (1); OR

(III) A MINERAL ESTATE OWNER, WHO RECEIVED CONSTRUCTIVE

NOTICE ONLY AND DID NOT ENTER AN APPEARANCE OR FILE AN OBJECTION WITH THE APPLICANT AND THE LOCAL GOVERNMENT WITHIN THIRTY DAYS AFTER THE INITIAL PUBLIC HEARING ON THE APPLICATION FOR DEVELOPMENT, FILES SUIT FOR COMPENSATORY DAMAGES WITHIN ONE YEAR AFTER THE POSTING OF THE PROPERTY WITH A SIGN INDICATING THAT THE APPLICATION FOR DEVELOPMENT HAS RECEIVED FINAL APPROVAL BY THE LOCAL GOVERNMENT.

(b) WITH RESPECT TO ACTIONS BROUGHT UNDER SUBPARAGRAPH (II) OR (III) OF PARAGRAPH (a) OF THIS SUBSECTION (1), A MINERAL ESTATE OWNER MAY NOT RECOVER SPECIAL, PUNITIVE, OR OTHER EXTRAORDINARY DAMAGES AND IS NOT ENTITLED TO EQUITABLE REMEDY OR RELIEF. THE PREVAILING PARTY IN SUCH ACTION IS ENTITLED TO AN AWARD OF REASONABLE ATTORNEY FEES.

(2) A MINERAL ESTATE OWNER ENTITLED TO NOTICE PURSUANT TO SECTION 24-65.5-103 HAS STANDING TO ENFORCE THE REQUIREMENTS OF THAT SECTION, AND, EXCEPT AS PROVIDED IN THIS SUBSECTION (2) WITH RESPECT TO QUALIFYING SURFACE DEVELOPMENTS, HAS STANDING TO MAKE CLAIMS AS MAY BE AVAILABLE AT LAW OR EQUITY FOR NONCOMPLIANCE. WITH RESPECT TO QUALIFYING SURFACE DEVELOPMENTS:

(a) A MINERAL ESTATE OWNER HAS STANDING TO MOVE FOR THE VACATION OF THE FINAL PLAT COVERING AN AREA IN WHICH THE MINERAL ESTATE OWNER OWNS A MINERAL ESTATE AFTER DEPLETION OF THE INCREMENTAL DRILLING FUNDS IN AN ESCROW ACCOUNT POSTED UNDER SECTION 24-65.5-103.7 IN CONNECTION WITH THE RECORDING OF SUCH PLAT ONLY TO THE EXTENT OF AREAS ENCOMPASSED WITHIN COMMISSION-APPROVED DRILLING WINDOWS, AND UPON THE GRANTING OF SUCH VACATION BY THE LOCAL GOVERNMENT HAS THE RIGHT TO CONDUCT OIL AND GAS DRILLING AND PRODUCTION OPERATIONS WITHIN SUCH COMMISSION-APPROVED DRILLING WINDOWS, IF SUCH MINERAL ESTATE OWNER ESTABLISHES TO THE SATISFACTION OF THE LOCAL GOVERNMENT THAT THERE IS NO REASONABLE LIKELIHOOD THAT THE SURFACE DEVELOPMENT APPROVED IN SUCH PLAT WILL OCCUR AND IF ALL OTHER LOCAL GOVERNMENT REQUIREMENTS FOR VACATING THE PLAT ARE MET.

(b) IF A MINERAL ESTATE OWNER BELIEVES THAT THE OIL AND GAS OPERATIONS AREA DESIGNATED BY THE APPLICANT FOR LAND IN WHICH SUCH MINERAL ESTATE OWNER OWNS A MINERAL ESTATE DOES NOT SATISFY THE

CRITERIA SPECIFIED IN SECTION 24-65.5-103.5, SUCH PERSON MAY REGISTER AN OBJECTION WITH THE LOCAL GOVERNMENT WITHIN THIRTY DAYS AFTER THE PUBLIC HEARING AT WHICH THE OIL AND GAS OPERATIONS AREA IS DESIGNATED, AND MAY APPEAL THE DESIGNATION TO THE DISTRICT COURT HAVING JURISDICTION OF THE LAND COVERED BY SUCH APPLICATION WITHIN THIRTY DAYS AFTER THE DECISION OF THE LOCAL GOVERNMENT WITH RESPECT TO SUCH OBJECTION.

SECTION 6. Article 65.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-65.5-105. Local government authority. NOTHING IN THIS ARTICLE SHALL ESTABLISH, ALTER, IMPAIR, OR NEGATE THE AUTHORITY OF LOCAL GOVERNMENTS RELATED TO OIL AND GAS OPERATIONS.

SECTION 7. 30-28-133 (10), Colorado Revised Statutes, is amended to read:

30-28-133. Subdivision regulations. (10) It is recognized that surface and mineral estates are separate and distinct interests in land and that one may be severed from the other and that the owners of subsurface mineral interests and their lessees, if any, are entitled to the notice specified in ~~section 31-23-215, C.R.S., and~~ section 24-65.5-103, C.R.S., and shall be recognized by the commission as having the same rights and privileges as surface owners.

SECTION 8. 31-23-215 (1), Colorado Revised Statutes, is amended to read:

31-23-215. Procedure - legal effect. (1) The commission shall approve or disapprove a plat within thirty days after said plat has been submitted to it; otherwise such plat shall be deemed approved and a certificate to that effect shall be issued by the commission on demand unless the applicant for the commission's approval waives this requirement and consents to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. ~~Any plat submitted to the commission shall have submitted with it the names and addresses of all surface owners, mineral owners, and lessees of mineral owners to whom notices of a hearing shall be sent as their names may appear upon the plats or records in the county clerk and recorder's office and as their most recent~~

~~addresses may appear in a telephone or other directory of general use in the area of the property or on the tax records of the municipality or county.~~ No plat shall be acted on by the commission without affording a hearing thereon. Notice of the time and place of such hearing shall be sent to ~~said persons by registered mail not less than thirty days before the date fixed therefor~~ MINERAL ESTATE OWNERS in accordance with article 65.5 of title 24, C.R.S.

SECTION 9. 32-1-1004 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

32-1-1004. Metropolitan districts - additional powers and duties. (1) In addition to the powers specified in section 32-1-1001, the board of any metropolitan district has the following powers for and on behalf of such district:

(d) TO FINANCE PAYMENT OF INCREMENTAL DIRECTIONAL DRILLING COSTS FOR OIL AND GAS WELLS DRILLED WITHIN THE DISTRICT'S SERVICE AREA.

SECTION 10. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.

Joan Fitz-Gerald PRESIDENT OF THE SENATE	Andrew Romanoff SPEAKER OF THE HOUSE OF REPRESENTATIVES
Karen Goldman SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO