BEFORE THE OIL AND GAS CONSERVATION COMMISSION OF THE STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE RULES AND REGULATIONS OF THE OIL AND GAS CONSERVATION COMMISSION OF THE STATE OF COLORADO **COGCC SETBACK RULEMAKING 2012**	)))))	CAUSE NO. 1R DOCKET No. 1211-RM-04

REBUTTAL STATEMENT
OF
COLORADO ENVIRONMENTAL COALITION, ET AL

Colorado Environmental Coalition, Colorado Conservation Voters, Earthworks Oil & Gas Accountability Project, High Country Citizens Alliance, Natural Resources Defense Council, and San Juan Citizens Alliance (the "Conservation Groups") file this Rebuttal Statement in the setbacks rulemaking.

The Commission will have the first – and perhaps the final – say regarding whether to require operators to drill at safe distances from homes, to require safe practices, to provide a level playing field, and to ensure a comprehensive regulatory framework. As Director Lepore suggested in his introductory remarks at the December 10 hearing, if the Commission is perceived to fail citizens, the venue at which these determinations are made will likely shift to the General Assembly, local government, and polling places across the State.

1. The Coalition Proposal

The Coalition proposal submitted with the Final Prehearing Statement of Anadarko, Encana, Noble and PDC falls short, although it does advance the discussion on at least some important issues. The "strongest mitigation measures in the Country" (Coalition filing at 22) are the 1,000 foot statewide setbacks in Maryland, and Texas law allowing local jurisdictions to regulate above state floors. CEC Final Statement at 4-5.

The certainty that would follow from the Coalition proposal (at 26, "Balanced approach with certainty") is not the kind that would advance the mission of the state regulatory scheme. Industry would operate under the uncertainty as to whether the General Assembly could approve setbacks in the range of 1,000 to 2,000 feet; and mounting pressure for local or statewide prohibitions modeled after the Longmont vote. Homeowners would live under the certainty that, until the political branches intervene, industry could continue to operate at unsafe distances that are causing serious illness for alarming numbers of homebuyers in new subdivisions constructed near oil and gas development. Thus, effectively extending the status quo into the foreseeable future would achieve neither the goals of promoting mineral development nor those requiring the protection public health and safety. *See* Exhibit 31.

The testimony of Noble Land Manager Curt Moore (Moore Statement at 3, Coalition filing at 50) appears presaged upon protecting existing Greater Wattenberg Area drilling windows, rather than taking advantage of emerging technologies as drilling expands and methods evolve.

Joseph Lorenzo, Senior Land Manager for Noble, asserts (Statement at ¶ 9, Coalition filing at 116) that the surface owner is "most influenced and impacted" by the location of surface facilities. While that is sometimes the case, and the surface owner is undeniably burdened by direct impacts that are not experienced by other nearby landowners, the full story is more nuanced. Contrary to Mr. Lorenzo's assertion, the parties closest to drilling operations are often the most impacted from health and quality of life perspectives, whether or not they happen to be the surface owner of the wellpad. Several of the examples offered by witnesses depict scenarios where the actual landowner may live further than adjacent homeowners from operations; and in other instances non-resident landowners may face limited or no potential health or quality of life impacts. This is confirmed by common sense and the homeowner testimony presented by the Conservation Groups.[1]

Make no mistake: all stakeholders who have participated in this process over 2012 and before are aware of the difficulties involved in identifying locations for surface activities. 1,000 foot residential setbacks to protect public health will add to the siting challenges faced by operators, even as they will eliminate most or the public health problems resulting from exposure during drilling, completion and production activities. There is no entirely free lunch, and sometimes moving a well away from a school or a residential subdivision might result in a less ideal location from the perspective of adjacent agricultural landowners or other interests.

So long as drilling entails significant public health risks as detailed by witness statements and public comments in this proceeding, siting policies and decisions must acknowledge the paramount importance of protecting public health and safety. A fair-minded observer or land-use planner faced with the siting exhibits presented by industry would conclude that surface facilities should be located as far as possible from residential neighborhoods to reduce the scale, intensity, and duration public health impacts ranging from nuisance and stress, to illnesses and worse. What might be more convenient for the operator, or the owner of undeveloped land slated for surface facilities, will often be most impactful to homeowners and families.

2. **Legal authority for the proposed rules**

The attached legal analysis addresses the constitutional and contracts claims raised by various parties, including the Colorado Association of Homebuilders and the industry Coalition filing. Exhibit 32. As the analysis makes clear, both the staff proposal and the Conservation Groups' Proposal are within the authority of the Commission to approve, and are not subject to valid legal challenges on takings or contracts clause grounds.

[1] To the extent certain statements by Coalition witnesses depend on legal conclusions by non-lawyers, these statements are inadmissible and should be stricken from the record. *See* Lorenzo Statement at 2 ¶ 7, Coalition filing at 115-16 (offering opinions regarding standing and common law property rights).

3. Science, first-hand experience and data.

Various parties attempt to deny scientific support for the proposition that distance from heavy industrial operations increases the safety of impacted populations**.** For instance, the Cattlemen's Association and Farm Bureau assert that "[t]hroughout the stakeholder process no scientific data was offered th[at] makes evident significant adverse environmental impacts from operations under the current rules." Similarly, the Homebuilders refer to "[t]he lack of *any* scientific data supporting" increased setbacks or changes to COGCC setbacks rules. Final Statement at 1 (emphasis added).

These statements reveal more about these parties' lack of knowledge of the weighty body of scientific data and first-hand accounts presented to the stakeholder group and in this proceeding – than it does about the actual science. Ignorance of or inattention to evidence is distinct from lack of scientific support. Sweeping dismissals of the evidentiary record[2] does little to foster informed discussion of the issues raised in this proceeding.

Western Colorado Congress'(WCC) Final Statement tabulated Garfield County complaint files to establish that the overwhelming majority of negative impacts prompting complaints arise within 1,000 feet of homes. Namely, 64% of odor complaints; 96% of noise complaints; and 68% of dust complaints were received from homeowners within 1,000 feet of the oil and gas operations giving rise to the unhealthy conditions prompting the complaint. These figures provide evidentiary and statistical support for the proposition that 1,000 foot setbacks would protect public health. Whereas 82% of noise complaints arose within 500 feet, only 32% of odor complaints and 26% for dust arose at that distance. WCC Final Statement at 4. This data indicates that 1,000 foot setbacks should resolve a majority of serious public health complaints, but that 500 foot setbacks would not.

The Conservation Groups' Proposal is supported by the expert comments of Miriam Rotkin-Ellman MPH, Natural Resources Defense Council; and her presentation to the COGCC setbacks stakeholder group on Natural Gas Development, Air Quality, & Public Health. Exhibits 8 and 9. Her comments review relevant health studies and support the need for a strong rule to protect affected residents and vulnerable populations. Additional health studies, data, and witness statements presented by CEC, WCC and Citizens for a Healthy Community further establish the need for the rules and support the Statement of Basis and Purpose. More such evidence is replete in the record of the Stakeholder process, available online at http://cogcc.state.co.us/library/setbackstakeholdergroup/SetbackStakeholderGroup.asp. Finally, the Commission continues to hear from concerned and impacted residents through public comments.

The statement of CEC local government expert Gordon Pedrow, former Longmont City Manager, establishes the level to which local government officials are now accustomed to

[2] The Homebuilders later acknowledge a single scientific study (at 6, apparently referring to the Health Impact Assessment for Battlement Mesa) but discount the authors' conclusions. *See* CEC Exhibit 15, Lisa M. McKenzie, Roxana Z. Witter, Lee S. Newman, John L. Adgate, *Human Health Risk Assessment of Air Emissions from Development of Unconventional Natural Gas Resources*, SCI.TOTAL.ENVIRON. (accepted Feb. 10, 2012)

hearing and learning about "residents' personal experiences and concerns" regarding oil and gas development. CEC Exhibit 7. Mr. Pedrow's perspective is further described in the filings of the numerous local government parties to this proceeding.

4. **Precedent for greater setbacks up to 1,500 feet.**

Here in Colorado, the "maximum impact" projections by industry parties are controverted by La Plata County's successful implementation of its 450 foot setback. NWCOGG establishes that 40 Colorado counties already regulate oil and gas operations, and that local regulations approved 23,494 of 23,540 (99.8%) of total applications considered under these local regulations. This supports the viability of the hybrid approach urged by the Conservation Groups, consisting of a statewide floor for setbacks distances which local jurisdictions can increase as needed to address local conditions and concerns. Just as experience shows that local regulations are readily harmonized with state standards, it establishes that greater setbacks are consistent with a healthy oil and gas industry in one of the state's leading oil and gas counties.

The industry Coalition (filing at 22), generally supported by COGA, would "[i]ncrease [the] setback for high occupancy buildings such as schools, hospitals, nursing homes, churches, jails from 350'to 750'[.]" Rule 604(a)(3). The willingness to accede to the current staff proposal is welcome, but, as explained in prior CEC filings, the current staff proposal here falls short. As a minimum of 750 feet is acknowledged to be a viable distance for schools and health care facilities (the Conservation Groups' proposal argues that 1,500 feet is necessary and practical), that distance or the slightly greater 1,000 feet can work for homes within city limits or in residential subdivisions. Under the current staff proposal, citizens across Colorado will be left asking why the state proposes a 750 foot setback for incarcerated felons, while providing only 350 feet for working families who want nothing more than to continue occupying their homes without fear for their health, safety, or quality of life.

5. The setbacks proposed by the Conservation Groups are needed and feasible.

The Conservation Groups' Proposal includes off-ramps such as consent or approved Comprehensive or Residential Drilling Plans, Rule 216 and 217. Industry makes much of its ability to achieve consent for operations by winning the trust of affected homeowners over time. Several instances were already documented by CEC's previous filings. But rather than focus on solutions, industry tends to erect roadblocks and attempt to create an impression that adequate protections are somehow unachievable.

The testimony of Bradley Miller, General Manager of Regulatory Affairs for Anadarko, refers to unspecified operations in an unspecified location where a multi-well pad was located "roughly 400 feet from a residential neighborhood[.]" Although the statement does not specify how many of the 533 homes were located within what distances of the pad, this case study appears to be a potential example of how an informed consent provision could be utilized by responsible operators to negotiate an acceptable drilling plan with affected residents. As previously stated by CEC (Final Statement at 11), Noble and other leading operators seek "to endeavor to maximize setbacks when conducting drilling operations near occupied structures whenever possible" for

obvious reasons. But voluntary compliance by willing operators is not enough to ensure protecting all Colorado families in the oil and gas patch.

The Colorado Association of Homebuilders recognizes the potential for technological and planning solutions to offer win-win for surface owners and industry. The Homebuilders' Preliminary Statement (at 6) "supports "COGCC's proposed Rule 604(c)(2)F which encourages the consolidation of wells to create multi-well pads and shared locations with other operators because both reduce the amount of surface area taken from the surface owner for oil and gas mineral development." The Homebuilders' opposition to adequate rules (Preliminary Statement at 2) appears to be at least partly grounded in the misapprehension that the "rules have been proposed to address nuisance impacts" only. As made clear in the Conservation Group filings and witness statements, the impacts go far beyond nuisance to serious public health issues including severe illness and possible mortality.

The Homebuilders' Final Statement complains that the direct footprint of oil and gas development, and the indirect effect of setbacks to protect public health and safety, influence potential uses of the surface. However, it seems that these concerns grow out of the efforts of the mineral estate owner to develop that estate, rather than the exercise of state authority to balance the rights of a broad set of affected stakeholders. Surface facilities and impacts both on and off-lease from oil and gas operations create the imperative for reasonable regulation of surface impacts. Thus, the conflict is between various sets of private stakeholders seeking to further their interests. Public regulatory agencies will not be held liable for balancing interests consistent with their acknowledged powers to protect public health and safety. *See* Exhibit 32.

6. **Comprehensive or Residential Drilling Plans.**

COGA states support for expedited review and approval of permits submitted by operators who have done their homework by notifying affected landowners, engaged in consultation, and proposed mitigation measures. Rule 216 Comprehensive Drilling Plans or Residential Drilling Plans (Conservation Groups' Proposal at Rule 217) would each provide certainty to operators by approving the entire multi-well drilling program encompasses by such plans. This allows operators to make informed investment and development decisions based on long-term programs with pre-approved applications, readily responding to market and field conditions without needing additional regulatory approvals after a plan is approved.

Leading operators have already developed plans along these lands. The first generation of CDPs and RDPs will serve as models for other operators seeking similar expedited approvals for multi-well projects in a given geographic location. Putting in the effort up front will pay major dividends down the line for all parties.

The statement of Anadarko's Brad Miller refers to the Greater Natural Buttes project in Utah which achieved federal approval after "approximately four years of work and collaboration with federal and state agencies." Miller Statement at 2, Coalition filing at 227. He states that this plan, much of which focused on air quality-related public health measure "exemplifies the success that can be achieved as agencies and industry work together to reach mutually beneficial resolutions and progression." Id. The Greater Natural Buttes project was an extraordinary effort

to obtain upfront federal and state approval for 3,600 wells in an area plagued by Clean Air Act concerns. The ability of the parties to reach a mutually satisfactory outcome for a project of that size indicates the promise of meaningful engagement and advance planning.

In Colorado, especially for Niobrara development on the Front Range, federal law and approvals are generally not applicable. Smaller projects lacking a federal nexus should be able to develop satisfactory plans in a matter of months rather than years; but the Natural Buttes case study indicates that devoting up to four years to negotiate approvals can be worthwhile from operational and economic perspectives.

To the extent industry objects to adjacent landowner consent for locations within generally applicable setback distances (COGA at 5, Coalition filing at 29), the Conservation Groups recognize that objective 1,000 foot residential setbacks would provide greater certainty and may be preferable for operators under some circumstances. Landowner consent was proposed by the Conservation Groups (Proposal at Rule 604(a)(1)) to allow operators a potential off-ramp.

COGA's Final Statement opposes *both* staff's proposal to restrict hours of operation to allow residents to sleep, *and* to reduce noise to livable levels. COGA Statement at 4. The assertion that C.R.S. § 25-12-103(5) somehow trumps COGCC's authority to regulate the around-the-clock noise levels from drilling and completion operations to levels acceptable to public health concerns under the circumstances (id.), indicates an apparent preference to pick and choose which laws and standards to comply with in a matter and at places of the industry's own choosing. Industry wishes to be exempt from local government land use authority but acknowledges, as it must, that COGCC has the statutory authority to implement rules protecting public health and safety in the conduct of oil and gas operations. But when faced by a modest proposed rule to address the nuisance concerns and health impacts associated with its desire to continue to pursuing heavy industrial operations around the clock within a stone's throw of residential neighborhoods, the regulated industry claims to be exempted from the Commission's regulatory authority.

The Commission must resist the invitation to continue to require Colorado families to bear the brunt of development when technology and planning offer the ability to locate surface facilities greater distances from homes subject to mitigation measures negotiated on a level playing field.

7. Expanded public health protections.

The Rule 805 changes in the Conservation Groups' Proposal are supported by the statement of Anadarko's Brad Miller in the Coalition filing. The member companies of the Coalition operate primarily, or exclusively in the Front Range outside of the four-county area where certain Rule 805(b) provisions currently apply. Mr. Miller asserts (Statement at 3, Coalition filing at 228) that regulation includes "the existing 805 rules[,]" and states that "Operators are already required to capture 95% of all emissions[,]" and that they "are taking the lead to install emissions control devices that exceed the 95% threshold." This supports the viability of the measures in the Conservation Groups' Proposal and Elizabeth Paranhos report. CEC Exhibits 1 and 27.

With the notable and unfortunate exception of the Colorado Petroleum Association,[3] industry generally recognizes the urgency of applying these vital public health measures in the Dust and Odors section of the rules statewide. As previously argued by the Conservation Groups, the existing rule is a success at 1,320 feet and that distance should continue to be applied.

8. Economic analysis and informed decisions.

Industry's primary economic analysis is contained in the Expert Report by Economic Advisors, Inc. ("EA Report," Coalition filing at 177-225). The EA Report gets less than three lines of mention at page 9 of the Coalition's Final Prehearing Statement. COGA's Final Prehearing Statement does not reference the Report, subject to stating (at 6) that COGA generally supports the Coalition's alternative rule proposal.

Unfortunately, the report is of dubious value to inform this Commission's decisions because it relies on questionable or undisclosed assumptions, expostulation of data to present most unlikely worst-case scenarios, and a constrained scope of analysis that appears to present only select pieces of the full puzzle. Some of the more obvious analytical flaws and shaky assumptions are detailed below; others are set forth in the Rebuttal Testimony of Randy Udall attached as Exhibit 31. Excerpts of the Rebuttal statement indicate that increased setbacks are both doable and desirable from a public policy and regulated industry perspective.

> Since horizontal wells in the Niobrara are so profitable, it follows that reasonable efforts to reduce their public health impacts, including increases in setbacks requirements, won't make them uneconomic. In particular, the development, over the last 10 years, of the ability to drill horizontally for up to 10,000-feet, makes an increase in surface setbacks technologically feasible and socially desirable, in a way it might not have been in 1990. [***]
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> History suggests that the oil and gas industry is all about innovation—which makes it somewhat surprising to hear its employees say, "we can't do that."
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> In the last decade, for example, companies have made great headway in reducing drilling time and drilling cost, while increasing both their recovery and their environmental performance. Many of these advances have taken place not in spite of increased regulation, but because of it. And most have saved money, often a lot of it.

Exhibit 31 at 3-4 (emphasis added).

First, the EA Report (at 5) appears to rely on numbers based on its calculation of the "maximum direct and indirect impacts" of various policy options. This approach results in some eye-catching numbers. The problem with the approach is that it appears divorced from reality. Decisions should be based on the likely actual results of implementing certain policies, not the hypothetical worst-case scenario.

[3] Somewhat astonishingly, CPA proposes to allow industry to locate glycol dehydrators and pits emitting significant quantities of VOCs within only 350 feet of residences. CPA Final Statement at 36.

Examples might help illustrate the point. Oil and gas development is fraught with uncertainty and projections. Operators make investment and operational decisions based on reasonable projections grounded in probability. The actual reserves in a given mineral formation are not a sure thing, but based on projecting what is known about adjacent reserves already drilled to future projects. The potential worst-case scenarios (maximum negative outcome) of drilling a particular well to access a given formation might include: 1) catastrophic equipment failure, or 2) discovering that recoverable minerals are inadequate to recover the costs of drilling. Both outcomes are possible, but companies assume the risks and proceed with drilling – when their cost/benefit analysis concludes that the project is worth pursuing, despite the risk.

Otherwise stated, the EA Report appears to assume that all wells that might be located within certain setback distances are equally at risk – and that none of the wells will be drilled if new policies are passed. Further, the Report might have assumed that none of the minerals that would have been targeted from any of the wellbores proposed for the original location could be accessed from any other surface location, at any time. In other words, 100% of the resource would be unrecovered. No effort appears to have been made to assess what percentage of reserves could be recovered from alternative surface locations using ether existing or future drilling technologies. At the same time, the Report omits any discussion of industry's "social license to operate," or the potential impacts of continuing to drill within distances that residents increasingly view as unsafe, unhealthy and unacceptable. Nor does EA discuss the potential economic implications of more protective policies than the proposals pending before this Commission – such as 2,000 foot setbacks, or the Longmont prohibition.

Weighing the potential costs and benefits of the likely results of inaction by the Commission is obviously relevant to an informed decision. Prohibitions or moratoria, regardless of their ultimate fate, impose real and immediate costs including but not limited to uncertainty, delay, and potential expiration of leases. The potential for more aggressive measures in the short- or long-term would seem to be relevant to accurate projections and comparisons.

Second, the EA Report tends to assume that all direct, indirect, secondary, induced and cumulative economic impacts of increased setbacks will be negative. *See* Report at 8-9, discussing potential impacts to agricultural or home development activities. Of course, this select line of inquiry entirely omits any mention of the costs and negative externalities of drilling near homes. These go to property value, health care costs, quality of life, productivity of residents at school and work, and a host of other factors. Gordon Pedrow's statement reminds us that residents' concerns are informed by personal experience and "numerous reports from coast to coast regarding detrimental impacts of oil and gas industrial activities on health, property values and quality of urban life." CEC Exhibit 7. Mr. Pedrow reminds us that homeowners live in urban areas with the express intent of living *away* from heavy industry activities that compromise residents' quality of life and imposes negative economic costs. The EA Report appears to be so one-sided on this issue as to be of dubious value to inform the decisions on alternative rule proposals.

Regarding impacts to property values and the overall economy, a 2005 study from Alberta, Canada concluded: "The results of this analysis strongly suggest that the presence of oil and gas

facilities can have significant negative impacts on the values of neighbouring rural residential properties." Exhibit 33 at 19 (page 266 of manuscript). This supports the contentions of Mr. Udall, and the statement of CEC witness Nanner Fisher, a licensed Colorado Realtor, Exhibits 31 and 4. *See also* Exhibit 34 (comparing a stable economy to boom-bust cycles).

Third, the EA Report appears bereft of any discussion of the methodology, data, or assumptions used to determine the potential number of "at risk" wells. Absent such disclosure, the Report's analysis and conclusions cannot be verified and are of uncertain reliability to inform decisions.

Fourth, the EA Report (at 14) seems to rely on a veritable house of cards of assumptions to prop up its estimate as to the potential "total nominal cumulative value of mineral royalty payments at risk ranges from $3.4 billion to $15.2 billion." That appears to represent an upper end estimate of total royalties which might be paid under various production and pricing assumptions over the time period (10 years?). As with most of the Report, however, there is little or no indication what the *actual, likely, or reasonably foreseeable* impacts might be.

By not re-signing Tim Tebow for another season, the Broncos took the risk of losing all its games in the current campaign (as did the Nuggets when they traded marquee asset Carmelo Anthony). Mr. Tebow's most recent results from 2011, considered in a vacuum, could have been plausibly projected to continue into the foreseeable future – including profitable levels of jersey sales and the expectation of playoff victories. Of course, the team gambled on another quarterback and its bet seems to be paying off to date. Had Mr. Elway's decision not worked out and the team lost all its games this year – under a "maximum impact" or worst case scenario – television ratings could have plummeted and season ticket sales plunged dramatically.

The point is that isolated numbers based on unlikely assumptions do not provide a basis for informed decisions. Real world numbers appear to be lacking from the EA Report. Absent solid support for the implausible "worst-case analysis" doomsday scenarios presented by EA, it appears safe to assume that industry would be able to adapt to the phase-in of a protective new rule with limited or de minimus impacts to private and public revenues. In fact, remembering that Colorado's brand is closely aligned with a clean environment and unsurpassed quality of life, positive net economic impacts could be expected to flow from more protective rules. In any case, the EA Report fails to provide either a thorough explanation of its methods, or a defensible basis for its conclusions.

Notwithstanding assertions that significantly increased residential setbacks are somehow unachievable, COGA, the Coalition, and other industry parties generally support the staff proposal to increase the minimum setback from schools, hospitals and other high-occupancy buildings to 750 feet. Consistent with Mr. Udall's statement, past experience also demonstrates that greater setbacks can be achieved without significantly impacting production or related economic benefits – even as externalities and costs to third parties are dramatically curtailed.

Conclusion:

Various parties assert that an adequate setbacks rule is not justified by public health science, would constitute a taking or otherwise exceed the Commission's legal authority, or would be bad

public policy. As set forth above and in previous pleadings, none of these attempts to defend an indefensible status quo holds water. The regulated community's preference to continue operating at unsafe distances from families, schools and hospitals does not relieve this Commission of its statutory and moral duty to protect public health and safety in the conduct of oil and gas operations.

The various critiques attempt to divert attention from the driving issue behind this rulemaking: current setback distances and policies are causing a broad range of disturbing public health impacts to an ever-increasing number of Colorado residents. More bluntly stated, oil and gas operations too close to homes are making people sick and turning their lives upside down. Unless this Commission rises to the challenge posed by the drilling boom in residential areas, far more people will suffer a wide range of health problems. Residents are already watching their efforts to achieve a semblance of the American dream slip away as their property values erode along with their health and quality of life.

Industry and other stakeholders have proven time and time again their ability to comply with a strong regulatory framework. This time will be no different. Individual operators are already demonstrating their ability to harness technological advances and public outreach to implement most of the measures being proposed for statewide applicability. The amendments must include adequate setback distances; planning provisions ensuring meaningful engagement with citizens and communities; expanded and updated public health protections; procedural rights; and an adequate inspection and enforcement program to complement upfront safeguards.

Respectfully submitted on December 31, 2012,

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SUPPLEMENTAL EXHIBIT LIST
CEC, *et al* Rebuttal Statement

EXHIBIT 31 ..... James R. Udall, *COGCC Setback Rulemaking Rebuttal Testimony*, Dec. 31, 2012

EXHIBIT 32 ..... Mike Chiropolos & Robert Harris, *Response to Allegations that the Staff Proposal May Violate Various Constitutional Requirements*, Dec. 31, 2012

EXHIBIT 33 ..... Peter C. Boxall, Wing H. Chan, and Melville L. McMillan, *The Impact of Oil and Natural Gas Facilities on Rural Residential Property Values: A Spatial Hedonic Analysis*, published in Resource and Energy Economics 27 (2005) 248–269.[4]

EXHIBIT 34 ..... Michelle Haefele and Pete Morton, *The Influence of the Pace and Scale of Energy Development on Communities: Lessons from the Natural Gas Drilling Boom in the Rocky Mountains*, published in Western Economics Forum, Fall 2009

[4] The authors are respectively affiliated with the Department of Rural Economy, University of Alberta, Edmonton, Alta., Canada T6G 2H1(Boxall); the Department of Economics, Wilfrid Laurier University, Waterloo, Ont. Canada Chan); and the Department of Economics, University of Alberta, Edmonton, Alta., Canada (McMillan).

The authors stated that the Alberta Energy Utilities Board helped construct the data sets used in the study, and listed extensive references at pages 268-69 of the manuscript.

CERTIFICATE OF SERVICE

I certify that on December 31, 2012, I emailed an electronic copy of the CEC et al REBUTTAL STATEMENT in portable document format (pdf) to DNR_COGCC.Rulemaking@state.co.us

I certify that on this January 2, 2012, I caused to be delivered via hand delivery, one original with 13 true and correct copies of the REBUTTAL STATEMENT, addressed to the following:

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Docket No. 1211-RM-04
Colorado Oil and Gas Conservation Commission
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