

July 29, 2024

Re: Petition for Affected Party Status (“**Petition**”) on behalf of Erie Land Company, LLC (“**ELC**”), an affiliate of Southern Land Company (“**SLC**”) – Oil and Gas Location Assessment Docket Number 240100004, submitted by Extraction Oil & Gas Inc. (Operator No. 10459) (“**Operator**”)

Dear Director Murphy and Commissioners:

ELC and SLC (collectively, “**Southern Land**”) respectfully submit this petition for “Affected Person” status pursuant to Energy & Carbon Management Commission (“**ECMC**”) Rule 507 concerning Operator’s Application for an order to establish an Oil & Gas Development Plan on certain property located in Weld County, Docket Number 240100004 (the “**Application**”). The Application is also referred to in filings with ECMC as the “Draco Pad Site.”

Southern Land and Operator are engaged in ongoing discussions over responsive mitigation measures for the matters described in this Petition. Southern Land is submitting this Petition to preserve its rights and interests with respect to the Application; however, on the assumption that discussions with Operator will be successful, Southern Land is not seeking to delay the ECMC’s consideration of the Application at this time. If the ECMC approves the Application in the current location with appropriate mitigation, expedited commencement and completion of drilling operations at the Draco Pad Site would help to minimize impacts to future residents in the Westerly community, as numerous homes and the Public School Site (as defined below) are planned within 2,000 feet of the working surface of the Draco Pad Site. If discussions with Operator are not successful, Southern Land will likely request a continuance of the August 28, 2024, hearing on the Application (the “**Hearing**”) to provide opportunity to reach an acceptable resolution of Southern Land’s concerns or to prepare for participation in a continued hearing.

INTRODUCTION

ELC is the landowner and SLC, an affiliate of ELC, is the master developer of the Westerly community in the Town of Erie, Colorado (the “**Town**”), located in Weld County. The Westerly community is adjacent to the property proposed for the Draco Pad Site and is the closest master planned community to the Draco Pad Site. Land owned by ELC (the “**ELC Property**”) and planned for future residential development in Westerly lies within 2,000 feet of the working pad surface of the proposed Draco Pad Site. Southern Land and the residents of Westerly stand to suffer unique and individualized impacts from the Draco Pad Site if the ECMC approves the Draco Pad Site in the currently proposed location, and without appropriate mitigation measures, as further described in this Petition.

ELC is a Surface Owner of property within 2,000 feet of the proposed working pad surface and therefore is an Affected Person pursuant to ECMC Rule 507.a.(2). In addition, ELC as Surface Owner, and SLC on behalf of itself and its current and future homeowners and other parties having direct and significant interests in the Westerly community, will be adversely affected or aggrieved by the approval of the Application in its present form, which entitles SLC to participate as an Affected Person pursuant to ECMC Rule 507.a.(3). Specifically (i) Southern Land has interests that will be adversely affected by the activity described in the Application; (ii) Southern Land will suffer injuries-in-fact to such interests if the

Application is granted in the currently proposed location, and without appropriate mitigation measures; and (iii) these alleged injuries are not common to members of the general public. Accordingly, Southern Land respectfully requests that the ECMC grant this Petition as to both ELC and SLC.

AUTHORITY FOR PETITION

Pursuant to ECMC Rule 507.a., “[a] person who may be adversely affected or aggrieved by an application may submit a petition to the Commission as an Affected Person to participate formally as a party in an adjudicatory proceeding.” Pursuant to ECMC Rule 507.e., petitions for Affected Party status must include the following: (i) the application docket number; (ii) a general statement of the factual or legal basis for the petition based on the application; (iii) statement and support for why the person filing the petition meets the definition of an Affected Person; (iv) a statement of the relief requested; (v) a written description of the case the Affected Person plans to present to the Commission including a list of proposed witnesses; (vi) a time estimate to hear the petition; (vii) a certificate of service attesting that the pleading has been served on the Applicant and any other party in the proceeding; and (viii) if applicable, the name, mailing address, phone number, and email address of the petitioner’s legal counsel. Each of these statements is made in this Petition, as follows:

1. Docket Number

Docket Number 240100004 submitted by Extraction Oil & Gas Inc. (Operator No. 10459).

2. Statement of Factual and Legal Bases for the Petition

The Westerly community is an approximately 800-acre master planned community located in the Town. Westerly is bordered by County Road 5 to the west, County Road 7 to the east, County Road 10 to the north, and County Road 6 to the south. The Draco Pad Site is located on property immediately adjacent to Westerly to the southeast. Westerly was annexed into the Town of Erie in 2020. In connection with the annexation, the property was zoned for high-, medium- and low-density residential development and mixed-use commercial, along with parks, trails, open space, a community center, and schools. At full buildout, Westerly will contain approximately 3,100 homes. Initial phases of horizontal and vertical construction are underway.

Westerly currently has approximately 200 residents, with approximately 50 homes under construction, 36 homes under contract, and over 1,000 residents expected to reside at Westerly within the next three years. Current and planned platted lots in the Westerly community exist within 2,000 feet of the working pad surface of the proposed Draco Pad Site, and the final phase of development in Westerly will include additional platted residential lots, along with a proposed school site for St. Vrain Valley Public Schools (the “**Public School Site**”) within 2,000 feet of the proposed Draco Pad Site. Southern Land has worked extensively with the Town to approve preliminary plats for the entire community, along with various final plats and construction plans, all while placing public health and safety front and center. As detailed below, Southern Land made significant investments to remove future drilling sites from Westerly and plug and abandon existing wells prior to construction of any homes.

In connection with its acquisition and planning of Westerly, Southern Land worked proactively to secure, release, relocate, and mitigate oil and gas interests and operations on the ELC Property. Southern Land invested over \$1,000,000.00 in this process to further the health, safety, and welfare of future Westerly residents and the surrounding community. These efforts culminated in multiple surface use agreements with mineral rights owners and lessees under which such parties relinquished rights to locate wells on the ELC Property. In addition, the following wells located on or near the ELC Property were plugged and abandoned:

- Champlain 86 Amoco #0 & #1;
- Swink #32-21;
- Swink #43-21; and
- Champlin 6 Amoco Unit L #1

(collectively, the “**P&A Wells**”). After the substantial effort and investment made by Southern Land to remove or relocate oil and gas operations from Westerly and the immediate vicinity, the Application threatens to reintroduce these impacts.

As master developer of Westerly, Southern Land has commitments to the current and future residents of Westerly, the broader Erie community, and other stakeholders to protect and promote the interests of the community. Southern Land stands to suffer certain unique and individualized impacts from the Draco Pad Site if it is approved in the currently proposed location without appropriate mitigation measures.

3. Statement of Affected Party Status

Pursuant to ECMC Rule 507.a.(2), “[f]or purposes of an application filed pursuant to [ECMC] Rule 503.g.(1), Surface Owners and residents (including owners and tenants) of Building Units located within 2,000 feet of a proposed Working Pad Surface are Affected Persons.” ELC is a property owner within 2,000 feet of the working pad surface of the Draco Pad Site and there are planned Building Units within 2,000 feet of the working pad surface of the Draco Pad Site, as shown in Attachment 1.

SLC also meets the criteria for Affected Person status under ECMC Rule 507.a.(3). Southern Land has invested substantial time, planning, and money in the acquisition and development of Westerly. In addition to its real property interests, Southern Land has contractual interests with its investors, homebuilders, homebuyers, contractors, labor suppliers, employees, metropolitan districts, the Westerly Homeowner’s Association, the Town, and other third parties that are threatened by the proposed location and operations at the Draco Pad Site.

Potential negative impacts to Westerly and the ELC Property (particularly the future homes and Public School Site which will be located within 2,000 feet of the proposed Draco Pad Site), and Southern Land’s contractual and other interests include, but are not limited to, the following:

- A. Westerly Plans. Southern Land obtained approval of a preliminary plat for the land area that includes the Public School Site and lots within 2,000 feet of the working pad surface of the proposed Draco Pad Site on July 9, 2024. Because of the threat of the Draco Pad Site, Southern Land agreed to delay pursuing certificates of occupancy for structures located within the 2,000-foot radius until production is accomplished at the Draco Pad Site or October 15, 2027, whichever is earlier. If the Application is approved in its current location, any delay by Operator in commencing drilling activities or adhering to a strict drilling schedule threatens the full buildout of Westerly and the health, safety, and welfare of future Westerly residents.
- B. Visual Impacts. The Draco Pad Site is located downhill from, and at a lower elevation than Westerly. As such, the Draco Pad Site and all activities occurring on and around the site will be visible from residences, parks, open spaces, and the Public School Site. These activities include lighting, drill construction, drill operations, truck traffic, and infrastructure and activities on the pad site itself. These impacts pose nuisance conditions to current Westerly residents and make sales of new homes and/or additional lots less desirable to prospective purchasers.
- C. Noise and Dust. Given the proximity of the Draco Pad Site to Westerly, Operator’s drilling and completion activities will be visible and audible from numerous portions of Westerly, even if

Operator were to undertake extensive noise and dust mitigation measures. Operator acknowledges that drilling and other operations will present increased noise disruptions adjacent to the proposed Draco Pad Site. In addition, travel to and from the Draco Pad Site (which Operator estimates will be as high as 68 trips per day during phases lasting as long as 106 days) poses a risk of traffic disruptions and dust and debris entering Westerly and its storm drainage systems, especially over portions of County Road 6 which are unpaved. Southern Land would bear the costs of damage or maintenance to the ELC Property and its storm drainage systems resulting from increased dust and debris from Operator's proposed operations on the Draco Pad Site.

- D. Air Quality. Oil and gas operations inherently involve activities which diminish air quality in the vicinity of pad sites. Given Westerly's proximity to the Draco Pad Site, present and future residents of Westerly and occupants of the Public School Site will experience diminished air quality during operations on the proposed Draco Pad Site.
- E. P&A Wells. Drilling and completion, including fracking operations, on the Draco Pad Site also pose potentially detrimental impacts on the P&A Wells located on the ELC Property. As noted above, Southern Land spent extensive time, effort, and money ensuring the P&A Wells were properly capped and decommissioned. Operations on the proposed Draco Pad Site could threaten the integrity of the P&A Wells and pose health and safety risks.
- F. Hours of Operation. In Operator's filings with the ECMC, Operator notes "drilling and completion phases occur 24-hours per day." In addition, Operator notes that increases in sound levels, light emanations, and "odoriferous" emanations are all expected during production. These adverse impacts will be experienced by present and future residents of Westerly twenty-four hours per day without limitations on Operator's hours of operation.
- G. Other Economic Impacts. One builder at Westerly has already reported that a prospective homebuyer terminated their contract due to the threat of the proposed location of the Draco Pad Site. Southern Land expects additional contractual and other economic impacts to accelerate if the Application is approved in its current form by the ECMC.
- H. Metropolitan Districts. Lots at Westerly, particularly those closest to the proposed Draco Pad Site, will decrease in value and be more difficult to market and sell, which, among other things, may undermine the financing assumptions made by Westerly's metropolitan districts when the districts issued bonds to fund public infrastructure for the community.

The above-referenced impacts, among others, represent injuries-in-fact to Southern Land's real property and contractual interests at Westerly, which injuries are not common to members of the general public.

4. Written Description of Southern Land's Case, Potential Witnesses, and Time Required

For reasons unknown to Southern Land, the Application makes no mention of its proximity to Westerly or the potential impacts on the community. Southern Land intends to present a case on these potential impacts and requested mitigation measures to the ECMC.

Southern Land's presentation may include testimony from all or any of the following: (i) current property owners at Westerly; (ii) representatives of Southern Land; (iii) homebuilders at Westerly; (iv) homeowner's association and/or metropolitan district board members or their counsel; (v) traffic experts; (vi) air quality and mitigation experts; (vii) light, noise, and odor mitigation experts; (viii) oil and gas industry experts; (ix) Town officials; (x) real estate agents; and (xi) real estate and land use experts. An estimate of time to hear the Petition is indeterminate at this time.

5. Statement of Relief Requested

Southern Land respectfully requests that the ECMC grant the following relief:

- A. Alternative Locations. Consider and approve one of the alternative locations for the Draco Pad Site presented by Operator.
- B. Mitigation Requirements. In the event the proposed Draco Pad Site is approved, Southern Land respectfully requests that the ECMC impose the following mitigation requirements on the Application:
 - i. Traffic Mitigation. A portion of County Road 6 is currently unpaved between County Road 5 and County Road 7. Operator's proposed haul route presents a high likelihood that unpaved portions of County Road 6 will be used to access the Draco Pad Site. If unpaved portions of County Road 6 are utilized by Operator's trucks to access the Draco Pad Site, increased dust and debris are certain to negatively impact Westerly and its stormwater drainage systems. In addition, access to Westerly and the Public School Site are planned from County Road 7. The ECMC should require Operator to pave all unpaved portions of County Road 6 between County Road 7 and County Road 5 and implement a traffic plan minimizing impacts on residents of Westerly and on the Public School Site. In the event Operator is not required to pave the unpaved portions of County Road 6, the ECMC should require Operator to undertake all appropriate and necessary measures to prevent ingress and egress by Operator's contractors, employees, and agents over unpaved portions of County Road 6 in connection with operations on the Draco Pad Site, and should be required to pay Southern Land for any negative impacts to the Westerly's stormwater drainage systems.
 - ii. Air Quality Mitigation. In light of the Draco Pad Site's proximity to Westerly, Southern Land requests that, to the extent not already proposed in the Application, the ECMC require Operator to implement transparent and detailed air quality monitoring practices similar to those required by the ECMC for pad sites located in the City and County of Broomfield, Colorado. In addition, Southern Land requests that the ECMC impose a drilling schedule that will limit drilling and completion activities to the period of time prior to commencement of construction on the platted lots located within 2,000 feet of the Draco Pad Site, as further discussed below.
 - iii. Visual, Light, Noise, and Odor Mitigation. Southern Land requests that the ECMC require Operator to mitigate visual impacts of the Draco Pad Site by requiring 12-foot-tall pine trees (or similar visual mitigation improvements) and a solid fence atop a berm surrounding the entire Draco Pad Site. The Application also acknowledges that negative odor, noise, and light impacts from operations on the Draco Pad Site are certain during various phases of operation on the Draco Pad Site. The ECMC should require stricter mitigation measures for odor, noise, and light than are presently contemplated in the Application.
 - iv. Drilling Schedule. Southern Land requests that the ECMC require Operator to adhere to and publicly disclose a drilling schedule with known hours of operation during all applicable phases

of drilling, completion, and reentry activities. This schedule should require definitive dates by which Operator must commence and complete drilling and completion operations.

- v. Drill Rig. To the extent Operator is not presently planning on using best-available technology electric drill rigs on the Draco Pad Site, the ECMC should require Operator to do so.
- vi. Monitoring and Repair of the P&A Wells. Given the potential threat posed to the P&A Wells, Southern Land requests that the ECMC require Operator to monitor the P&A Wells during all phases of construction, drilling, completion, and operation of the Draco Pad Site, and to promptly work to resolve any negative impacts and repair any deficiencies in the P&A Wells detected during Operator's activities on the Draco Pad Site. Southern Land will provide Operator access to the ELC Property to satisfy these requirements.

Notwithstanding the foregoing or anything else in this Petition, Southern Land reserves the right to request additional mitigation requirements based on its ongoing discussions with Operator and its experts' review of the Application materials.

- C. Continuance of Hearing. Southern Land is not seeking a continuance of the Hearing at this time. However, this Petition shall not be construed as a waiver by Southern Land to seek a continuance of the Hearing or any future hearings if Southern Land's negotiations with Operator do not come to satisfactory resolution or if otherwise recommended by Southern Land's experts.

6. Southern Land's Counsel

Southern Land is represented by the following counsel in connection with this matter:

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CONCLUSION

Southern Land appreciates ECMC's consideration of the information provided and allegations and requests made in this Petition. Southern Land reserves the right to modify the foregoing requests or make additional requests to the ECMC following a more thorough technical review of the Application, and supplemental Application materials, or any other updates to the Application by Operator from time to time, or at the advice of Southern Land's experts and/or counsel.

Please do not hesitate to contact Heidi Majerik, Vice President and General Manager of the Southern Land Company, at heidi.majerik@southernland.com or (720-531-8924) to discuss any of these matters in additional detail.

Sincerely,

SOUTHERN LAND COMPANY

cc: Howard Boigon, Esq. (howard@boigonlaw.com)
Allison Altaras, Esq. (aaltaras@ottenjohnson.com)
David Brewster, Esq. (dbrewster@ottenjohnson.com)

Attachment 1
Proximity Map

(see attached)



**WESTERLY
REQUIRED
SETBACKS**

NOTES:
 1. ALL OIL AND GAS EASEMENTS ARE SHOWN ON THE ALTA'S FOR SWINK AND DEARMIN, BOTH OF WHICH THE TOWN HAS.
 2. DEARMIN S.U.A., INCLUDING EASEMENT GRANTED ON HALF SECTION LINE, IS INCLUDED IN PRELIMINARY PLAT APPLICATION.



NEW UDC REQUIRED SETBACKS

2,000' SETBACK FROM PERMITTED WELL, NEW UDC

500' SETBACK FROM ACTIVE WELL, NEW UDC

NOTES:
 1. ALL OIL AND GAS EASEMENTS ARE SHOWN ON THE ALTA'S FOR SWINK AND DEARMIN, BOTH OF WHICH THE TOWN HAS.
 2. DEARMIN S.U.A., INCLUDING EASEMENT GRANTED ON HALF SECTION LINE, IS INCLUDED IN PRELIMINARY PLAT APPLICATION.

APPROXIMATE BOUNDARY OF 'THE HUB'
 NOTE: DASHED LINE REPRESENTS APPROXIMATE FENCE LINE. SITE ALSO ENCOMPASSES WINDSOCK SITE



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 29th day of July 2024, a true and correct copy of Southern Land Company's Petition for Affected Party Status was served electronically via e-mail, and via courier, as follows:

Beatty & Wozniak, P.C.
Jill Fulcher, Esq.
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Counsel for Operator

In addition, a copy is being served on our client.

/s/ Teri Hammack

Teri Hammack