

# Process for Developing State Land Board Estates

## Standard Operating Procedure for Addressing Applications Pertaining to State Land Board Managed Properties

The Colorado State Board of Land Commissioners (“State Land Board” or “SLB”) and the Colorado Energy and Carbon Management Commission (“Commission” or “ECMC”) recognize and acknowledge that SLB-managed minerals cannot be involuntarily pooled or unitized, due to the State Land Board’s unique authority and fiduciary mandate under the Colorado Constitution and Colorado Enabling Act. Both agencies agree that ECMC Staff will not issue recommended orders by which SLB-managed minerals will be pooled, unitized, or otherwise aggregated without the consent of SLB. An operator obtains SLB’s consent to pooling or aggregation by obtaining a lease and/or unit agreement/communitization agreement issued by SLB.

Below are the standard operating procedures by which ECMC Staff will address SLB-managed mineral rights in recommended orders for approval of applications which potentially impact SLB-managed mineral rights. Should ECMC Staff issue a recommended order of denial, which the Commission does not accept, ECMC Staff will recommend to the Commission that the language regarding SLB-managed minerals stated below be included in any Commission order for approval.

### A. Drilling and Spacing Units and associated Oil and Gas Development Plans

#### I. Background:

A. Pursuant to Rules 305, 503.g.(2), and 504<sup>1</sup>, operators may apply to ECMC for approval of a Drilling and Spacing Unit (“DSU”). This may be part of a larger application for an Oil and Gas Development Plan (“OGDP”), pursuant to Rules 303 and 503.g.(1), or as a stand-alone DSU application. While neither of these processes (i.e., DSU and OGDP) involuntarily aggregate mineral rights, both have the potential to impact such rights. Therefore, ECMC Staff, when reviewing applications and drafting recommended orders for DSUs which may impact SLB-managed minerals, will implement the following procedure.

#### II. Procedure:

A. ECMC Staff will contact the operator and inform the operator that their DSU application has the potential to impact SLB-managed minerals, and unless SLB confirms to ECMC that it has voluntarily consented to pooling or unitization, the application (or amended application) must either:

1. Include the following language: “This drilling and spacing unit contains minerals managed and controlled by the Colorado State Board of Land Commissioners (State Land Board). An oil and gas lease and a Communitization Agreement with the State Land Board is required for all State Land Board wells drilled under the terms of this order. A Communitization Agreement must be submitted, and an oil and gas lease

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<sup>1</sup> All references to “Rule” or “Rules” in this document are to the Rules and Regulations of the Colorado Energy and Carbon Management Commission which can be found at 2 C.C.R. 404-1, et seq.

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- must be issued, prior to drilling operations for a well within the drilling and spacing unit.”; or
  2. Include alternative language mutually agreed upon by the operator and the SLB.
- B. Should the operator fail to include such language in their DSU application (or amended application), ECMC Staff will insert the language in Paragraph A(II)(A)(1) above into the recommended DSU order before transmitting said recommended order to the Commission for consideration.

### B. Statutory Pooling

#### I. Background:

- A. Pursuant to §34-60-116, C.R.S. and Rules 503.g.(3), 504, 505, and 506, operators may, upon meeting specific conditions, submit an application to involuntarily pool mineral interests owned by third parties (sometimes referred to as “statutory pooling”). Statutory pooling aggregates the mineral rights of those from whom the operator obtained no lease or other exploration and production rights. Therefore, ECMC Staff, when reviewing applications and drafting recommended orders for statutory pooling which will impact SLB-managed minerals, will implement the following procedure.

#### II. Procedure :

- A. ECMC Staff will contact the operator and inform the operator that their pooling application seeks to involuntarily aggregate SLB-managed minerals, and that ECMC will not issue a recommended order involuntarily pooling SLB-managed minerals. Therefore, unless SLB confirms to ECMC that it has voluntarily consented to pooling, the application must either:
1. Include the following language: “This application for statutory pooling impacts minerals managed and controlled by the Colorado State Board of Land Commissioners (State Land Board). An oil and gas lease and a Communitization Agreement with the State Land Board is required before this order becomes effective. A Communitization Agreement must be submitted, and an oil and gas lease must be issued, before this order becomes effective.”; or
  2. Include alternative language mutually agreed upon by the operator and the SLB.
- B. If requested by the operator, ECMC Staff will continue the pooling application pending resolution of the operator’s negotiations with SLB. ECMC Staff will not issue a recommended order on the application until the operator either amends the application to include the above-quoted language or mutually-agreed-upon language, or until the operator informs ECMC Staff that the operator has no intent to amend the application.
- C. Should the operator fail to include such language in their statutory pooling application (or amended application), ECMC Staff will insert the language in Paragraph B(II)(A)(1) above into the recommended order before transmitting said recommended order to the Commission for consideration.

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D. SLB retains all rights to petition the Commission, pursuant to the Rules.

## C. Unitization

### I. Background:

A. Pursuant to §34-60-118, C.R.S. and Rules 503.g.(3), 504, and 505, operators may, upon meeting specific conditions, submit an application for unitization. Unitization may aggregate the mineral rights of those who do not agree to the proposed plan for unit operations. Therefore, ECMC Staff, when reviewing applications and drafting recommended orders for unitization which will impact SLB-managed minerals or pore space, will implement the following procedure.

### II. Procedure:

A. ECMC Staff will contact the operator and inform the operator that their unitization application has the potential to involuntarily aggregate SLB-managed minerals, and that ECMC will not issue a recommended order unitizing SLB-managed minerals. Therefore, unless SLB confirms to ECMC that it has voluntarily agreed to the proposed unit agreement, the application must either:

1. Include the following language: “This application for unitization impacts minerals managed and controlled by the Colorado State Board of Land Commissioners (State Land Board). An oil and gas lease and a Communitization Agreement with the State Land Board is required before this order becomes effective. A Communitization Agreement must be submitted, and an oil and gas lease must be issued, before this order becomes effective.”; or
2. Include alternative language mutually agreed upon by the operator and the SLB.

B. If requested by the operator, ECMC Staff will continue the unitization application pending resolution of the operator’s negotiations with SLB. ECMC Staff will not issue a recommended order on the operator’s unitization application until the operator either amends the application to include the above-quoted language or mutually-agreed-upon language, or until the operator informs ECMC Staff that the operator has no intent to amend the application.

C. Should the operator fail to include such language in their unitization application (or amended application), ECMC Staff will insert the language in Paragraph C(II)(A)(1) above into the recommended order on the unitization application before transmitting said order to the Commission for consideration.

D. SLB retains all rights to petition the Commission, pursuant to the Rules.