March 1, 2011

VIA HAND DELIVERY

Mr. Dick Wolfe
Office of the State Engineer
Colorado Division of Water Resources
818 Centennial Building
1313 Sherman Street
Denver CO 80203

Re: Petition for Determination of Produced Nontributary Ground Water: Coal Ridge Section of the Williams Fork Formation of the Lower Mesaverde Group, Malone Well Field, Piceance Basin, Garfield, Colorado

Dear Mr. Wolfe,

Pursuant to 2 C.C.R. 401-17 § 17.5 of the Colorado Department of Natural Resources, Office of State Engineer (“State Engineer”) Rules and Regulations for the Determination of Nontributary Nature of Ground Water Produced Through Wells in Conjunction with the Mining of Minerals (“Produced Nontributary Ground Water Rules”), we submit this Petition on behalf of Encana Oil & Gas (USA) Inc. (“Encana”) requesting a nontributary determination for the ground water withdrawn to facilitate or permit the mining of minerals from geologic formations associated with coalbed methane (“CBM”) oil and gas production wells within a geographically delineated area located within the Piceance Basin in southeastern Garfield County. The formation that is the subject of this Petition is the Coal Ridge Section of the Williams Fork Formation of the lower Mesaverde Group (said Coal Ridge Section is hereinafter referred to as the “Subject Formation”), located within a geographically designated area known as the Malone Well Field.

In accordance with the State Engineer’s Rules 17.5(A) and (B), and 17.6(A) – (E), the following materials are submitted in support of this Petition:

1. Notice of Petition for Determination of Produced Nontributary Ground Water;

Two complete hard copies and an electronic version of the 2011 WWE Report are provided with this Petition in accordance with Rule 17.6(E).

A. Summary of Request for Nontributary Determination

Encana has drilled and plans to drill CBM wells targeting the Subject Formation within the Piceance Basin. During the CBM production process, naturally-occurring ground water entrapping the methane gas in the targeted coalbeds is pumped to the surface, simultaneously with the methane gas, for collection and disposal or recycling.

As described in more detail in the 2011 WWE Report, this Petition requests a determination by the State Engineer that the ground water withdrawn by CBM production wells constructed into the portion of the Subject Formation within the Malone Well Field meets the statutory definition of nontributary ground water set forth in C.R.S. 37-90-103(10.5). Specifically excepted from this request are any water rights or areas in the Piceance Basin already determined to be nontributary by a valid Water Court decree or existing well permit issued by the State Engineer.

The Malone Well Field is located in the western portion of the East Hunter Mesa CBM Unit in Township 7 South, Range 92 West, Sections 21, 22, 27, and 28 in southeastern Garfield County, as described more precisely in the 2011 WWE Report and on the map attached hereto as Figure 1.

This request for a nontributary ground water determination is based upon development of an analytical ground water model of the Subject Formation in the vicinity of the Malone Well Field using the Glover-Balmer Equation, based on work presented by Glover and Balmer (1954), confirming that produced water generated from the targeted coal units within the Malone Well Field meet the statutory definition of nontributary. The modeling analysis of the Subject Formation is described and documented in detail in the 2011 WWE Report attached hereto.

Under C.R.S. § 37-90-137(7), Senate Bill 165 and the State Engineer’s March 24, 2010 Revised Memorandum: Submittals to the Division of Water Resources for Approval of Substitute Water Supply Plans and Well Permits for Oil and Gas Wells that Produce Ground Water While Producing Oil or Gas, CBM wells that withdraw nontributary ground water require State Engineer well permits, but such wells do not need temporary substitute water supply plans and plans for augmentation. Pursuant to House Bill 1303, the State Engineer promulgated the statewide Produced Nontributary Ground Water Rules, effective January 30, 2010, which establish procedures for obtaining a determination by the State Engineer, through either rulemaking or adjudication proceedings, that ground water produced by oil and gas (including CBM) wells from certain producing formations is nontributary. 2 C.C.R. § 401-17. Encana files this Petition requesting a nontributary ground water determination by the State Engineer through the adjudicatory process, as provided under 2 C.C.R. 401-17 § 17.5.
B. Information Required Under Produced Nontributary Ground Water Rules

In accordance with Produced Nontributary Ground Water Rule 17.5(A), this Petition and the supporting 2011 WWE Report provide information that indicates the following:

1. The ground water is being withdrawn from the portion of the Subject Formation within the Malone Well Field by CBM wells to facilitate or permit the mining of minerals.

2. Encana requests this nontributary ground water determination for a group of existing and planned CBM wells in a geologic formation within the Malone Well Field.

3. The ground water modeling performed by WWE using the conservative assumption that there is a hydraulic connection between the targeted coal formations and surface streams confirms that any assumed depletions resulting from pumping at the Malone Well Field associated with the subject wells meet the statutory nontributary standard in Colorado.

In addition, this Petition and the 2011 WWE Report and supporting data comply with the engineering and scientific methodologies and standards set forth in Rule 17.6 for submittal of petitions for nontributary ground water determinations.

C. Public Notice

Pursuant to Produced Nontributary Ground Water Rule 17.5(B), a Notice of this Petition is contemporaneously being submitted with this Petition and furnished to all subscribers on the Produced Nontributary Ground Water Notification List for Division No. 5. This Notice also will be published in the major newspapers of circulation in the affected watersheds.

WHEREFORE, Encana respectfully requests that the State Engineer evaluate this Petition without a hearing, and issue an Initial Determination granting said Petition and finding that ground water withdrawn from the Subject Formation within the Malone Well Field associated with existing and future CBM wells, as set forth more fully in the 2011 WWE Report, is nontributary. However, in the event the State Engineer determines that a hearing is appropriate, Encana respectfully requests that such hearing be held at the earliest practicable time.
Respectfully submitted,

/s/ Steven E. Marlin
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Enclosures

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