

<p>Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203</p>	<p>DATE FILED: November 5, 2021</p>
<p>Original Proceeding District Court, Weld County, 2021CV30267 & District Court, Weld County, 2021CV30272</p>	
<p>In Re:</p> <p>Petitioner:</p> <p>BNSF Railway Company,</p> <p>v.</p> <p>Respondents:</p> <p>Kenneth D. Lange; Edna L. Lange; Weld County; Bruce B. Andrews; West Adams Soil Conservation District; Pan American Petroleum Company; Panhandle Eastern Pipeline Company; Champlin Petroleum Company; Snyder Oil Corporation; Buckeye NGL Pipe Lines, LLC; United Water and Sanitation District; East Cherry Creek Valley Water Sanitation District; Noble Energy Production, Inc.; Kerr McGee Oil & Gas Onshore, LP; Kerr-McGee Gathering, LLC; DCP Wattenberg Pipeline, LLP; Verdad Oil & Gas Corporation; Discovery DJ Services, LLC; Mershon Family Wells, LLC; Rocky Mountain Midstream, LLC; Cureton Front Range, LLC; BNN Colorado Water, Inc.; and John F. Lefebvre, Jr., in his official capacity as the Weld County Treasurer;</p> <p>and</p> <p>Respondents:</p> <p>Marvin H. Spayd; Central Colorado Water Conservancy; U.S. West Communications, Inc; Great Western Operating Company, LLC; and Grizzly Petroleum Company, LLC.</p>	<p>Supreme Court Case No: 2021SA276 & 2021SA269</p>
<p>ORDER OF COURT</p>	

Upon consideration of the briefs of Kerr-McGee Gathering, LLC (“Kerr-McGee”) and BNSF Railway Company (“BNSF”) in the above-captioned original proceedings, and being sufficiently advised in the premises,

IT IS HEREBY ORDERED as follows:

Pursuant to C.A.R. 21(l), the court makes the rule absolute and, without opinion, vacates the district court’s orders for immediate possession in the underlying condemnation proceedings (21-CV-30267 and 21-CV-30272). The district court shall conduct an immediate possession hearing at which it shall address all legal challenges raised by Kerr-McGee, an interested party under section 38-1-105(1), C.R.S. (2021), as to the Spayd and Lange petitions. At the hearing for immediate possession, the district court shall dispose of all objections that have been raised concerning BNSF’s motions (and stipulations) for immediate possession, the legal sufficiency of BNSF’s petitions, and the regularity of the proceedings in any other respect. § 38-5-106, C.R.S. (2021); *see also Shaklee v. Dist. Ct.*, 636 P.2d 715, 716–18 (Colo. 1981). By making the rule absolute and issuing this order, the above-captioned original proceedings are finished and now closed.

BY THE COURT, EN BANC, NOVEMBER 5, 2021.