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ADVANCE SHEET HEADNOTE  
November 9, 2009

**No. 08SC698, Bd. Of County Com'rs of County of Rio Blanco v. ExxonMobil Oil Corporation.**

By operation of law, the decision of the court of appeals, 192 P.3d 582 (Colo. App. 2008), is affirmed by an equally divided court. See C.A.R. 35(e).

<p>SUPREME COURT, STATE OF COLORADO Two East 14th Avenue Denver, Colorado 80203</p> <p>Certiorari to the Colorado Court of Appeals Court of Appeals Case No. 07CA1054</p>	<p>Case No. 08SC698</p>
<p><b>Petitioner:</b></p> <p>The Board of County Commissioners of the County of Rio Blanco, State of Colorado,</p> <p>v.</p> <p><b>Respondent:</b></p> <p>ExxonMobil Oil Corporation.</p>	
<p>JUDGMENT AFFIRMED WITHOUT OPINION EN BANC November 9, 2009</p>	

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PER CURIAM.  
JUSTICE COATS does not participate.

Justice Bender, Justice Rice and Justice Eid are of the opinion that the judgment of the court of appeals, 192 P.3d 582 (Colo. App. 2008), should be affirmed; whereas Chief Justice Mullarkey, Justice Hobbs, and Justice Martinez are of the opinion that it should be reversed. Justice Coats does not participate.

Since the court is equally divided, the decision of the court of appeals is affirmed by operation of law. See C.A.R. 35(e).