

Boulder County Land Use Department



DC-12-0003: Amendments to Oil and Gas Development Regulations

Public Hearing for the Planning Commission to consider proposed Land Use Code amendments addressing oil and gas development

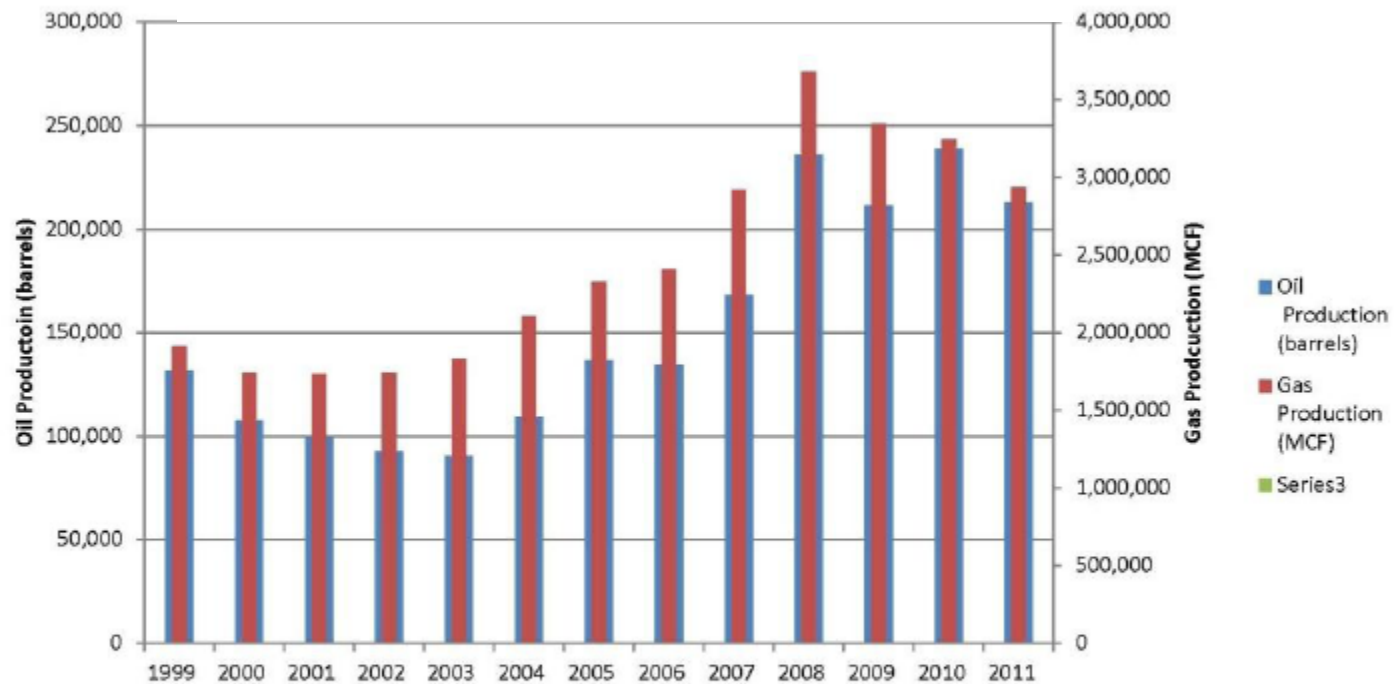
**September 24, 2012
4:00 p.m.**

AGENDA

- 1. COUNTY STAFF PRESENTATION**
- 2. PLANNING COMMISSION Q & A**
- 3. PUBLIC COMMENT** (3-min allowance per individual speaker)
- 4. PLANNING COMMISSION DISCUSSION / ACTION / DIRECTION TO STAFF**



BOULDER COUNTY OIL & GAS PRODUCTION 1999-2011

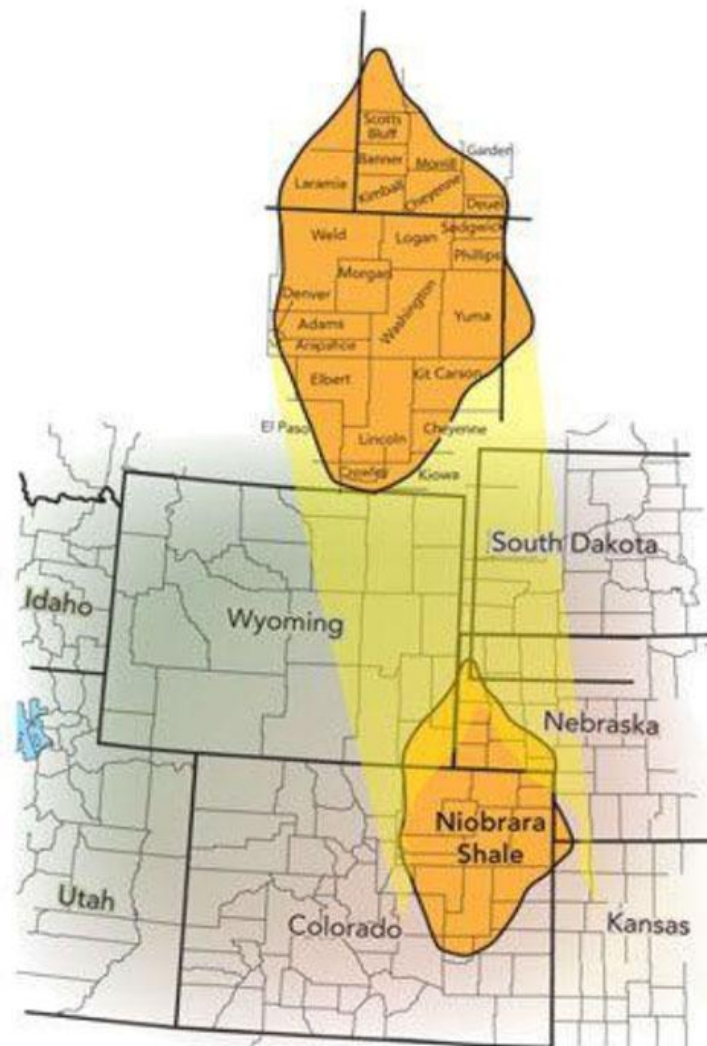


Data from Colorado Oil and Gas Conservation Commission website - <http://cogcc.state.co.us/>

MCF= 1,000 cubic feet of natural gas



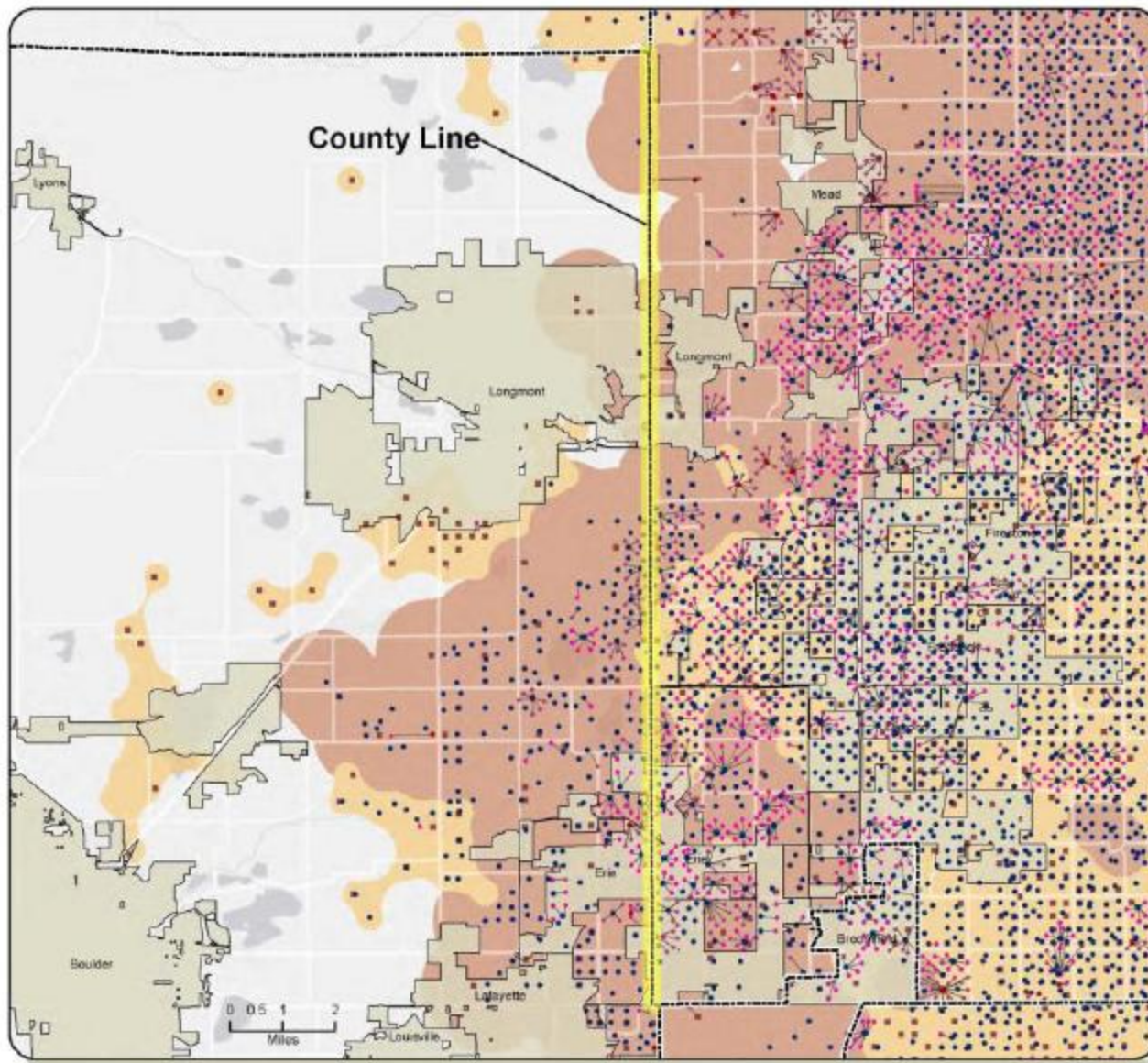
NIOBRARA FORMATION



*Approximate

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Colorado Oil and Gas Conservation Commission Wells: GIS Data Map

- Wells
- State Permitted Sites
- Pit Facility
- Directional Well Bottomhole: Actual
- Directional Well Bottomhole: Planned
- Directional Well Line
- Oil or Gas Field
- Wattenberg Gas Field



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OIL & GAS ACTIVITY IN UNINCORPORATED BOCO

Producing wells:	253
Wells being drilled:	5 (will be producing soon)
Plugged and abandoned wells:	114
Dry and abandoned wells:	86
Abandoned location:	142 (never drilled)
Shut in wells:	2
Temporarily abandoned wells:	1
Unknown:	3
Locations*:	34

*Boulder County approval not yet received

Notices of Intent to drill on Open Space: 47

source: <http://cogcc.state.co.us/> & *County Parks and Open Space*



BACKGROUND

- **Feb. 2** – Temporary moratorium on the processing of the required development plans for local oil and gas permits under the Land Use Code adopted ([Resolution 2012-16](#))
- **March 1** – Public hearing for commissioners to hear staff presentations and public testimony
- **April 16** – Moratorium on processing of applications for oil and gas development in unincorporated parts of the county extended ([Resolution 2012-46](#))

Moratorium in effect until February 4, 2013



OVERVIEW OF OIL & GAS DEVELOPMENT PROCESS

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OIL AND GAS DEVELOPMENT PROCESS

The oil and gas extraction industry can be classified into four major phases:

- (1) leasing / permitting,**
- (2) drilling & well completion (hydraulic fracturing)**
- (3) production**
- (4) decommissioning / site abandonment / reclamation**

* Hydraulic Fracturing is not new.

- According to COGA, over 90% of the wells drilled today are hydraulically-fractured
- Industry moving to horizontal drilling. Recent COGCC Report on water assumed that the number of horizontal drilled wells will increase at 20% a year (total wells will remain flat).

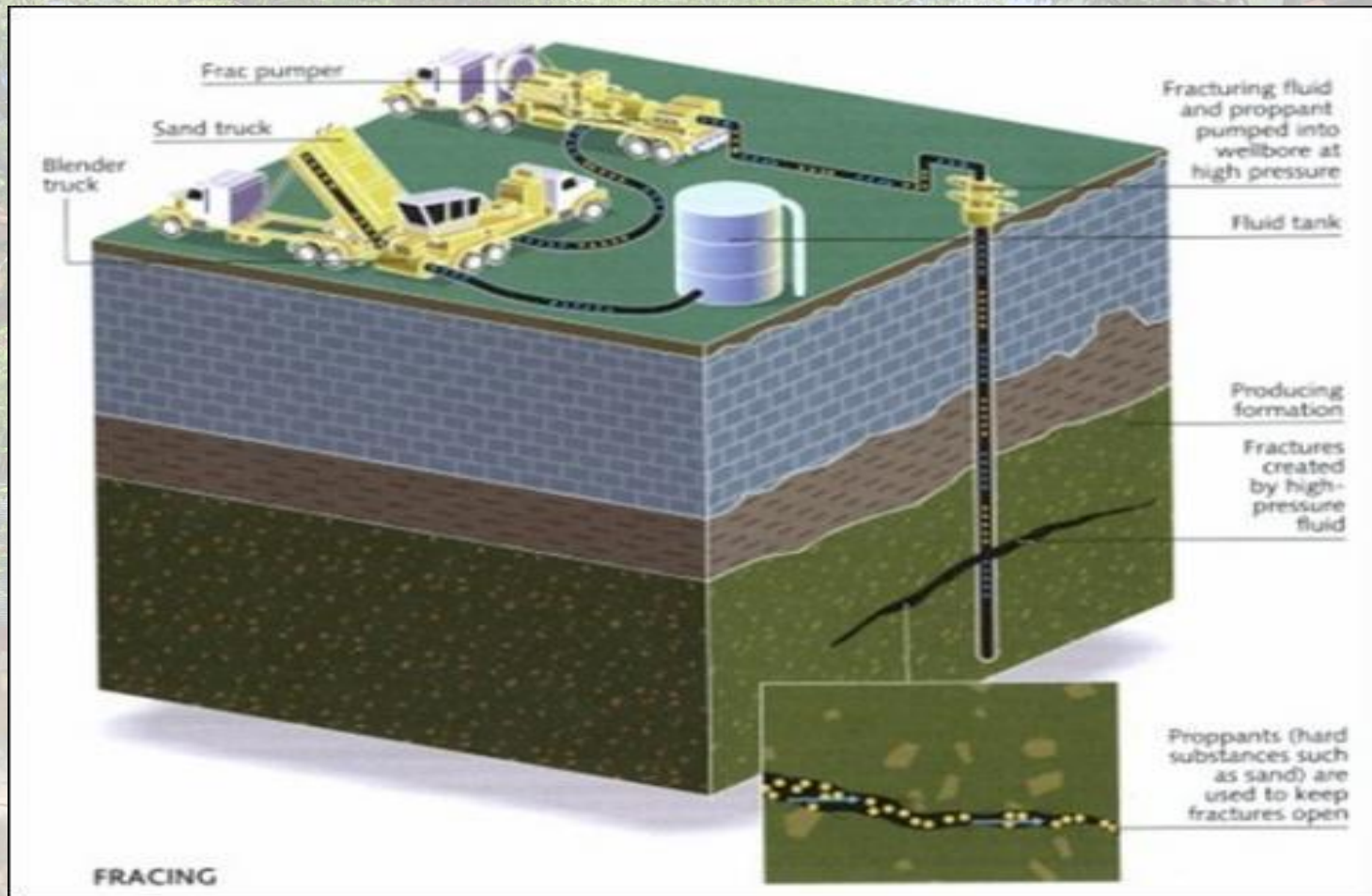


DRILLING PHASE (7-12 days per well)





HYDRAULIC FRACTURING



Graphic by Al Granberg

Source: Western Resource Advocates



FRAC JOB – WELL SITE

**FRAC FLOW
BACK TANK**

**SAND
MOVER**

**WATER
TANKS**

**CHEMICAL
TRUCKS**

**COMMAND
CENTER**

Source: http://cogcc.state.co.us/Announcements/Hot_Topics/Hydraulic_Fracturing/COGCC_FRACING_briefing_052011.pdf

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FRACKING

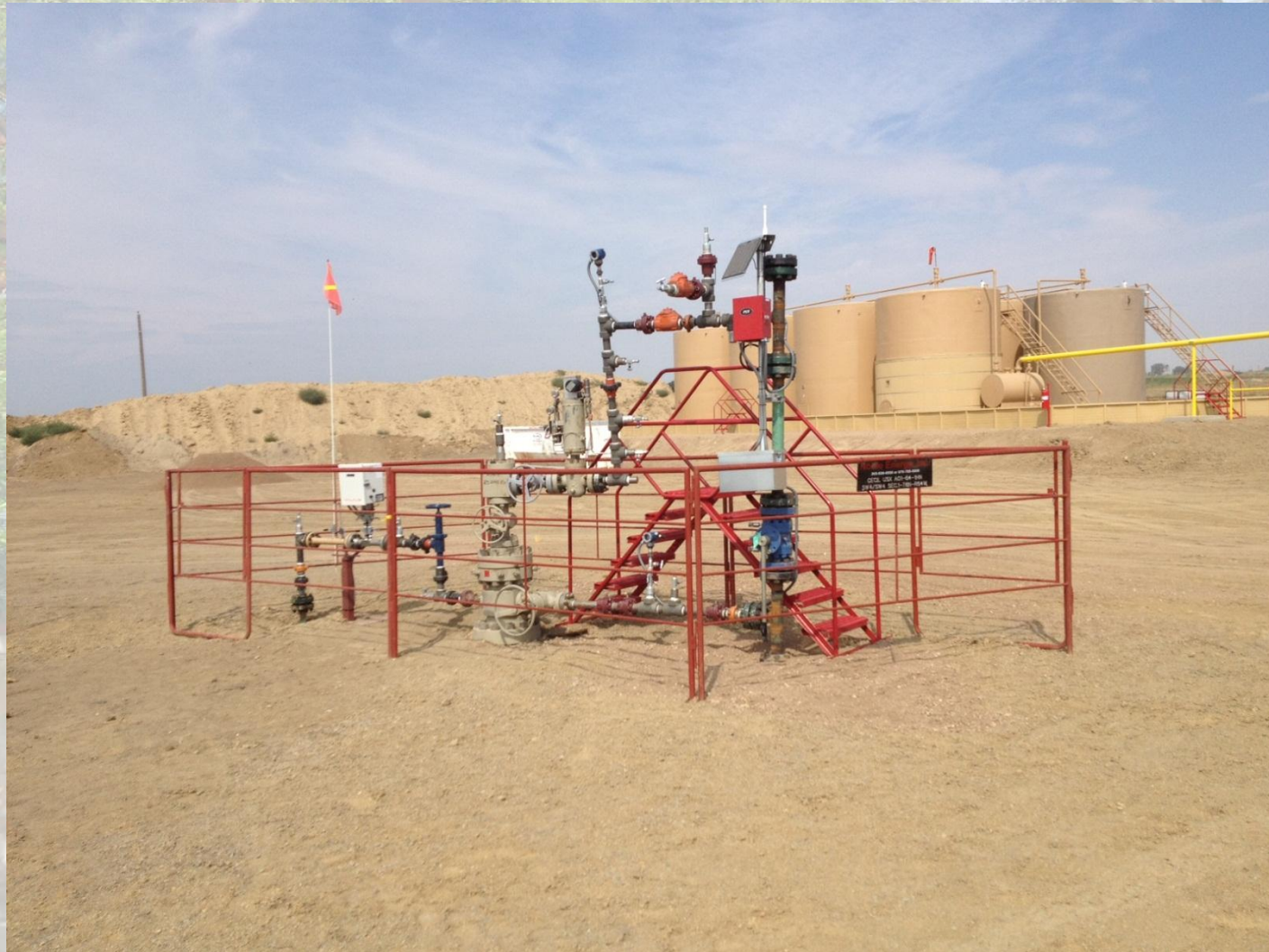


PRODUCTION



Production / pad site in early reclamation after drilling/completion.





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PRODUCTION



Erie Well site – production



Similar tank battery w/containment no fencing (wellhead is just out of the picture on the right)



INTERIM RECLAMATION



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LOCAL IMPACTS AND CONCERNS

Identified by Staff and in Public Comment (emails, open houses, public testimony):

- Transportation Impacts to roads
- Impacts on environmental resources
 - Wildlife and plant habitat
 - Wetlands
 - Riparian areas
- Geologic hazards
- Storm water and drainage
- Noise and lighting
- Water quality impacts
- Air Quality – Methane emissions, Volatile Organic Compounds
- Land reclamation
- Agricultural land preservation
- Floodplain and Floodways
- Visual impacts and preservation of scenic views
- Operators responsibility to remove roads/facilities upon termination of the use.
- Historic/archeological/ cultural protection
- Spacing and setbacks



APPROACH FOR OIL & GAS DEVELOPMENT CONTROL

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LAND USE AND COUNTY REGULATORY ISSUES

County's role in regulating oil and gas development:

- Counties are subordinate governmental units of the state. As such only have authority as determined by the state constitution and state statutes.
- Boulder County has express statutory authority to regulate the **land use aspects** of oil and gas operations
- The Colorado legislature has delegated authority to the Colorado Oil and Gas Conservation Commission (COGCC) to regulate the **“downhole”** aspects of oil and gas development.
- Under this established legal framework, the Colorado courts have consistently ruled that counties' land use authority coexists with COGCC authority to regulate oil and gas operations.
- Under the Colorado Oil and Gas Conservation Act (“the State Act”) local regulations are considered valid as long as they do not create an “operational conflict” with the state's regulations.



STATE AND FEDERAL REGULATION

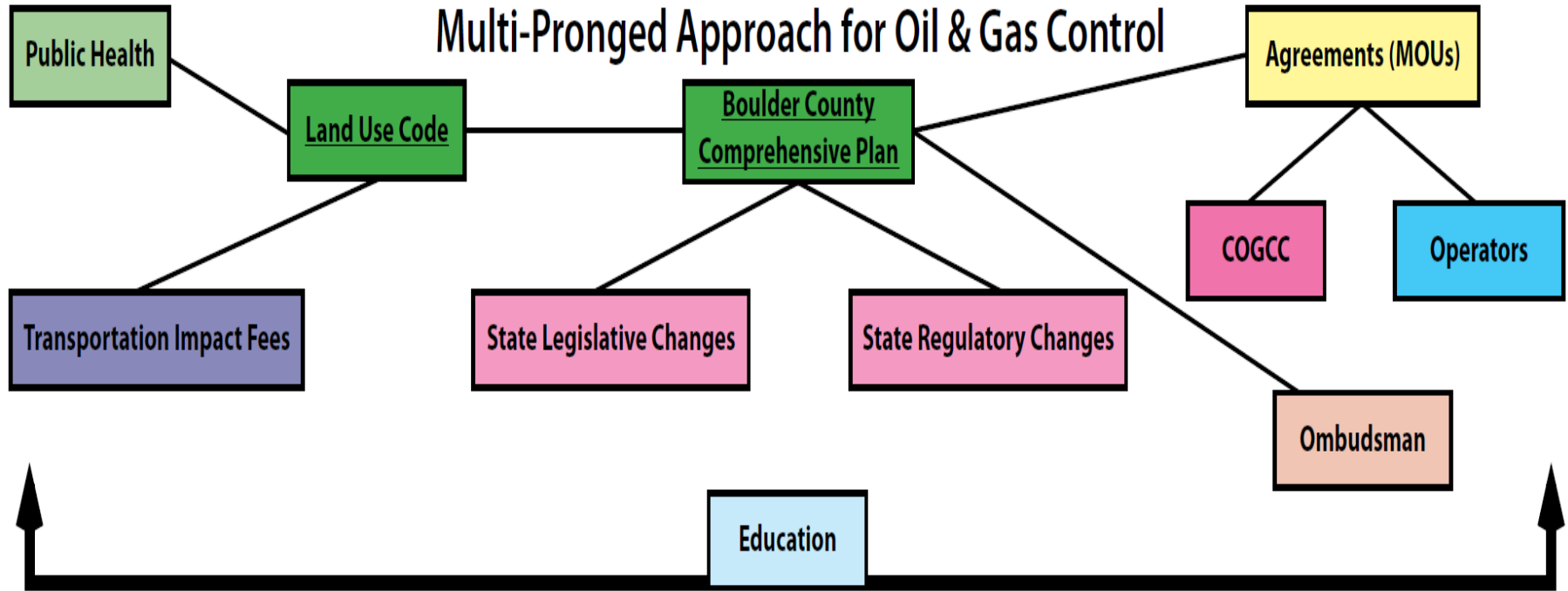
Required for a typical oil & gas operation air discharge permits:

- construction and industrial stormwater permits
- Land farming permits
- COGCC well and operating permits (well permit, wildlife mitigation, financial assurance, O&G transport permits)
- NEPA documentation and approval
- wastewater disposal / trucking permits
- wetland and stream impact permits from USACE including T&E species and cultural resource clearance
- water well permits
- pipeline hydro testing water discharge permits
- zoning and land use approval
- road access and road maintenance permits
- open burning permits
- building permits
- flammable tank permits
- plus plenty of private permits such as surface use agreements, railroad crossing permits, canal crossing permits, private road use agreements, and others

➤ **Intent is to harmonize application of our local regulations with the state**



Multi-Pronged Approach for Oil & Gas Control



Phase 1: Revision of Comprehensive Plan and Land Use Regulations in alignment with county's current best understanding of statutory and legal framework.

Phase 2: Identify statutory and administrative/rule barriers that prohibit the county from achieving its regulatory vision for the oil and gas industry. Initiate and/or support efforts (e.g., state legislation) that have the potential to break down those barriers.

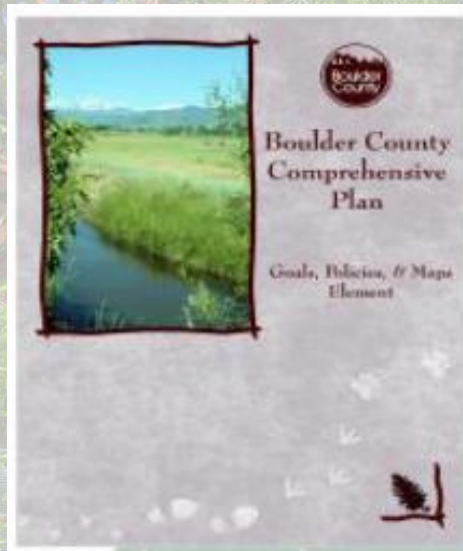


OTHER EFFORTS AND STUDIES

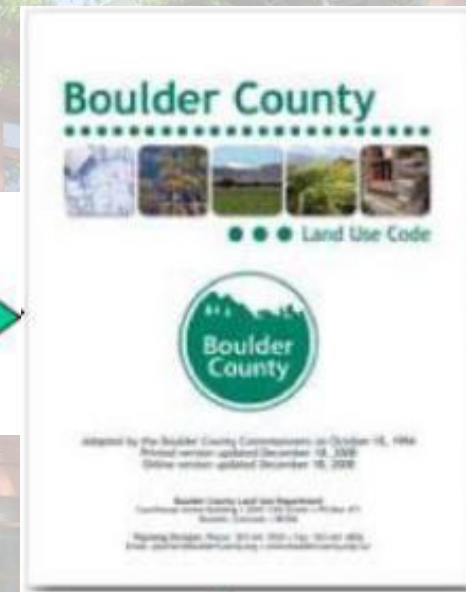
- Negotiating MOU with COGCC on delegation of inspection authority
- Negotiating MOUs with operators
- Updating surface use agreements with operator on County-owned lands
- Formulating County legislative positions for the 2012 and future state legislative session on bills affecting oil & gas development and local authority to regulate
- Advocating for changes to CDPHE regulations, such as the current rulemaking by the Air Pollution Control Division on possible revisions to Regulation Number 6 to partially adopt at the state level recent changes to federal (EPA) regulations
- Participating in COGCC stakeholder process to review the setbacks between wells and buildings, variations in setbacks in different areas or under other dissimilar circumstances, and reasons why more or less restrictive well-building setbacks should be adopted.
- Advocating for changes to COGCC regulations, such as possible setbacks rulemaking anticipated to begin later this fall
- Reviewing the results of the Transportation study of the potential impacts of oil and gas development on the County transportation system currently underway, and consider adopting transportation fees to offset impacts
- Exploring acquisition of an ombudsman to assist the public and staff
- Monitoring and staying current of educational developments in the field



BCCP RELATIONSHIP TO THE LAND USE CODE



Informs, Provides Direction
and Context



- **May 16** – Planning Commission authorizes initiation of an amendment process to the oil & policies in the BCCP
- **May 31**– Open House for BCCP amendments.
- **June 20** – Planning Commission reviews proposed oil and gas policies amendments and takes public testimony
- **July 18** – Planning Commission further reviews proposed oil & gas policies amendments
- **Aug. 15** – Planning Commission adopts BCCP amendments

- **Aug. 7** – Open House to launch Regulations phase of oil & gas project
- **Aug. 22** – County Commissioners and Planning Commission hold a joint study session to discuss possible future amendments to the Land Use Code



PROPOSED LAND USE CODE CHANGES

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LOCAL IMPACTS ADDRESSED IN PROPOSED REGULATIONS

August 22 Joint BOCC/PC Study Session:

- Agricultural land preservation
- Baseline data
- Emergency Response
- Greenhouse gas emissions
- Impacts on Agricultural lands, including restoration and reclamation
- Impacts on environmental resources
- Operator engagement with local residents and stakeholders
- Monitoring
- Noise
- Setbacks from residences and schools
- Setbacks from water
- Surface agreements potentially enforceable through the Land Use Code
- Shared Infrastructure
- Transportation Standards



“DRAFT REGULATIONS” OVERVIEW

- Continued use of Development Plan Review (DPR) process in a new Art. 20
- Pre-application conference before completing well siting determinations
- Notice to surface owners and surrounding land owners within 1500 ft.
- Expedited and Standard DPR processes (and ability to reclassify appropriately)
- Transportation / access standards requiring mitigation of impacts to roads
- Placeholder for transportation fees to offset impacts to public roads
- Emergency response and emergency preparedness plans
- Creation of general operation standards applicable to all new wells
 - Electrification
 - Chemical disclosure
 - Traffic control measures
 - Dust suppression
 - Lighting standards
 - Fencing
 - Weed control
- Certification, monitoring, and inspection throughout the development process
- Compliance of existing operations with current regulations when a new well is proposed on an existing pad
- Operational conflict waiver / other waiver



EXPEDITED v. STANDARD

Expedited DPR Process:

- Objective standards that operators can volunteer to meet
- 45-day administrative review
- Pre-application conference 30 days prior to applying for APD
- Well siting provisions:
 - 500 ft from occupied structures
 - 150 ft from property lines
 - 500 ft from surface water bodies
 - 500 ft from water wells
 - Not located in subdivision or townsite
 - Not within high hazard geologic area
 - Not located in floodway
 - Not located within wetlands
 - Not within BCCP natural resource and critical wildlife habitat areas
- Transportation access standards and fee
- Air quality provisions
- Water quality monitoring and well testing provisions

Standard DPR Process

- Goal-based (subjective) criteria used to analyze potential impacts
- BOCC Public Hearing
- Applicant Neighborhood Meeting 30 days before filing application with the County
- Mitigation plans / review standards involving the siting of wells to address land use issues such as:
 - Compatibility with surrounding land uses
 - Land disturbance
 - Natural resources
 - Agricultural land
 - Transportation system impacts
 - Scenic attributes and rural character
 - Cultural and historic resources
 - Geologic hazards
 - Wetland protection
 - Recreational activities
 - Air quality
 - Water quality



OTHER PROPOSED AMENDMENTS

Pipeline (Art. 4-506.D)

- Specific standards addressing the permitting of flow lines and gathering lines associated with proposed new oil and gas wells
- Flow lines = pipelines which connect individual well sites to gathering lines
- Gathering lines = pipelines transporting produced gas, oil, or water from multiple well sites to centralized facilities
- Draft Regulations contain new criteria concerning siting, alignment and minimizing of disturbance to the surface associated with new flow lines and gathering lines

Major Oil and Gas Facilities (Art. 4-514.E & P)

- Creation of a new use definition for major oil and gas operations
 - Water injection wells and facilities, centralized water transfer stations, centralized water pump stations, storage yards and construction staging yards in place for longer than 6 months
- These uses are not dependent upon being located in a certain area relative to the mineral source
- Use would be allowed in the General Industrial zoning district
- Require Special Use review



SUMMARY AND RECOMMENDATION

- Staff recognizes that this is a first draft and look forward to receiving input from the public, Industry, State, and Planning Commission.
- We do not anticipate that Planning Commission will be able to take final action on the Draft Regulations at this initial hearing; however, we do find that proposed Land Use Code amendments meet the criteria in Art. 16-100 of the Land Use Code in that:
 1. *the existing text is in need of the amendment;*
 2. *the amendment is not contrary to the intent and purpose of this Code;*
 3. *the amendment is in accordance with the BCCP*
- The overall goal contained within the Draft Regulations is to enact the most protective regulations governing new oil & gas operations yet harmonize application of our local regulations with the state.
- Planning Commission provides a recommendation to the Board of County Commissioners. Staff recommends that Planning Commission **approve and recommend approval of this docket to the Board of County Commissioners.**



ANTICIPATED SCHEDULE & OPPORTUNITIES FOR INPUT

Moratorium in effect until February 4, 2013

Planning Commission Review of Draft Regulations:

- **October 1 at 4:00 PM** – *Follow-up meeting if additional Planning Commission discussion and direction to staff is necessary after tonight's public hearing.*
- **October 17 (time TBD)** – *Planning Commission's regular monthly meeting.*
- **October 30 at 4:00 PM** – *Planning Commission's final meeting on the Draft Regulations if they have not provided a recommendation to the BOCC by this date.*

Board of County Commissioners' Review of Draft Regulations:

- **November and December** - *Anticipated Board of County Commissioners public hearings on proposed Land Use Code amendments.*

Project website: <http://www.bouldercounty.org/live/property/pages/oilgas.aspx>





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