

Public Hearing to receive a status update from staff on the matters discussed in Resolution 2013-55 effective June 18, 2013, which extended the temporary moratorium on processing oil and gas development applications in the unincorporated county until January 1, 2015, and to consider whether to extend or otherwise amend the moratorium

Board of County Commissioners
June 12, 2014 4:00 p.m.

Agenda for Today's Public Hearing

I. Opening remarks by the Board

II. County staff presentation: Status Update related to the
Temporary Moratorium on Oil and Gas Development

➤ Staff report was posted to County's Oil and Gas website:

<http://www.bouldercounty.org/dept/landuse/pages/oilgas.aspx>

III. Board discussion, action, direction to staff

Background

- Boulder County adopted new regulations (Art. 12 of Boulder County Land Use Code) in December 2012, amended May 2013
- A temporary moratorium on accepting new applications for oil and gas development in unincorporated Boulder County is currently in place until **January 1, 2015**
- BOCC provided direction to staff in Resolution 2013-55 in regard to extending the moratorium
- Subsequent updates to be discussed today

September 2013 Flood

- Flood-caused spills occurred statewide
 - Boulder County conducted a third-party assessment of oil and gas facilities in our jurisdiction
- Reevaluate allowance of wells to be located in the floodplain
- Anticipated changes to floodplain mapping and regulatory updates
- On-going Flood Recovery work and limited staff resources
- Proposed moratorium amendment for flood recovery work

Amendment to Moratorium to Allow Flood Recovery Work to Proceed

- County has received requests to relocate existing facilities further away from flood-prone areas, which is not currently allowed under the temporary moratorium
- Staff recommends an Amendment to the moratorium to allow repair to facilities impacted by acts of God, or reconfiguration/ relocation that better protects public health, safety, and welfare and the environment

Moratorium Amendment (cont.)

- Additionally staff recommends that written requests be submitted to the Land Use Director if an oil and gas operator believes certain activity on an oil and gas facility is not subject to the moratorium
 - Request must include: location, description of desired work, reasons why the work is not subject to the moratorium including any benefit to public health, safety, and welfare and the environment, time/dates, duration, mitigating measures to reduce impacts to neighbors, list of all parties that will receive notice from the operator prior to work, required COGCC permits
- Such work may only proceed upon written approval of the Land Use Director

Impacts on Existing Well Pads

- Two-track system allowed for existing well pads to be eligible for Expedited DPR Review, through which we can obtain greater air and water protections
- Benefits of utilizing existing well pads were found to include: less new disturbance on the site, shared infrastructure, and update of new wells on existing pads to meet new standards, plus additional air and water quality protections
- Evidence shows that the actual impacts are greater than envisioned
- Temporary measures to reduce noise, dust, and light pollution create new visual and quality of life impacts

Public Health Oil and Gas Monitoring

- County-funded position in Boulder County Public Health to survey oil and gas operations in unincorporated BoCo
- Oil and Gas Site Visits
- Data Collection
- Recent / Ongoing Studies

Site Visits of Oil and Gas Facilities

- 64 site visits conducted
- Working with Open Space, Property Owners, and Operators for access
- 31 visit conducted with FLIR IR Camera
- Leaks detected at 20% of the visits
- Past releases/ staining identified at approximately 8%
- Air/Water/Soil Concerns
- Technology advancements
- Continue with site visits over summer and fall

Results from Recent Studies

- Flyover Study of Colorado's Front Range (2014)
- Mamm Creek Groundwater Impact Conclusions (2014)
- The Energy- Water Nexus-Groundwater Quality Degradation Associated with Production of Shale Gas (2013)
- Geochemical and Isotopic Variations in Shallow Groundwater in Areas of the Fayetteville Shale Development, North central Arkansas (2013)
- An Evaluation of Water Quality in Private Drinking Water Wells Near Natural Gas Extraction Sites in the Barnett Shale Formation (2013)
- Impacts of Shale Gas Wastewater Disposal on Water Quality in Western Pennsylvania (2013)
- Shale Gas Development Impacts on Surface Water Quality in Pennsylvania (2013)
- Ohio Earthquake Study (2014)

Ongoing Studies

- Boulder County Public Health : Air Quality Monitoring Study (2014)
- NOAA Study of Sources of Atmospheric Pollutants (2014)
- University of Colorado- National Science Foundation Sustainability Research Network (2017)
- Colorado State University- Garfield County Gas Emissions Study (2016)
- CDPHE North Front Range Oil and Gas Emissions Study (2016)
- Front Range Air Pollution and Photochemistry Experiment (Data Collection 2014)
- CDPHE's Ongoing Monitoring in Platteville
- EPA Study of the Impact of Hydraulic Fracturing on Drinking Water

Changes to Regulatory Landscape

Federal

- EPA Actions – disclosure and reporting of chemicals

State

- New Air Quality Rules adopted by CO AQCC
- Colorado General Assembly 2014 Session and Possibility of Special Session
- Proposed Statewide Ballot Initiatives for 2014 general election

Local

- Several Pending Lawsuits (Longmont, Fort Collins, Lafayette, Broomfield)

Public Comments

- Written testimony was accepted and posted on the County's Oil and Gas website:
<http://www.bouldercounty.org/dept/landuse/pages/oilgas.aspx>
- Common themes include: opposition to fracking, support of fracking, precautionary principle, support Home Rule process, desire to extend the moratorium a minimum of 3 years, moratorium should end, endorse State Ballot initiative, concern for public health and completed studies, consideration of a ban, prohibit oil & gas activity on open space, need for alternative energy sources, use of water

Home Rule

- Distinction between powers of home rule cities and towns and home rule counties
- Even if we became a home rule county, our powers will be limited to those granted by the state, see Title 30, Part 35, Colorado Revised Statutes
- The powers granted home rule counties relevant to the oil and gas context, primarily land use, are no different than those granted statutory counties

BOCC Discussion, Action, and Direction to Staff

- Take Action on Moratorium Amendment to allow Flood Recovery and other Health & Safety work to proceed while the moratorium is in effect
- **Board discussion and further direction to staff**

