

From: angela mundt
To: [Boulder County Oil and Gas Comment](#)
Subject: Please do not buckle!
Date: Saturday, January 28, 2017 8:56:28 AM

The is a full-on assault on our land, our water, our health and our way of life. Let the state sue us! They are morally wrong. Please do not bend. Let it go through the courts. Be on the right side of history! We the citizens of Boulder County will be letting them know that this is not going to be an easy county to rape.

Angela Mundt
Louisville, Colorado

From: Ariana Saraha
To: [Boulder County Oil and Gas Comment](#)
Subject: Protect our lands from the dangers of fracking
Date: Tuesday, March 14, 2017 1:48:41 AM

I'll keep this brief, but I wanted to thank you for the regulations you've implemented historically to protect our region from the impacts of fracking, and to urge you to maintain these regulations and allocate the proper funding to implement them.

Your concerned citizen,

Ariana S Marks
Boulder, CO

From: barbswritestuff@aol.com
To: [Boulder County Oil and Gas Comment](#)
Subject: NO FRACKING IN BOULDER COUNTY! 2pm meeting March 14, 2017
Date: Tuesday, March 14, 2017 6:47:04 AM

Good morning,

I am writing to you this morning regarding the meeting at 2PM today in Boulder County about oil & gas & fracking in Boulder County.

Please stand up to the bullies in the Oil & Gas industries and vote for NO FRACKING in BOULDER COUNTY!

I am a 24 year resident of Boulder County and 21 year homeowner and taxpaxer of Boulder County, who has served my community on the Louisville Cultural Council in the past, served as a Girl Scout leader for girls in the community, among other service contributions.

I have 2 young adult children who attend(ed) C.U. Boulder and are voting, contributing members of the City of Boulder, as well.

It makes no sense to have beautiful, open space for us all to enjoy, when the air and water will be comprised by allowing fracking within Boulder County. Parents and students will not want to live or attend C.U. Boulder if this is allowed, as well, as their heath will be impacted.

The citizens of Boulder County DO NOT want to allow fracking within Boulder County limits; please vote along with their desires, and for the protection of our land, water, land, property values, and health and livelihoods.

I cannot attend the 2PM meeting today as I work full-time during that time.

Thank you for your consideration.

Sincerely,

Barbara LeBlanc
Louisville, CO
720-363-5133

From: Jim D
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Tuesday, March 14, 2017 7:22:16 AM

The citizens in Broomfield are asking some very intelligent questions (see below). We should get the answers to their questions before we even THINK of lifting our moratorium.

"When important and relevant health, safety, and environmental questions can't be answered, the industry is now just labelling them as "asinine" and "bizarre." Kent Gorham, Principal at Gorham Energy Consultants in Broomfield, did just that for the questions that we had asked Extraction Oil and Gas, Broomfield City Council, and Colorado legislators around air toxicity, spills, leaks, and the subsurface migration of injected chemicals (see also our Feb 21 post and repeated below).

To Extraction: If you are incentivizing people to comment on our posts, at least find people who are able to intelligently engage in the conversation.

1. Which toxins and at what level (ug/m³) will citizens be exposed to at various distances from each of the well pads (500 ft, 1,000 ft., 2,500 ft., 5,000 ft.) during different stages of the process including drilling, hydraulic fracturing, flow-back, and production?
2. What is the failure rate over time of the well casing technology being proposed for the 139 wells that will pass through the aquifer and groundwater sources?
3. Given that Extraction has had 22 spills/releases since Apr 2014 (some of which have went outside the berm or secondary containment area), how can the citizens be assured that spills/releases will not impact surface water or groundwater? In 2010 and 2012, for these 2 years alone, there were 188 groundwater impact spills in CO for all operators.
4. Approximately 20,000 gallons of chemicals Per Well (based on 4 million gallons of water per well and using the 0.5% of chemicals to fluid injections) will be injected under our homes, schools, and parks (a total of 2.78 million gallons of chemicals given that there are 139 wells). How far have these chemicals migrated towards the surface over 10 yrs, 20 yrs, 30 yrs, and 40 yrs? Have they migrated upwards a total of 100 ft., 1,000 ft., 2,000 ft., etc.?
5. Specifically which chemicals will be injected?
6. As a continuance to #4, we know that induced earthquakes of magnitude 3 or higher are not limited to injection wells and can also be triggered by productions wells (although at a much lower probability). If an earthquake were to occur, how does that affect the answer to #4?

We still have not received answers to the above, nor have we received the supporting data. We would request that Extraction try again. It is asinine and bizarre that the proposed 139 horizontal fracking well plan continues to move forward without the above health and safety questions being answered first.

Broomfield Clean Air and Water. Pro Energy. Pro Health, Safety, and Environment."

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#324]
Date: Tuesday, March 14, 2017 7:44:42 AM

Name * Amanda Smith

Email * amanda.smith@2scientists.net

My Question or Feedback most closely relates to the following subject: (fill in the blank) * fracking

Comments, Question or Feedback * Please, no fracking in Boulder County! Please do all you can to preserve the beauty and safety of life in Boulder. We have such a wonderful opportunity to use solar power here. Thank you.

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: Tricia Stahr
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking opinions
Date: Tuesday, March 14, 2017 8:07:02 AM

Hello,

I am saddened about the prospect of having fracking in our county. It is unbelievable to me that we would allow such an activity in this beautiful land that we have worked so hard to protect. This activity is really making me question whether this area is where I want to live.

That said, I know that this fight has certainly not been easy for you and that legally, you only have so many options. I do sincerely appreciate your efforts. Specifically I'd like to thank you for...

- producing regulations that will reduce the impact of fracking within your ability to do so. I know it has not been easy. Your efforts are truly appreciated.
- defending the county against the attempt to end the present moratorium prematurely despite all the resistance you have gotten.

A few requests:

- I would like to encourage you to add a prohibition of deep well wastewater injection given that it has resulted in earth quakes elsewhere.
 - please encourage boulder county municipalities to not sell their water to frackers.
- Thank you for doing this for the city.

I can't imagine the pressure you all are under. I do appreciate your work.

Best,

Tricia Stahr

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#325]
Date: Tuesday, March 14, 2017 8:39:49 AM

Name * Kate Paradis

Email * paradaly@yahoo.com

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Fracking moratorium

Comments, Question or Feedback * Dear Commissioners,

I hope you are aware that the executive committee of the Boulder County Dems voted in support of extending the fracking moratorium last week. Our county platform also requires that you factor in externalized costs of oil and gas development, one of the most important of which are methane leaks. We all know that methane is a dangerous greenhouse gas, so please do your jobs and stay in alignment with our party's values.

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: kim cameron-webb
To: [Boulder County Oil and Gas Comment](#)
Subject: Please DO NOT allow fracking in Boulder County
Date: Tuesday, March 14, 2017 8:43:04 AM

I'm very concerned about the effects of this activity on wildlife and on groundwater, as well as the potential for earthquakes. We need to switch to solar and wind! Please do not allow this activity. Thank you.

Kim Cameron-Webb
Ponderosa Drive
Boulder

From: Ree O'Winds Mitchell
To: [Boulder County Oil and Gas Comment](#)
Subject: FRACKING
Date: Tuesday, March 14, 2017 9:10:46 AM

WAKE UP BEFORE IT'S TOO LATE

!!!!!!!!!!!!!!!!!!!!

If we as CITIZENS have NO ABILITY, or RIGHTS to keep our AIR, WATER, and SOIL SAFE, and our PROPERTY VALUES from being DEVALUED, then WHAT RIGHTS DO WE HAVE !!!!

WE OWE PROTECTION TO OUR CHILDREN and THE GENERATIONS TO COME! WE BEG YOU TO NOT LET FEAR OR TEMPORARY MONETARY GAIN BLIND YOU!

IT IS OUR SACRED DUTY to BE GOOD STEWARDS of THIS PRECIOUS EARTH and NOT LET the GREED and SHORT SIGHTEDNESS of the GAS AND OIL INDUSTRY DESTROY OUR HOME !!!

WE PLEA FOR YOU TO BE STRONG, BRAVE, CARING, and DARING to HAVE THE COURAGE TO STAND UP AND **FIGHT THIS DANGEROUS AND DESTRUCTIVE FRACKING FORCE FOR THE SAKE OF ALL LIFE !!!!!!!!!!!!!!!!!!!!!!!**

From: Ree O'Winds Mitchell
To: [Boulder County Oil and Gas Comment](#)
Subject: Fwd: FRACKING
Date: Tuesday, March 14, 2017 9:12:09 AM

Begin forwarded message:

From: Ree O'Winds Mitchell <reeowinds@gmail.com>
Date: March 14, 2017 9:10:39 AM MDT
To: oilgascomment@bouldercounty.org
Subject: FRACKING

**WAKE UP BEFORE IT'S TOO LATE
!!!!!!!!!!!!!!!!!!!!**

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OF ALL LIFE !!!!!!!!!!!!!!!!!!!!!!!**

From: kelly emmanuella bartell
To: [Boulder County Oil and Gas Comment](#)
Subject: Extend Moratorium
Date: Tuesday, March 14, 2017 9:15:53 AM

Dear County Commissioners,

I strongly urge you to continue to uphold our moratorium against fracking. We must be a voice against the wholesale destruction of Colorado-now slated by big oil to become the next National Sacrifice Zone....Sincerely,

K R Bartell

563 West Cedar Place

Louisville, CO 80027

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To be happy for an hour, get drunk;

To be happy for a year, fall in love;

To be happy for life, take up Gardening!

Kiss of the Deva : Permaculture Design and Maintenance

From: Kieuly Dang
To: [Boulder County Oil and Gas Comment](#)
Subject: Regarding Oil and Gas Moratorium 2017
Date: Tuesday, March 14, 2017 9:33:32 AM

Hello County Commissioners,

I'm sure you've heard a number of testimonies, facts, fiction, and queries. I will not bore you with anymore of what you have already heard. Rather, I ask you to contemplate the following three questions when casting your vote:

1. Will your decision matter 10 years from now?
2. Will you be able to live with the decision you make for the rest of your life?
3. If you were on your death bed, what decision would you make?

Thank you for carrying out the tough decisions you must make. I might not agree with some of your decisions but I respect you for taking on the responsibility of the community.

Best,
Kieuly Dang
4560 Arapahoe Ave, Unit A
Boulder, CO 80303
303-502-7979

From: Arthur Gabriel
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking Moritorium
Date: Tuesday, March 14, 2017 9:41:38 AM

Commissioners,

Stand up to the Colorado AG and the Oil and Gas industry that wants to pollute our air and water.

The USA currently has way more oil and gas production then we need for domestic use. The industry just wants to sell it abroad while we suffer the environmental damage.

Art Gabriel,
Boulder.

From: Mari Heart
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking regulations
Date: Tuesday, March 14, 2017 9:48:03 AM

Dear Commissioners,

Thank You for standing for the health and well-being of every citizen in Boulder County. We need the most stringent fracking regulations on this dangerous activity possible. We know drinking water is poisoned by this activity. We know that air-quality is diminished by this activity. We know this activity should not be located anywhere near residences, schools, farm animals, watersheds, or anywhere that could cause public harm. I support your actions in safeguarding the health of every person in Boulder County. We must consider the impact such activities might have now as well as into the future.

Sincerely,
Mari Heart

Sent from my iPhone

From: Toby Schunck
To: [Boulder County Oil and Gas Comment](#)
Subject: Reference DC-16-0004
Date: Tuesday, March 14, 2017 9:49:15 AM

Dear Boulder County Commissioners,

Please do everything in your power to prevent, delay, obstruct, inconvenience and discourage oil and gas development in beautiful Boulder County.

We must preserve our home. We must protect our environment. We must protect our children, animals and all living things from this horrible destruction.

Please sell your gasoline & diesel powered and buy an electric car.

Please encourage all your Longmont friends to contact the City Utility Office to subscribe to clean Wind Energy!!!!

Thank you for standing up for all of us.

Best wishes and many thanks,

Toby Schunck
Longmont, CO

From: Barb Grant
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Tuesday, March 14, 2017 9:52:37 AM

I moved to Boulder from Wisconsin and know that fracking sand mined there leads to many local health concerns from blowing sand. Using less here will also be good for the Badgers!

Thank you for passing regulations that reduce the impacts of fracking within current laws and for defending Boulder County against ending the present moratorium prematurely. We won't have many chances to legally limit fracking and minimize its deleterious affects.

I ask that you make sure there are funds to monitor and enforce air, water, and soil monitoring regulations.

Last, I ask that you prohibit deep well wastewater injection within Boulder County's borders. Permanently messing with geology we do not fully understand is even worse than fracking's immediate impacts.

Thank you.
Barb Grant

From: Rachel Nypaver
To: [Boulder County Oil and Gas Comment](#)
Subject: Boulder County Oil and Gas
Date: Tuesday, March 14, 2017 10:04:21 AM

Dear County Commissioners,

First of all, I want to thank you for all the hard work you've put in to protect the the beautiful land in Boulder County. I know it may not be a popular position in our current economy and your strength to stay strong on the matter is greatly appreciated (and a blessing in my life).

With that, I ask that you continue to stay strong and protect the land by adding a prohibition on deep well water water injection and that sufficient funds are budgeted for air, water, and soil monitoring.

Thank you so much for taking the time to read this!

Smiles,

Ray

--

Rachel A. Nypaver

"(Wo)men cannot discover new oceans unless (s)he has the courage to lose sight of the shore." - Andre Gide

From: keng4java@netscape.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Updated Fracking Regulations
Date: Tuesday, March 14, 2017 10:11:41 AM

Thank you for taking the time to rewrite the oil and gas regulations to limit the impacts of fracking on our community. Maintaining a health environment is more important than fossil fuel company profits. In addition, please budget sufficient funds for air, water, and soil monitoring and to conduct independent studies of the environmental effects of fracking. Defend strong local regulations, including going to court if necessary.

To further protect our local environment, I respectfully ask you to ban fracking wastewater injection in Boulder county. This practice has been linked to an increase in earthquakes around the country and can also pollute the groundwater. Also, please encourage Boulder county municipalities to not sell their water to frackers. Make it clear to frackers that it won't be easy or inexpensive to poison the environment of Boulder county. Thank you.

Ken Gamauf

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#326]
Date: Tuesday, March 14, 2017 10:32:34 AM

Name * Kristin Creamer

Email * kristincreamergmail.com

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Support for Fracking Moratorium

Comments, Question or Feedback * Dear Commissioners,

I want to email you with my support of your attempts to protect the health and rights of your citizen constituents. Please continue to do so – even in the face of adversity. Many of us are grateful for your efforts to make thoughtful, intentional decisions that will provide long-term benefits to our county as opposed to short term financial gain.

Keep up the good fight in this and in other matters.

Good luck tonight!
Kristin

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#327]
Date: Tuesday, March 14, 2017 10:38:49 AM

Name * Leslie Brown

Email * leslie.brown@aggiemail.usu.edu

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Oil and Gas Development

Comments, Question or Feedback *

Thank you for your work on behalf of Boulder County! I'm writing to urge you to implement the strictest possible regulations on oil and gas development in our county. I find it inconceivable that we are not able to ban this development at the local level as the majority of us would like, and I understand that puts you in a very difficult position with regards to protecting citizens while obeying state law. So I would like to add my voice to the chorus for doing absolutely everything we can to prevent the harm done to air, water, land, and people's health from oil and gas development. Please know that I also wrote to the state attorney general expressing my outrage over the lawsuit against Boulder County over the moratorium on behalf of the oil and gas industry. I told the AG that I was not happy that my tax dollars were being spent on this unnecessary lawsuit--that it was a waste of time and money at both the state and county levels. Again, thank you for all you are doing!

Please check box below *

- I acknowledge receipt of the Open Records Notification

From: Erica Ellis
To: [Boulder County Oil and Gas Comment](#)
Subject: No Fracking in Boulder County
Date: Tuesday, March 14, 2017 10:43:45 AM

Dear County Commissioners,

First of all, I would like to thank you for producing regulations that will reduce the impacts of fracking in the current state law and for defending the county against attempts to end the present moratorium prematurely. I know this work is not easy and you are under tremendous pressure, but I assure you that your efforts are appreciated more than you know and are vital to the safety of our communities.

I encourage you, the commissioners, to add a prohibition of deep well wastewater injection within our county borders. This type of disposal has resulted in earthquakes in several communities, including Colorado and Oklahoma. Please dispose of this waste elsewhere, in a manner that will not damage our homes, our community, our wild.

I also ask that you make sure there is sufficient funds to increase air, water and soil monitoring to make sure that there are not negative impacts to our resources.

Lastly, I ask you to encourage Boulder County Municipalities to NOT sell their water to frackers. Clean water is necessary for fracking and I know these drillers are willing to pay several times the going rate and that this is a very serious temptation, but fracking will cost the community so much more money in the long run. Lets not be shortsighted. The City of Boulder has banned this practice, lets encourage others to do so as well.

Thank you so much for your time and consideration.

Sincerely,

Erica Ellis
Boulder, CO 80305

From: Frankie Pratt
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil and gas development of Boulder County
Date: Tuesday, March 14, 2017 10:47:46 AM

Please do everything in your power to prevent oil and gas development in Boulder County. I am a long time resident of Boulder County and feel proud to live in such a beautiful place, one that many others come to visit for vacation. The oil and gas wells are a threat to the environment and our wellbeing, not to mention that they contribute to global warming. We no longer have the luxury of waiting, the time for investment in alternative fuels is now.

Thank you for your time,

Frankie Pratt

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Penny Francesca "Frankie" Pratt--

"Well behaved women rarely make history" ~ Laurel Thatcher Ulrich

From: Renee Hummel
To: [Boulder County Oil and Gas Comment](#)
Subject: Protect Us from Fracking!
Date: Tuesday, March 14, 2017 10:48:00 AM

DEAR COUNTY COMMISSIONERS:

THANK YOU FOR PRODUCING REGULATIONS THAT WILL REDUCE THE IMPACTS OF FRACKING WITHIN THE FRAMEWORK OF PRESENT STATE LAW.

THANK YOU FOR DEFENDING THE COUNTY AGAINST AN INDUSTRY/STATE ATTEMPT TO END THE PRESENT MORATORIUM PREMATURELY. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

PLEASE, PLEASE, PLEASE ADD A PROHIBITION OF DEEP WELL WASTEWATER INJECTION WITHIN COUNTY BORDERS. Disposal of this sort elsewhere (e.g. Oklahoma, and even in Colorado in the past) has resulted in earthquakes.

PLEASE MAKE SURE THAT SUFFICIENT FUNDS ARE BUDGETED FOR THE INCREASED AIR, WATER AND SOIL MONITORING REQUIRED IN THE REGULATIONS.

PLEASE DO ALL THAT YOU CAN TO ENCOURAGE MUNICIPALITIES TO NOT SELL THEIR WATER TO FRACKERS. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

Most sincerely,

Renée Hummel
5000 Butte St Lot 233
Boulder, CO 80301

From: Elisabeth Gick
To: [Boulder County Oil and Gas Comment](#)
Subject: stay strong and keep it in the ground!
Date: Tuesday, March 14, 2017 10:50:29 AM

Dear commissioners,

I want to thank you very much for having been strong, determined and brave. Please keep it up and keep fossil fuels in the ground. You know all the arguments, be assured that we have your backs.

I am full support of your resistance to fracking in Boulder County, of putting health and safety before the profits of a few.

In solidarity,
Elisabeth Gick
80304

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be vocal, be visible, push back
350colorado.org - because there is no planet B

From: Cheryl
To: [Boulder County Oil and Gas Comment](#)
Subject: Comment
Date: Tuesday, March 14, 2017 11:25:15 AM

To Boulder County Commissioners:

I'm a property owner in Northeastern Boulder County and I'm once again writing to state my opinion on allowing oil and gas drilling in unincorporated Boulder County. I understand that citizens do not want a rig next to their home or school but in my case, I live on property that is not part of a neighborhood. For property owners like me, we should be allowed the opportunity to use our mineral rights. Of course I want it done safely; we already have tough laws on the books for this. I'm sure some of the citizens that are against energy development live in homes and drive vehicles that involves energy. We all depend on energy. Try going one day without electricity and no car and see how that goes.

The anti-fracking groups do not not speak for me. I'm tired of reading that they do. Not every citizen in Boulder County is against energy. Please follow the law and allow me to utilize my mineral rights.

Thank you

From: Mike Duffy
To: [Boulder County Oil and Gas Comment](#)
Subject: O&G modified regs comments.
Date: Tuesday, March 14, 2017 11:38:12 AM

Good morning,

It looks like a solid effort on the proposed modifications, particularly where pipelines are concerned.

I noticed two things in my readings:

1st, insurance minimums for operators seems low. As a contractor in this area, \$1 million is the standard for small contracting jobs. To be able to work in some of the more stringent places in the area, like Coors or Intel, \$5 million is the minimum for insurance coverage. That standard puts the onus on the contractor/operator to insure competent personnel are on site, and are capable of understanding and safely complying with all of operating procedures and regulations.

2nd, In attachment A article 12-700 S. 3)a) reference to operator notification of a leak "immediately" should be further defined as a MAXIMUM within 24 hours, rather than a minimum. Perhaps the same for an "out of service" notification due to test failure? Though that may be a less serious, it seems a maximum time duration should be defined, rather than allowing the operator to define "immediately"

Cheers,

Mike Duffy
mkduffy12@gmail.com
303.859.9851

From: andrew oconnor
To: [Boulder County Oil and Gas Comment](#)
Subject: 2017-18 #13 Colorado Severance Tax on Oil and Natural Gas Extraction
Date: Tuesday, March 14, 2017 11:44:04 AM
Attachments: [Colorado Oil and Natural Gas Severance Tax Initiative.docx](#)

Please find attached Initiative 2017-18 #13 Colorado Severance Tax on Oil and Natural Gas Extraction, which has a first hearing scheduled for March 24 at 1:30 pm before the Colorado House of Representatives. Please add this to the record. I would like the Boulder Board of County Commissioners to consider collecting a 10% severance tax on any oil or natural gas extraction in Boulder County.

Thank you.

Andrew J. O'Connor

From: leafbud@comcast.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking moratorium comments
Date: Tuesday, March 14, 2017 11:45:25 AM

Hello County Commissioners,

My name is Deborah Bernardoni and I live in Boulder, CO. I first want to thank you for producing regulations that will reduce the impacts of fracking within the framework of the present state law. These are vital to our health and the value of our county. I also want to thank you for defending our county against the attempt to end our present moratorium prematurely.

I want to encourage you to add a prohibition of deep well wastewater injection within our county borders. We know such activity has led to earthquakes in Oklahoma. I also ask you to make sure that sufficient funds are budgeted for the increased air, water and soil monitoring required in the regulations. And I ask that you encourage boulder country municipalities to avoid and deter any sales of water to frackers.

Clean water is needed for much more important causes - people, livestock, farming, the environment, etc. - than for fracking. Do not be tempted by the extra revenue from selling our precious water.

Thank you,
Deborah Bernardoni
80304

From: jan larsen
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking Moratorium
Date: Tuesday, March 14, 2017 11:51:01 AM

Commissioners,

Please oppose the Oil & Gas Industry efforts to profit from polluting our air & water. There is ample gas supply and these companies continue to be highly profitable while ignoring the rights of ordinary citizens of Colorado. Your job is to protect us!

Jan A Larson
Longmont , Co.

1295 WILDWOOD ROAD
BOULDER, CO 80305
720.212.0831 (OFFICE)



DAN LEFTWICH, ATTORNEY
DAN@MINDDRIVELEGAL.COM
720.470.7831 (CELL)

MINDDRIVE
LEGAL SERVICES, LLC
WWW.MINDDRIVELEGAL.COM

Originally submitted December 14, 2016 (revised January 31, 2017)
By email: oilgascomment@bouldercounty.org
To: Boulder County Commissioners
Subject: Boulder County Proposed Regulations on Oil and Gas Operations

Dear Boulder County Commissioners,

First, I want to thank the Commissioners and staff for their efforts to identify the critical hazards of oil and gas development in the county and to craft proposed regulations that help mitigate those hazards. I know the county's legal and land use staff are doing all they can to protect the county's interests. I hope to provide insights into some of the legal interests of your constituents.

The opinions expressed here are my personal opinions, based on more than 25 years of legal experience, including successful class action litigation against Fortune 100 corporations, involving antitrust, corporate fraud, constitutional law and preemption issues. I am also co-counsel for the youth plaintiffs in the *Roske et al. v. COGCC* litigation seeking to halt oil and gas permits until the state can demonstrate that fracking can be done in a manner consistent with the protection of the public health, safety and the environment. In my opinion, the Commissioners have a constitutional duty to protect the public health, safety and the environment from fracking, and a fiduciary duty to preserve the value and environmental integrity of the Boulder County Open Space and Sustainability Initiatives, even if it means litigation will ensue against the State and COGA.

To address the concerns of citizens, the Commissioners have chosen to rely solely on what are being called the toughest regulations possible on permit applicants, on the premise that the county cannot extend the moratorium on new oil and gas development beyond a short period due to the preemption rulings of the Colorado Supreme Court. While the Commissioners may view their options solely through the lens of what the legal staff considers is allowed by the COGCC and the Colorado Supreme Court, I urge you to include the citizens' rights in that consideration, not just the county government's authority.

The Citizens of Boulder County Do Not Have to Wait for Harm to Be Done, They Have the Right to Use the Precautionary Principle for Protection

Following yesterday's hearing, at which the Commissioners extended the current moratorium to May 1, 2017, Commissioner Jones reportedly said it is "absolutely critical" to have adequate regulations in place when Boulder County's moratoriums end and the county begins accepting, reviewing and processing applications for drilling wells, producing oil and

gas, and locating pipelines and other oil and gas facilities in unincorporated parts of the county. http://www.dailycamera.com/news/ci_30656894/boulder-county-again-extends-moratorium-oil-and-gas While I agree with the Commissioners' decision to enact updated and tougher regulations as a contingency, those regulations, however strict, cannot be the only protection for the citizens of this county.

Other counties and cities have promised citizens they have the toughest regulations, or the most rigorous MOU, in the state, and that has not stopped predatory oil and gas operators from posing grave threats to the public health and safety. For example, Broomfield County assured its citizens the MOU with Sovereign Operating Company would protect them. Now the County is dealing with alleged misrepresentations by the current operator, Extraction Oil and Gas, about its plans which have far exceeded what the County told its citizens would be allowed. See *Broomfield residents upset about plan for over 100 oil wells near neighborhood*: <http://kdvr.com/2016/11/18/broomfield-residents-upset-about-plan-for-over-100-oil-wells-near-neighborhood/>. Similar allegations about Extraction's tactics were raised in a lawsuit against the state by residents in Weld County. 12/18/16 Colorado Independent: *Greeley residents sue state oil and gas commission over neighborhood drilling rules*: <http://www.coloradoindependent.com/162589/greeley-residents-lawsuit-cogcc>.

Broomfield has now proposed a new 6 month moratorium, apparently triggered by the public outcry over the dispute with Extraction. Beyond that token measure, however, Broomfield's leaders fall back on the same excuse -- their "toolkit is limited" by the COGCC and the Supreme Court. The "people's toolkit" however, is not so limited. The citizens of Boulder County don't have to sit idly by and accept this type of corporate predation, simply because the COGCC says it is acceptable.

We know for a fact that the COGCC is not protecting the public health, safety and environment from oil and gas operations. See e.g. 4/21/15 Denver Post: <http://www.denverpost.com/2015/04/21/noble-energy-settles-state-federal-pollution-claim-could-spend-73-5-million-on-fines-fixes/> (COGCC allowed Noble Energy to continue business as usual for years while the company's tank batteries were emitting thousands of tons of VOCs a year, adding to the region's ozone problem, until the EPA forced Noble to pay millions in fines and to fix the leaks); Earthworks COGCC Enforcement Report: <https://www.earthworksaction.org/library/detail/enforcement-report-cogcc-.WFCY-KlrI9Y> ("Inspection capacity is inadequate; Violations inadequately reported and tracked; Fines are rarely issued to violators and inadequate to prevent irresponsible behavior; The environment is not protected"); 2015 NRDC Paper: Fracking's Most Wanted: <http://www.nrdc.org/land/drilling/files/fracking-company-violations-IP.pdf> p.5 ("Between 2009 and 2013, 2,369 spills were recorded in Colorado, but only 1,022 Notices of Alleged Violation were issued—for spills and all other legal infractions"); 10/23/16 Colorado Independent: FRACTURED, Part IV: Why it took years to shut down Texas Tea: <http://www.coloradoindependent.com/161846/fractured-teas-tea-shut-down-regulation-cogcc-fracking> (COGCC "tagged Texas Tea with repeated violations dating back to 1999, including spills, mechanical failures, abandoned wells and, as time went on, accumulating unpaid fines" . . . "Eighteen years passed between the first violation notice and the shutdown order. In that time, Texas Tea racked up 54 more violations and accrued fines of more than \$320,000, which will likely go unpaid. In the aftermath of the company's closure, the city of Brighton and other communities have been left with abandoned wells that local officials fear may leak into the community's groundwater. Meanwhile, Texas Tea's financial guarantee,

even combined with the potential sale of its assets, almost certainly won't be enough to cover the cleanup and plugging of its wells. . . ."). These examples are just the tip of the iceberg, gleaned from public reports. Discovery in litigation would undoubtedly paint a far bleaker picture of the COGCC's enforcement history.

Will Boulder County's proposed regulations protect the people of this county? Citizens should not have to wait until the harm is done to find out -- we have enough information about the harm being done all along the Front Range and elsewhere in Colorado to know the Precautionary Principle is our only protection. See American Public Health Association: The Precautionary Principle and Children's Health: <http://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/14/10/56/the-precautionary-principle-and-childrens-health>.

Boulder County Is Not Prevented From Enacting a New Moratorium By the Supreme Court's Opinion in the City of Longmont and City of Fort Collins Cases

Contrary to the Commissioners' statements, the Supreme Court ruling does not bar the county government or the citizens of Boulder County from litigating the preemption issues on their own terms, employing their own defenses. The citizens of Boulder County have unique defenses to preemption that were not addressed in the *City of Longmont* and *City of Fort Collins* cases, we were not parties to those cases, and we have a constitutional right to a full and fair opportunity to litigate the issues raising our own defenses and constitutional claims. *Bebo Const. Co. v. MATTOX & O'BRIEN, PC*, 990 P.2d 78 (Colo., 1999) (setting out requirements for issue preclusion). See also *Blonder-Tongue Laboratories, Inc. v. University of Ill. Foundation*, 402 US 313, 329-30 (1971) (re: claim preclusion: "Some litigants—those who never appeared in a prior action—may not be collaterally estopped without litigating the issue. They have never had a chance to present their evidence and arguments on the claim. Due process prohibits estopping them despite one or more existing adjudications of the identical issue which stand squarely against their position."). To put it simply, we have a constitutional right to our day in court. *Taylor v. Sturgell*, 553 U.S. 880, 892-93 ("A person who was not a party to a suit generally has not had a 'full and fair opportunity to litigate' the claims and issues settled in that suit. The application of claim and issue preclusion to nonparties thus runs up against the 'deep-rooted historic tradition that everyone should have his own day in court.'") (citations omitted).

Furthermore, the county government is not limited to the governmental entity. The county has a duty to defend the citizens' rights embodied in the county government's policies. If the County Commissioners view their obligations as limited to the protection of the governmental entity's interests, leaving the citizens to fend for themselves, that presents conflicts with your responsibilities described below.

The Boulder County Open Space Is a Public Trust, and County Commissioners are Trustees With A Fiduciary Duty to Preserve the Value of the Trust For Beneficiaries

This November, Boulder County voters approved Ballot Issue 1B (Resolution 2016-77) to extend through 2034 collection of one-half of the existing 0.25% countywide open space sales and use tax and for the issuance of an additional \$30 million in Open Space Capital Improvement Trust Fund Bonds. This is the third extension of the original ballot measure in

1993, for approval of open space funds to acquire, improve, and protect open space lands in the County. In the original ballot measure in 1993, and every measure presented to voters since, the following language has been included:

"WHEREAS, there is a critical need for the preservation of open space lands in Boulder County, preserved open space being a fundamental shared value of the citizens of Boulder County. . . .

Open space shall serve one or more of the following functions:

- (a) urban shaping between or around municipalities or community service areas and buffer zones between residential and non-residential development;
- (b) preservation of critical ecosystems, natural areas, scenic vistas and areas, fish and wildlife habitat, natural resources and landmarks, and cultural, historical and archeological areas;
- (c) linkages and trails, access to public lakes, streams and other usable open space lands, stream corridors and scenic corridors along existing highways;
- (d) areas of environmental preservation, designated as areas of concern, generally in multiple ownership, where several different preservation methods (including other governmental bodies' participation or private ownership) may need to be utilized;
- (e) conservation of natural resources, including but not limited to forest lands, range lands, agricultural land, aquifer recharge areas, and surface water;
- (f) preservation of land for outdoor recreation areas limited to passive recreational use, including but not limited to hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing.

Once acquired, open space may be used only for passive recreational purposes, for agricultural purposes, or for environmental preservation purposes, all as set forth above." (emphasis added). See resolutions and ballot measures at:

<http://www.bouldercounty.org/os/openspace/pages/openspacefunding.aspx>

According to the express mandate of these voter approved ballot measures, the Commissioners cannot allow fracking operations on Boulder County open space, regulated or not. The approval of taxes for the acquisition of more than 100,000 acres of preserved open space, being a "fundamental shared value of the citizens of Boulder County," created a public trust, which is to be preserved, protected and administered by the Commissioners as trustees. A trust is created when property is conveyed with the requirement "that the property be used for a specific benefit of others" and where the relevant provisions in the governing agreements or statutes contain "'an enumeration of duties" including "explicit restrictions on how the lands could be managed or disposed . . .". See e.g. *Branson School Dist. RE-82 v. Romer*, 161 F.3d 619, 634 (10th Cir. 1998) (Colorado State Board of Land Commissioners were trustees with a fiduciary duty to the public in management of Colorado Land Trust).

The Open Space Resolutions at issue here clearly set out the responsibilities of the Board of County Commissioners to acquire open space lands for the benefit of the citizens of Boulder County and contain an "enumeration of duties" including specific restrictions on how the lands can be managed or disposed. See e.g. 1993 Resolution No. 93-174 at 6-9. <http://www.bouldercounty.org/doc/parks/resolution93-174.pdf> Moreover, Boulder

County Parks and Open Space is a public agency member of the Colorado Coalition of Land Trusts. <http://www.cclt.org/public-agency-members/>.

It is fundamental trust law that trustees have a fiduciary duty to administer the trust in a way that protects the beneficiaries, which are the citizens of Boulder County, present and future. See e.g. C.R.S. 15-1-804(1) (2016) Title 15. Probate, Trusts, and Fiduciaries; Article 1. Fiduciary; Part 8. Powers (emphasis added):

"In the exercise of any of his powers, whether derived from this part 8 or from any other source, a fiduciary has a duty to act reasonably and equitably with due regard for his obligations and responsibilities toward the interests of beneficiaries and creditors, the estate or trust involved, and the purposes thereof and with due regard for the manner in which men of prudence, discretion, and intelligence would act in the management of the property of another."

See also *Aspen Wilderness Workshop, Inc. v. Colorado Water Conservation Bd.*, 901 P.2d 1251, 1259 (Colo. 1995) (Colorado Conservation Board acts on behalf of the people of the state of Colorado and is thereby burdened with a fiduciary duty to protect the public in the administration of its water rights decreed to preserve the natural environment). Therefore, the County Commissioners have a fiduciary duty to preserve the value and integrity of the open space lands for their intended purposes, not just from fracking operations on the surface estate.

Boulder County's Sustainability Initiatives Are Also Part of the Public Trust

In 2005, the Commissioners launched the Boulder County Sustainability Initiatives. <http://www.bouldercounty.org/doc/sustainability/sustainplanwebv.pdf>

In announcing the Boulder County Sustainability Plan, the Commissioners promised:

"By prioritizing environmental sustainability, we can achieve higher economic vitality in our communities, ensure cleaner air and water for the well-being and public health of our residents, and combat major environmental issues, such as climate change. By striving to become as environmentally sustainable as possible, we are supporting myriad human and environmental benefits for our county and beyond."

In 2016, Boulder County voters also approved Resolution 2016-79, to extend one-half of the existing open space sales and use tax for continued funding of the Boulder County Sustainability Initiatives. One premise for this approval was the following statement:

"The Boulder County Board of County Commissioners (the "Board") finds it is paramount to increase infrastructure and programs that will ensure the environmental, social and economic well-being of the County and its natural and human resources for present and future generations."

The same elements of a trust are present in the Sustainability Initiatives program. See http://www.bouldercounty.org/doc/bocc/2016-79_sustainability.pdf at 1-3 (purposes to benefit the public); 9-11 (enumeration of duties with specific restrictions on how the funds can be used).

Allowing fracking in Boulder County, even heavily regulated, is antithetical to the environmental and economic sustainability goals mandated by the voters for more than 20 years. Numerous health and environmental impact studies demonstrate this fact. See e.g. Concerned Health Professionals of New York, Nov. 17, 2016 *Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking, Fourth Edition*: http://concernedhealthny.org/wp-content/uploads/2016/12/COMPENDIUM-4.0_FINAL_11_16_16Corrected.pdf. The climate crisis is rapidly intensifying, and threatens our economy, environment, health and safety. The latest news on that front is alarming to say the least. Bill McKibben, 3/23/16 Nation: *Global Warming's Terrifying New Chemistry: Our leaders thought fracking would save our climate. They were wrong. Very wrong*: <https://www.thenation.com/article/global-warming-terrifying-new-chemistry/>. The county's Sustainability Initiatives are part of the citizens' protection against these threats.

With numerous votes on open space and sustainability initiatives, the people of this county have given you an emphatic message: we want our families to live in a healthy and sustainable environment, with clean air and water, renewable energy and policies to limit greenhouse gases to help reduce our contribution to the climate crisis. The Commissioners have a duty to defend those policies to "*ensure the environmental, social and economic well-being of the County and its natural and human resources for present and future generations.*"

The Commissioners Have the Authority, and the Fiduciary Duty, to Use Trust Funds for the Defense of Our Open Space and Sustainability Programs

The Commissioners have a responsibility to put the citizens' rights above the limits on your authority imposed by the state. The fiduciary duty is the highest duty known in law, it requires the trustee to administer the trust solely for the benefit of the beneficiaries, and it supersedes any loyalty owed to the state. *Accident & Injury Med. Specialists, P.C. v. Mintz*, 279 P.3d 658, 663 (Colo. 2012) (legal duties owed by a fiduciary include a duty to act with utmost loyalty on behalf of, and for the benefit of, the beneficiaries, not third parties). See also *Branson School Dist. RE-82 v. Romer*, 161 F.3d 619, 631 (10th Cir. (Colo.), 1998):

[P]laintiffs, as beneficiaries of what we hold to be a federal trust over the school lands, have a legally cognizable interest in the undivided loyalty of the school lands trustees. See Restatement (Third) of Trusts § 170(1) (1992) ("The trustee is under a duty to administer the trust solely in the interest of the beneficiaries."). As the Restatement commentary makes clear, "In administering the trust the trustee is under a duty to the beneficiaries not to be influenced by the interest of any third person or by motives other than the accomplishment of the purposes of the trust." *Id.* cmt. (q).

If the Board of County Commissioners' Relationship With the State Presents a Conflict of Interest, An Independent Trustee May Be Appointed By the Court

I am, of course, aware of the general rule that a county board of commissioners lacks standing to sue a superior state agency. See e.g. *Romer v. Board of County Com'rs of County of Pueblo, Colo.*, 956 P.2d 566 (Colo., 1998) ("As a subordinate agency of the state, the County may seek judicial review of the [state agency's] action only if the General Assembly so

provided by express statutory authorization."); *Board of County Com'rs v. COGCC*, 81 P.3d 1119 (Colo. App. 2003) (citing C.R.S. § 24-4-106(4.5), of the APA as authority for County Commissioners to seek judicial review of agency action that "involves" any duty or function of the named county officials."). However, every trustee in Colorado has the power and the responsibility to use trust resources to defend the trust in litigation and to protect the interests of the beneficiaries. C.R.S. 15-1-804(2)(q) (2016) Title 15. Probate, Trusts, and Fiduciaries; Article 1. Fiduciary; Part 8. Powers:

(2)(q) To advance money for the protection of the estate, or the trust, or the assets thereof and for all expenses, losses, and liabilities incurred in or by the collection, care, administration, or protection of the estate, or trust, or the assets thereof. For all such advances, the fiduciary shall have a lien on the estate or trust assets and may reimburse himself with interest at a reasonable rate out of the estate or trust.

See also C.R.S. 15-1-804(1), *supra*. These statutory provision would appear to provide specific standing for the County Commissioners, as trustees for the Open Space and Sustainability Initiatives, to sue the state to protect the value and integrity of the trust assets. Should the County Commissioners disagree with that authorization, or if a court were to reject it as a basis for standing, the County Commissioners should petition a court to appoint an Independent Trustee to take legal actions against the state if necessary to protect the Trust. See e.g. C.R.S. §15-1-1401(1)(b) (describing process for seeking appointment of Independent Trustee).

Otherwise, the County Commissioners must provide the resources for the beneficiaries of the trust, the citizens of Boulder County, to sue for the protection of their own property. See e.g. *Friends of Black Forest v. COUNTY COM'RS*, 80 P.3d 871, 877 (Colo. App. 2003) ("Where, as here, the land is public, an organization whose members have, or individuals who have, rights to be on the land and use the land may bring a suit if those protected rights are in jeopardy." (citations omitted)); *Brotman v. East Lake Creek Ranch, LLP*, 31 P.3d 886, 895 (Colo. 2001) ("A trustee has a duty to administer the trust solely in the interest of the trust beneficiary. Restatement (Second) of Trusts § 170. Only a beneficiary or one suing on his or her behalf can maintain a suit against the trustee to enforce trust responsibilities or to enjoin or obtain redress for a breach of trust. Restatement (Second) of Trusts § 200.").

In the event the county is sued by the state over its regulations, the citizens of Boulder county could seek to intervene to protect their interests or file a separate class action for that purpose. To date, more than \$100 million has been authorized by the citizens of this county for open space acquisition, improvement and protection, and to fund our Sustainability Initiatives. A prudent trustee would set aside a portion of the available funds for a Legal Defense Trust Fund to protect the Open Space Trust against any lawsuit brought to force the county to allow fracking. That would include the advancement of litigation costs to pay for a class action defense on behalf of the beneficiaries, by an Independent Trustee or the beneficiaries themselves, if they are left to defend the Trust.

Boulder County Residents Have Vested Constitutional Rights to Preserve the Value of Our Open Space and Sustainability Initiatives

Boulder County citizens have constitutional rights (what are called "vested rights") to protect our open space and sustainability initiatives from being impaired, and those rights cannot be preempted by the State or COGA acting as its proxy. See Colo. Const. art. II, § 11:

"Ex post facto laws. No ex post facto law, nor law impairing the obligation of contracts, or retrospective in its operation, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the general assembly."

See also U.S. Const. art. I, § 10: "No state shall . . . pass any . . . law impairing the obligation of contracts." Regarding the "contract clause" the United States Supreme Court has held that:

"[I]n assessing an alleged contract clause violation, the inquiry is whether the change in state law has operated as a substantial impairment of a contractual relationship. The answer to this inquiry involves consideration of three factors. First, the court must ascertain whether there is a contractual relationship; to establish this component, a party must demonstrate that the contract gave him a vested right. Second, a court must determine whether a change in the law impairs that contractual relationship. Third, a court must decide whether the impairment is substantial. The second two components are often considered together: To prove substantial impairment of a contractual relationship, a party must demonstrate that the law was not foreseeable and thus disrupts the parties' expectations." (citations omitted). *Gen. Motors Corp. v. Romein*, 503 U.S. 181, 186, (1992).

Starting in 1993, and continuing through at least 2034, Boulder County has entered into a series of enduring contracts with its citizens to use funds provided by the Open Space tax to acquire and protect open space land and develop sustainability programs for the purposes described in those contracts. The county also has intergovernmental agreements with the City of Boulder and other cities to preserve the value of open space lands. The state was well aware of these public trust agreements, as the Executive Director of the Colorado Department of Revenue has had the responsibility to collect, administer, and enforce the countywide sales taxes pursuant to these contracts. See e.g. Resolution No. 93-174 at 3-4; Resolution 2016-77 at 6. Boulder County also receives funds from the state, through the state lottery, for the purposes of acquiring and protecting open space land. Thus, the state has been an active participant in the administration and promotion of Boulder County's Open Space Trust. It was not foreseeable in 1993 that the state would come in more than 20 years later at the behest of the oil and gas industry to negate the value of those contracts.

The Citizens of Boulder County Also Have Constitutional Rights to Protect Their Lives, Liberties, Safety and Property From Fracking

At the founding of the Colorado Constitution, the people reserved the inalienable rights to defend their lives and liberties, protect their property, and obtain their safety against the state. See Colo. Const. art. II, § 3:

Inalienable rights. All persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

Inalienable rights cannot be taken away. Governments are instituted to secure these rights. Declaration of Independence: <http://www.ushistory.org/declaration/document/>. These rights would be meaningless if the people could not use the Precautionary Principle to prevent harm instead of waiting to sue for injuries after the fact.

The People's Constitutional Rights Cannot Be Preempted By the State

Constitutional rights cannot be preempted by the state, regardless of any state interest. See *Town of Telluride v. San Miguel Valley*, 185 P.3d 161, 169-70 (Colo. 2008): "[E]ven though the matter may be of statewide concern, the General Assembly has no power to enact any law that denies a right specifically granted by the Colorado Constitution The legislature cannot prohibit the exercise of constitutional . . . powers, regardless of the state interests which may be implicated by the exercise of those powers." "If a legislative act undertakes to limit the provisions of the Constitution, then in a contest, the Constitution survives and the act falls." *Yenter v. Baker*, 248 P.2d 311, 314 (Colo. 1952).

The Colorado Constitution explicitly places the people at the top of the hierarchy of power, over the general assembly. *Armstrong v. Mitten*, 37 P.2d 757, 758 (Colo. 1934) ("The people are sovereign. The General Assembly was created by them and is merely their agent."). Article II, §§ 1 and 2, of the Colorado Constitution are the people's Supremacy Clauses: (§1: "All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole."; §2: "The people of this state have the sole and exclusive right of governing themselves. . . ."). So, while the county may consider itself inferior to the COGCC, the people most certainly are not.

I welcome the opportunity to discuss ways we can work together to meet these challenges, but the county must lead as it has promised. As Commissioners, you swore to uphold the Constitution, and to "uphold the Vision Statement of the county and act in the best interest of its residents." <http://www.bouldercounty.org/gov/officials/pages/boccmmain.aspx>
I trust you take those oaths seriously and will act in the best interests of the residents of this county, even if it means you have to take risks that cannot be quantified with certainty. Current times demand such courage, and our lives depend on it. Thank you again.

Dan Leftwich

MindDrive Legal Services, LLC
1295 Wildwood Road
Boulder, CO 80305
dan@minddrivelegal.com

From: Michael Sweeney
To: [Boulder County Oil and Gas Comment](#)
Subject: Budget for legal expenses
Date: Wednesday, February 01, 2017 1:14:20 PM

Would the commissioners be willing to set aside money for resisting the Attorney General's lawsuit?

Also I think we will need to hire an attorney dedicated to the lawsuit.

From: feikenberry@comcast.net [<mailto:feikenberry@comcast.net>]
Sent: Wednesday, February 22, 2017 10:57 AM
To: Sanchez, Kimberly
Cc: feikenberry@comcast.net
Subject: fracking

WAKE UP COLORADO

Wake up Colorado! The thinly veiled dark underbelly of the oil and gas industry is continuing to destroy what we live here in Colorado; Clean air, clean water, snowcapped mountains, wildlife, streams to fish and rivers “oh the rivers” and a sense of place like no other in this world!

There are some 55,000 oil & gas wells in the state of Colorado and almost all of them are being fracked, at least 5 to 8 times!
What does this mean?

Each year the “FRACKING” industry in the state of Colorado use water to a level of some 25 times the capacity of Dillon Reservoir, while pumping at least 25 tons of active Volatile Organic Compounds (VOC’s) into our air, soil, and water with each well fracked. These Volatile Organic Compounds are known as “BTEX” commonly known as, Benzene, Toluene, Ethel Benzene, and Xylene. (large amounts other pollutants are emitted from each fracked well, including CO2 and methane, but the BTEX compounds are the most alarming !.

What is this doing to our health?

The University of Colorado Cancer Center has funded research to study the health effect of these loads of environmentally disastrous VOC’S hitting our environment!

The Colorado School of Public Health, University of Colorado was asked to conduct the research and have recently published their findings!

Simply put!

If you are a family of four living within 10 miles of a fracking well. You can expect at least two of your family members between the ages of 5-24 to be afflicted with either congenital heart disease or lymphocytic leukemia!

When you realize that the State regulates none of these pollutants and the Feds are specifically exempted from regulation, the citizens of this State need to “wake up” and react to a prospective calamitous future!

Bill Eikenberry 303 284 3382

Bio:

Regional Economist, Bureau of Reclamation, Denver Colorado

Economist, Bureau of Reclamation, Washington D. C.

Policy Analyst, Assistant Secretary, Program Development and Budget,
Department of Interior, Washington D.C.

Senior Policy Official, Assistant Secretary, Land and Water Resources.
Department of the Interior, Washington D.C.

Associate State Director Wyoming, Nebraska, Bureau of Land
Management, Cheyenne, Wyoming

Acting Director, Bureau of Land Management, Washington D.C

Acting Service Center Director, Bureau of Land Management, Denver,
Colorado.

Adjunct Professor, University of Wyoming, Laramie, Wyoming

From: feikenberry@comcast.net [<mailto:feikenberry@comcast.net>]
Sent: Friday, February 24, 2017 10:55 AM
To: Sanchez, Kimberly
Cc: feikenberry@comcast.net
Subject: FRACKING

Hi Kim,

I have a suggestion that I have been involved with in the past and it worked!

Turn this right back on the State!

With the evidence of the affect to the County of opening up the floodgates to fracking...McKenzie Study, EPA studies, et al, I would strongly advise for the County to go back to the State, and after siting the lack of State regulation, ask the State to sue the Federal Government for none enforcement of Federal Regulatory Laws; including but not limited to, the Clean Water Act (Safe Drinking Water Act), Clean Air Act, and RCRA (Resource Conservation and Recovery Act ...Hazardous Waste).

The flexibility that the County would have in reacting to the State would be immeasurable!

If the State ignores the request. Play it out!

If the State responds by saying they or the Feds can't enforce. Play that out. The public would simply love to hear that!

If the State continues to push for repeal of the moratorium. Play that out!

The fact that the County can argue that the health of the citizens are at stake, would be a powerful message to the public!

Bill

From: Gerard Gilliland [<mailto:gerardg@modelsw.com>]
Sent: Friday, February 24, 2017 11:00 AM
To: !CountyAttorney
Subject: Oil and Gas Drilling

Ben Pearlman,

I have two links that I would like you to pass on to the staff that is working on the new Oil and Gas drilling rules.

Safety Limits (Appendix B page 10):
<https://www.osha.gov/Publications/OSHA3843.pdf>

Depletion rates (Table 1, page 10, Wells 2014):
http://www.colorado.edu/business/sites/default/files/attached-files/colorado_oil_and_gas_update_-_prices_082015.pdf

I am modeling the Broomfield Sheridan 40 well pad and am disturbed with methane approaching the OSHA Lower Explosive Limit.

I question the horizontal wells and fracking getting more out. They are just getting it out faster.

Thank you,

Gerard Gilliland
gerardg@modelsw.com

From: Eileen Rojas
To: [Boulder County Oil and Gas Comment](#)
Subject: Board of County Commissioners' Public Hearing March 14
Date: Tuesday, February 28, 2017 6:18:37 AM

Dear Board of County Commissioners,

It want to thank you for attempting to create the strictest possible rules regarding fracking in the unincorporated regions of our County. I am a resident of Erie Village, in Erie, approximately 400 ft from Weld County and 1400 ft from the 15 well drill site, Woolley Becky Sosa (WBS). I can see the guard house from my driveway. I am very interested in attending and speaking at the meeting in March 14th. Unfortunately I have prior commitments that cannot be rescheduled. I want to include this email in the public record for this meeting, as this is the statement I was prepared to give.

Since learning about the proximity of the WBS site to my home, I have researched the health impacts of fracking. I even read (the very few) articles stating the overall benefits of fracking. Unfortunately, over time, the research that has shown no negative health consequences of living in such close proximity to fracking sites has not held up. It is unequivocal in my mind, as a Ph.D. level biomedical scientist, that living this close to WBS and the numerous other wells in Boulder and Weld counties is detrimental to my health and the health of my family.

I am well aware of the 2016 Colorado Supreme Court ruling denying cities the right to make individual regulatory decisions regarding such an invasive and controversial industry. I disagree with this. The rules and regulations on this industry which try to reduce the impact of fracking on its neighbors are not enough. As I prepare this email to you, it sounds as if the WBS site is drilling through pure metal. It is [9:30 PM](#).

Since mid-December we have been suffering through increasingly stench filled days and nights. At the beginning it used to occur 1-2 times a week. Starting in January, these odors have become a part of our daily routine. As the drilling is nearing its end, the stench is becoming stronger and permeates the eastern side of our neighborhood. The CDPHE informed me that if the smells are this intense during Phase 1 Drilling, then Phase 2, Completion, should be an odorous nightmare.

I contacted Crestone in October to ask for a 2nd community meeting regarding the WBS site after the 1st meeting was negligently scheduled with minimal notification of neighbors within 1/2 mile. I know I am not the only neighbor who asked. Nobody heard anything back. I have also called Crestone twice, approximately 6 weeks apart complaining about the horrible stench. I never did hear back, though one time the woman on the phone had the audacity to tell me that Crestone is not responsible for these horrendous odors. I mentioned this to a staff member at the CDPHE and they found that statement laughable. I have also called and sent emails to Crestone attempting to find out the current status of completion of Phase 1. I did finally receive a short email back telling me they are running on schedule. I am still searching for a more precise date for the beginning of Phase 2.

In my mind, Crestone, operating at the WBS site is not a good neighbor. They are noisy, smelly and non-communicative. I cannot believe that the BoT of the Town of Erie sits idly by while Crestone fills multiple neighborhoods with noise, air, and light pollution. Crestone is endangering our communities health, our investments in our homes, our schools, and is but

one of the major factors ruining the bucolic nature of our town and County. Please, Commissioners, put in the best and most harsh rules for this industry so that the residents and environment do not needlessly suffer from this greedy industry.

Sincerely,
Eileen S Krenzel Rojas, Ph.D.

From: Barbara Ehresman
To: [Boulder County Oil and Gas Comment](#)
Subject: against oil and gas development
Date: Tuesday, February 28, 2017 7:04:02 AM

As a resident of Boulder County, I am opposed to oil and gas development in our town. We successfully voted it down so why is it again appearing in our back yard? Why should any corporation benefit financially at the risk of the citizens? Why is it "breaking a law" for us to be opposed to it? In my opinion, fracking is dangerous to our land, air and water. The only way to ensure that there are no oil or gas accidents near our homes and water supplies is to prevent drilling near our homes and water supplies. It's my hope that we can keep populated areas in Boulder County free from fracking.

Barbara Sykes

From: suellyn jackson
To: [Boulder County Oil and Gas Comment](#)
Subject: Meeting March 14,2017
Date: Tuesday, February 28, 2017 7:54:09 AM

Thanks for all your hard work and good communication. Your efforts are greatly appreciated.
Sue Jackson

From: Teresa F
To: [Boulder County Oil and Gas Comment](#)
Subject: Fwd: Boulder County Responds to Oil & Gas Industry's Intervention on Lawsuit Filed by the Colorado Attorney General
Date: Tuesday, February 28, 2017 9:56:45 AM

Dear County Commissioners,

Wow - **another** public hearing during the day when normal people have to work! Will my emailed comments be given as much weight as those who show up to give testimony?

I'm writing prior to the "regulations" being posted because

"Regulations" only "**REGULATE THE AMOUNT OF HARM BEING DONE TO US**". They regulate environmentalists. We, the people of Boulder County, will still be harmed by fracking with regulations! You are playing the game written by the oil and gas industry.

Will the County Commissioners support a Citizens' Bill of Rights that will actually protect us from harm?

There are alternative actions to protect the citizens of Boulder County from the game that the fossil fuel industry has written.

Of course, you work for us, not the other way around. As County Commissioners, you are public servants who have taken an oath to protect our health, safety and welfare.

Show some leadership and do the right thing.

Teresa Foster
Longmont, CO

----- Forwarded message -----

From: **Boulder County Information** <bouldercounty@public.govdelivery.com>
Date: Mon, Feb 27, 2017 at 5:27 PM
Subject: Boulder County Responds to Oil & Gas Industry's Intervention on Lawsuit Filed by the Colorado Attorney General
To: fostertlu@gmail.com

Having trouble viewing this email? [View it as a Web page.](#)



Boulder County Commissioners

For Immediate Release
February 27, 2017

Boulder County Commissioners' Office
Barb Halpin, Public Information Officer
[303-441-1622](tel:303-441-1622)

Boulder County Responds to Oil & Gas Industry's Intervention on Lawsuit Filed by the Colorado Attorney General

****Correction included in Statement from the Board of County Commissioners****

Boulder County, Colo. - Late last week, the Colorado Oil and Gas Association (COGA), and the American Petroleum Institute (API) intervened in the lawsuit filed against Boulder County by the Colorado Attorney General. This move came of no surprise to Boulder County.

As scheduled in earlier in the year, the county plans to move forward with a public hearing on its draft oil and gas regulations on Tuesday, March 14 beginning at 2 p.m. The county maintains that the current temporary moratorium which is set to expire on May 1, 2017, is consistent with the Colorado Supreme Court cases involving the cities of Ft. Collins and Longmont last year.

Boulder County is expected to release its draft regulations for public review on March 7. The draft will be posted on the [Oil & Gas website](#) and will include responses to comments and direction given by the County Commissioners at a public hearing last November.

Members of the public are invited to attend the March 14 hearing or send comments by email to: oilgascomment@bouldercounty.org. Speaker sign-ups for individuals and pooled time groups will open on Wednesday, March 1 beginning at noon. For more information on the meeting or to learn how to sign up to speak, see [March 14 meeting notice](#).

Statement from the Boulder County Commissioners

"It is not surprising that the oil and gas industry has involved itself with this lawsuit. It is further evidence that the State is pursuing the interests of the oil and gas industry over the interests of Colorado citizens who will be adversely affected by the mega-drilling facilities that are being proposed throughout the state."

[View Commissioners' Meeting Documents and Records >>](#)

Americans with Disabilities Act Notice

Special Assistance

If you need special assistance attending a meeting or hearing at Boulder County, please contact the ADA Coordinator at [303-441-3525](tel:303-441-3525) at least 48 hours before the scheduled event. [Boulder County's ADA Policy](#)



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This email was sent to fostertlu@gmail.com using GovDelivery, on behalf of: Boulder County Colorado · 1325 Pearl Street, Boulder, CO 80302

From: CenturyLink Customer
To: [Boulder County Oil and Gas Comment](#)
Subject: March 14 hearing
Date: Tuesday, February 28, 2017 10:01:17 AM

Our government has a responsibility to ensure policies are in place to protect its citizens. This includes health impacts associated with fracking in our communities by O&G industry. The State is in cahoots with the O&G industry and therefore it is incumbent on the County and City Governments to ensure our safety.

The air and water pollution associated with the fracking process is already documented in many research studies. The negative health impacts associated with the chemicals used and released from the ground and exposed to humans in the fracking process are already documented in research studies. The noise pollution, the methane leaks from fracking wells has been documented. The fracturing process causing the increase of earthquakes and damage to personal property is well documented. The use of our precious water and the deterioration of our roads are extensive and are known facts about the fracking industry.

Hydraulic fracturing must be kept away from communities, schools, parks and anywhere people live and gather. The O&G industry must be held accountable for the negative impact to people and communities and must show that they have the financial resources to clean up a spill and citizens must be able to sue O&G for loss of real estate values, damages from earthquakes and medical bills associated with the negative health impacts of fracking.

Please protect us.

From: mbrownfausset@comcast.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Please mention the elephant in the room
Date: Wednesday, March 01, 2017 12:31:47 PM

Please, please at least mention the elephant in the room--that probably everybody at the meeting drove there using a gasoline-powered car and wants to continue to be able to fill it up---AND--that most everybody heats their home with natural gas, mostly obtained now days by fracking. It is wrong to avoid mentioning this. It needs to be part of the conversation.

Thanks.

M. Fausset

Boulder

From: Ruby
To: [Boulder County Oil and Gas Comment](#)
Subject: Keep fracking out of Boulder County
Date: Wednesday, March 01, 2017 2:32:45 PM

Dear Commissioners,

I don't want Boulder County to cave to the Colorado Oil and Gas Conservation Commission (COGCC), Attorney General Cynthia Coffman, or the Colorado Oil and Gas Association (COGA). A lot is at stake for the Boulder County community: oil and gas development will permanently mar our beautiful open space; our high quality of life will deteriorate, especially for those living next to open space; and the health and well-being of our community will be threatened.

The City of Longmont stood up to the COGCC and COGA but we lost the lawsuit. It is time for Boulder County to take on the legal challenge of keeping fracking out of Boulder County. What is the point of Boulder county citizens voting to approve open sales tax when the land we buy ends up being fracked.

Please stand with the people of Boulder County and do all you can to keep fracking out of Boulder County. Thank you for considering my comments.

Sincerely,
Ruby Bowman
Longmont, CO

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#310]
Date: Wednesday, March 01, 2017 3:19:06 PM

Name *	Nanner Fisher
Email *	orvillawestfarm@gmail.com
Phone Number (optional)	(720) 771-7823
My Question or Feedback most closely relates to the following subject: (fill in the blank) *	Letter received from Crestone Peak LLC regarding planned drilling on my land
Comments, Question or Feedback *	Hi, I believe Cindy Deminico is my regional county commissioner and I would greatly appreciate a phone call from her regarding the letter that I received from Crestone Peak resources about the plan for 18 wellsites in Boulder County all around my property at 12476 Niwot Rd. Thank you very much
Please check box below *	<ul style="list-style-type: none">• I acknowledge receipt of the Open Records Notification

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#311]
Date: Wednesday, March 01, 2017 4:37:17 PM

Name *	Amy Hollander
Email *	amyjhollander@gmail.com
Phone Number (optional)	(303) 956-3884
My Question or Feedback most closely relates to the following subject: (fill in the blank) *	Civil Disobedience for Fracking
Comments, Question or Feedback *	Can Boulder County make civil disobedience legal? Many cities are doing this in order to allow individual rights in blocking fracking, and what ever else is coming down the road that threatens our safety, the environment, and the safety of immigrants.
Please check box below *	<ul style="list-style-type: none">• I acknowledge receipt of the Open Records Notification

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#312]
Date: Thursday, March 02, 2017 9:55:12 AM

Name *	Mike Hingle
Email *	mikehingle@yahoo.com
Phone Number (optional)	(303) 993-4935
My Question or Feedback most closely relates to the following subject: (fill in the blank) *	
Comments, Question or Feedback *	Loss of Fracking Prospects If we can demonstrate that there is a safe, rapidly deployable, and far more economical alternative energy source, that can easily replace natural gas, gasoline, diesel, and coal-oil-gas or nuclear fired electric power plants, wouldn't that make fracking and those dirty petroleum fuels worthless ?
Please check box below *	<ul style="list-style-type: none">• I acknowledge receipt of the Open Records Notification

From: Ryan Dewell
To: [Boulder County Oil and Gas Comment](#)
Subject: Boulder County wealth and mineral rights
Date: Thursday, March 02, 2017 2:44:05 PM

Boulder County isn't exactly one of the poorer counties in the US...

We buy open space. Can we create some path to also purchase the mineral rights beneath that open space?

This would solve the problem once and for all.

People spend millions on small donations for gadgets that don't exist (Kickstarter, Indiegogo) and political campaigns. Let's put grassroots money to work on this.

Ryan

From: Pam DeWitt
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Thursday, March 02, 2017 3:05:29 PM

More jobs are created with alternative energy, why can't you get behind that? Wind energy would be amazing in Colorado. Have you learned nothing from Oklahoma? Are you going to Frack without needing to put the water back in the ground, are you going to guarantee water and land won't be contaminated? We don't need Fracking, we don't want Fracking....

From: smallcircles@yahoo.com
To: [Boulder County Oil and Gas Comment](#)
Subject: fracking
Date: Thursday, March 02, 2017 3:40:42 PM

Dear Commissioners,

My name is Jen, and I am a resident of Gunbarrel. I am writing to request that the moratorium on fracking in Boulder County be extended. The Colorado AG, and her collaboration with Oil & Gas, clearly do not have our best interests in mind.

There was a study from CU recently that showed that there were higher rates of childhood leukemia near oil and gas sites. Please, don't do this to Boulder's children -- to any children.

Thank you.

Jen

From: Bradley Beck
To: [Boulder County Oil and Gas Comment](#)
Subject: I support Attorney General Coffman and ask the Boulder County Commissioners to lift the band on oil and gas drilling in Boulder County.
Date: Thursday, March 02, 2017 5:47:52 PM

Perspective.

According to Colorado Department of Transportation, "Deaths on Colorado's roadways jumped about 11 percent in 2016 to 605." This was reported in the Denver Post on January 30, 2017. A terrible tragedy to be sure.

According to the latest Bureau of Labor Statistics data, there were 51 deaths in Colorado related to the oil and gas industry from 2003 to 2014. These are oil and gas workers on a job site. In those eleven years, a bit under 5 deaths a year. Again, a terrible tragedy to be sure.

According to the Colorado Department of Public Health and Environment report, "Drilling health risk to residents low," in an article printed in the Grand Junction Dailey Sentinel on February 28, 2017. <http://bit.ly/2milOJt>

Life is not without risk. We take calculated risks every day and bet when we get in our cars, we will arrive home from school and work safely to our family. No one in our community who lives in proximity to any oil or gas wells, to anyone's knowledge has died directly from the production of these wells. I have several wells around my home and around my family and I accept this risk.

The products produced and services created from oil and gas production add to our human flourishing. They provide for our modern way of living. From gas in our cars to food on our tables to the helmets we wear when skiing to heat in our homes when it's below zero outside.

If total safety is what one is after then I suggest one go back to the horse and buggy days where one shoveled the manure, rather than having to listen to it by the anti-human flourishing folks. Or perhaps we should ban driving in Boulder County for it has killed more people than oil and gas production ever will.

I support Attorney General Coffman and ask the Boulder County Commissioners to lift the band on oil and gas drilling in Boulder County. Restore property rights and the rule of law.

Respectively submitted,
Bradley Beck
1277 St. John Street Erie, CO 80516
(Boulder County side)
303-775-7473

From: Renee Hummel
To: [Boulder County Oil and Gas Comment](#)
Subject: Please Protect Us
Date: Thursday, March 02, 2017 10:51:07 PM

Dear Boulder County Commissioners,

For the sake of the children, for the sake of our health, for the sake of the environment - please continue the fracking moratorium and do all that you can to keep fracking out of Boulder County!

Sincerely,

Renée Hummel
Boulder

From: Myers, Randall
To: [Boulder County Oil and Gas Comment](#)
Subject: Longmont Resident for more energy
Date: Friday, March 03, 2017 12:56:39 PM

Hi, I live in Boulder County (Longmont) and see in the news we are considering how to approach the topic of drilling, oil/gas, and fracking. I am a CU masters grad and read the news every day, so I am neither ignorant nor uninformed when I say that I am not in favor of additional restrictions on Fracking. I think the light and noise issues we have been addressing with new drilling facilities are being handled correctly, and my well-meaning peers that believe we need to stop fracking to save water quality are basing their concerns on bad science. One of the aspects that is great about where we live is the fact that we have inexpensive energy and clean air & water. I would request we continue with reasonable regulations and not add bans or county level laws.

Reasonable Regulations, not bans.

Thank you for listening. – Randall Myers

From: Ioana Ilies
To: [Boulder County Oil and Gas Comment](#)
Subject: Please lift the moratorium on oil and gas drilling in Boulder County
Date: Friday, March 03, 2017 10:09:53 PM

Hi,

I am a Boulder County resident and I want the moratorium lifted so we can have a thriving economy that will benefit all Colorado residents and more good jobs.

Thank you!

Ioana Ilies

3214 Lake Park Way #206

Longmont CO 80503

303-834-9974

From: Mtnmother@aol.com
To: [Boulder County Oil and Gas Comment](#)
Subject: (no subject)
Date: Saturday, March 04, 2017 8:48:06 AM

I work in Frederick and am heart broken every day on my drive to work to see the devastation of the landscape and the ridiculous structures being erected "disguising" what is going on behind them. What don't they want us to see? Is this supposed to be an attempt at beautification of the hideous images behind the great green walls?

The school I work at is new and surrounded by wells. The school itself has had a sink hole in an office, has fissures in the floors in its hallways and parking lot due to the unsteady land that has been brutalized by fracking.

I know this is big business but please, is nothing sacred? Our beautiful land being treated in a way that can never be restored is heartbreaking, all in the name of \$. Please reconsider this. Please.

Cynthia Soulliere

From: Patty Sunfield
To: [Boulder County Oil and Gas Comment](#)
Subject: Save our county from fracking
Date: Saturday, March 04, 2017 11:04:23 AM

This is toxic to all and unnecessary greed for the rich. STOP FRACKING BOULDER COUNTY ALL TOGETHER

Patty Sunfield, MA, LPC, LAC
Licensed Professional Counselor
Licensed Addiction Therapist
Addictions/Trauma/Depression/Relationship Specialist
Cranial Sacral Therapist
Transformations, LLC
303-668-5692

From: Bonnie Lowdermilk
To: [Boulder County Oil and Gas Comment](#)
Subject: Proposed regulations on oil & gas
Date: Sunday, March 05, 2017 2:34:21 PM

Dear Boulder County Commissioners,
In the "General Complaint for Declaratory and Injunctive Relief" under the heading GENERAL ALLEGATIONS I., number 21 states: "The intent and purpose of the Act is "to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the prevention of waste, consistent with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources. § 34-60-102(1)(b), C.R.S. "

It is not possible for fracking to be done without causing harm to "public health, safety, welfare" and the environment. Among other pollutants, fracking wells emit methane, a greenhouse gas which is 84 times as potent as carbon dioxide.

The scientific evidence is robust that in order to avoid catastrophic climate change we need to leave most of the remaining fossil fuel reserves in the ground.

Scientists say that to have even a two-thirds chance of staying below a global increase of two degrees Celsius, the agreed "safe" level of warming, we can release 800 gigatons more CO₂ into the atmosphere. But the data of Norwegian energy consultants, Rystad, shows coal mines and oil and gas wells currently in operation worldwide contain 942 gigatons worth of CO₂. "What we found is that if you burn up all the carbon that's in the currently operating fields and mines, you're already above two degrees," says Stephen Kretzmann, Oil Change International's executive director. <https://newrepublic.com/article/136987/recalculating-climate-math>
<http://priceofoil.org/>

Opening new fracking wells is inconsistent with the Attorney Generals own stated requirements of protecting public health, safety, welfare and the environment. Taking more fossil fuel out of the ground, is in and of itself harmful to public health, safety, welfare, and the environment. And that's without even taking in consideration the emission of methane and BETX compounds. There are no regulations which can negate this. I agree with other writers here to let the sue go on, and in fact to sue them.

Bonnie Lowdermilk
Boulder, CO 80304

From: Kathie Johannes
To: [Boulder County Oil and Gas Comment](#)
Subject: Boulder County Commissioner Meeting
Date: Sunday, March 05, 2017 4:13:49 PM

Commissioners;

I will be unable to attend the meeting due to job commitments, but I am a Boulder County resident and would like to comment.

I believe that citizens rights to clean air and water are more important than a mineral/gas holders right to extract. If made to compensate the true value of clean air and water and the true cost of diseases related to extraction the gas companies would not find it profitable to extract. We citizens need for all of our representatives at every level to defend the rights of the majority against the money of the few. Please extend the moratorium.

Thank you,

Kathie Johannes

From: andrew oconnor
To: [Boulder County Oil and Gas Comment](#)
Subject: Testimony in Support of Land Use Amendments and Article on Severance Tax
Date: Sunday, March 05, 2017 5:43:25 PM
Attachments: [Testimony in Support of Boulder Land Use Amendments.docx](#)

Dear Boulder County Commissioners,

Please find attached testimony in support of land use amendments and/or indefinite extension of moratorium. Also, please find this link to the following article on severance tax for your review. If you have any questions, then please do not hesitate to contact me. Thank you.

Andrew J. O'Connor

http://peakwatch.typepad.com/torched_and_burned.pdf

Torched and Burned: Why Does Colorado Subsidize the World ...

peakwatch.typepad.com

Let's stop squabbling about how to divvy up the existing severance tax pie, and order up a bigger one. Because of our low severance tax rates,

ANDREW J. O'CONNOR
1220 W. Devonshire Court
Lafayette, Colorado 80026
Tel: (303) 499-4585
Email: oconnorandrew@hotmail.com

TESTIMONY IN SUPPORT OF LAND USE CODE AMENDMENTS AND/OR
INDEFINITE EXTENSION OF MORATORIUM

Boulder County Commissioners,

My name is Andrew J. O'Connor.

Today, I represent myself, my wife and children.

I am a resident of Boulder County.

I am testifying today in strong support of Land Use Code Amendments and/or indefinite extension of the moratorium for the following reasons:

1. Private property rights and profits from fracking do not trump the health, safety and welfare of the people of Boulder County. Hydraulic fracking companies in Colorado inject into the ground solutions containing known carcinogens endangering the health, safety and welfare of the people of Colorado.
2. Fracking wastes massive amounts of water, which is a problem in arid Colorado, as well as producing large amounts of polluted water and mud. Fracking endangers our local aquifers, our drinking water and our health. In March of 2012, Physicians for Social Responsibility called for a moratorium on fracking in order to protect human health and the environment. In June 2015, New York State banned fracking because of threats to the environment and significant public health risks.
3. Colorado has become a leading oil and gas producer with over 50,000 active wells. The oil and gas industry has declared war on the people of Boulder and the Boulder County Commissioners have a responsibility to protect the people from this significant risk to our health and environment.
4. When fracking wells run dry or shut down, they have to be plugged in order to keep them from contaminating fresh-water aquifers. Because many fracking companies go bankrupt, the cost of cleanup falls to the states. Cleanup costs include: repair of roads due to wear and tear of 400 trucks hauling water and heavy equipment for each well; air, water and

soil contamination; species extinction; ozone depletion; climate change; medical treatment for skyrocketing cases of asthma, cancer, immune system diseases, cognitive deficiencies, miscarriages and birth defects. Wyoming spent \$11 million between 1997 and 2014 to plug abandoned wells. For years, the oil and gas industry has been getting a free ride in Colorado because Colorado has failed to collect severance taxes leaving more than a \$1 billion dollars a year on the table. The oil and gas industry must pay a minimum 10% severance tax on all oil and gas development in Boulder County.

5. Boulder County must implement land use amendments that:
 - a. compensate Boulder County residents for loss of their home values because of fracking;
 - b. require oil and gas companies to pay health care costs for Boulder County residents that suffer from asthma, cancer, immune system diseases, cognitive deficiencies, miscarriages and birth defects caused by fracking; and
 - c. require oil and gas companies to pay a 10% severance tax on all oil and gas development in Boulder County.
6. So, while the profits from fracking go to the oil and drilling companies, the costs of cleanup, adverse environmental and health consequences will be borne by the taxpayers of Boulder County. Considering the earthquakes, the mess, the poisoned air and water and sick people, fracking is just not worth it.

For the aforementioned reasons, I respectfully request that the Boulder County Commissioners implement land use amendments which protect the health, safety and welfare of Boulder County residents and/or indefinitely extend the moratorium.

Thank you.

ANDREW J. O'CONNOR

From: Frederica Acora
To: [Boulder County Oil and Gas Comment](#)
Subject: Re: moratorium
Date: Sunday, March 05, 2017 7:33:12 PM

Dear Boulder County Commissioners,

Please stand by our moratorium. If it's legal, we should keep it and not let the oil and gas industry bully us around!

Sincerely,
Frederica Acora
Boulder, CO

From: C JARRETT
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil and Gas Moratorium
Date: Monday, March 06, 2017 12:54:40 AM

Dear Commissioners,

I have lived in Boulder County since 1968 and voted here since I was old enough to vote. My home is heated with natural gas. My car uses gasoline produced from oil. My computer, refrigerator, stove, electric lights, etc. are using electricity. The nearest power plant uses natural gas to produce electricity. Even my bicycle was made using electricity. I can afford to pay the monthly bills for this energy because we have domestic oil and gas production. Without this affordable and available energy we would be living as people did 150 years ago.

Why should we have this energy that allows us to have the life we enjoy, but not allow it to be produced here?

Fracking has been used safely for over a half a century. Please stop using continuing illegal moratoria to prevent Boulder County from allowing fracking here.

Thank you,
Cathy Jarrett
Longmont, Colorado

From: Vicki Matthews
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking moratorium
Date: Monday, March 06, 2017 9:26:12 AM

To the Boulder county commissioners:

I urge you all to stand by the moratorium no matter what! It is your fiduciary responsibility to protect the value of our open space trust for all of its intended purposes. As a community we have invested nearly 100 million dollars in this trust. You have an obligation to prohibit any fracking activities whatsoever on open space land. **You also have a duty to protect Boulder County citizens public health and safety.**

I've been a Boulder county resident for 20 years.

Vicki Matthews

From: Mike Price
To: [Boulder County Oil and Gas Comment](#)
Subject: frack my ass
Date: Monday, March 06, 2017 9:26:16 AM

PLEASE uphold the moratorium on Fracking! Let them sue us. We have to stand up to this assault on our planet. If Boulder can't do it, who can?

Thanks,
Mike Price

From: Jennifer Dulles
To: [Boulder County Oil and Gas Comment](#)
Subject: Sign up
Date: Tuesday, March 07, 2017 6:56:15 PM

I'd like to sign up to have a group of Broomfield residents speak. We are all addressing similar issues.

Thank you for letting me know.

Sent from my iPhone; please pardon typos from tiny fingers.

Jennifer Dulles, APR | President
DStreet | Defining Communications
1400 16th Street, 16 Market Square, Suite 400 Denver, Colorado 80202
Direct: 303-956-0001
Email: jdulles@dstreetpr.com

From: suellyn jackson
To: [Boulder County Oil and Gas Comment](#)
Subject: Motion to Dismiss State of Colorado's complaint (Oil and Gas Moratorium)
Date: Tuesday, March 07, 2017 9:24:46 PM

Thanks for all the hard work done by the Council and the Boulder Attorney's Office.

Sue Jackson

From: Patrick Bachmann
To: [Boulder County Oil and Gas Comment](#)
Subject: 2:00pm on March 14th is not an appropriate time for a public hearing
Date: Wednesday, March 08, 2017 9:53:00 AM

Public hearings should be accessible to the public. Please if you would tell me how to go about registering a complaint with the planning committee or individual who planned this meeting regarding Boulder County's draft Regulations for O&G development.

This is not an acceptable or adequate time for a public outreach meeting. The majority of Boulder County residents are working professionals and 2:00pm is not an available time for the majority of individuals who will be affected by these regulations.

Patrick Bachmann

From: m.risk@comcast.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Thanks and a question
Date: Wednesday, March 08, 2017 11:53:07 AM

Dear Commissioners,

Thank you for all your efforts on behalf of County residents. It is very important that Boulder County resist fracking as long as is possible, regardless of the State court decision against the moratorium.

Question: Have you considered filing legal suit against the current regulations? It seems that the regulations are out of date since the companies plan to establish drilling pads with 20-40 wells. It would seem that this extensive drilling will increase oil, land, and water pollution much more than the more modest drilling pads with much fewer wells.

Again, I want to thank you for your efforts. It can't be an easy position, being under fire from both sides.

Sincerely yours,

Margaret Risk

From: andrew oconnor
To: [Boulder County Oil and Gas Comment](#); mike.foote.house@state.co.us; senatormattjones@gmail.com
Subject: Fracking may release cancer-causing air pollution - study ...
Date: Wednesday, March 08, 2017 1:53:51 PM

Please find attached two articles for your review. Every time the wind blows from the North East we inhale toxic, cancer causing particulates. Fracking not only pollutes ground water put it pollutes the air we breathe. We cannot allow fracking in Boulder County. Thank you.

<http://www.climatechangenews.com/2014/10/30/fracking-may-release-cancer-causing-air-pollution-study/>



Fracking may release cancer-causing air pollution - study ...

www.climatechangenews.com

By Megan Darby. Fracking wells may release cancer-causing chemicals into the air, a community science study has found. Residents trained to take air quality samples ...

<https://www.nrdc.org/sites/default/files/fracking-air-pollution-IB.pdf>

NRDC: Air Pollution from Hydraulic Fracturing Threatens ...

www.nrdc.org

PAGE 4 | Fracking Fumes: Air Pollution from Hydraulic Fracturing Threatens Public Health and communities Air PolluTion From FrAckInG A comprehensive literature review ...

<https://www.fracktracker.org/2016/06/bella-romero-children-risk-greeley-co/>



Drilling Bella Romero: Children at Risk in Greeley, Colorado

www.fracktracker.org

Bella Romero students may soon be able to observe oil & gas drilling from their

classrooms, as a a project has been proposed within 1,300ft of the school.

From: andrew oconnor <oconnorandrew@hotmail.com>
Sent: Sunday, March 5, 2017 5:43 PM
To: oilgascomment@bouldercounty.org
Subject: Testimony in Support of Land Use Amendments and Article on Severance Tax

Dear Boulder County Commissioners,

Please find attached testimony in support of land use amendments and/or indefinite extension of moratorium. Also, please find this link to the following article on severance tax for your review. If you have any questions, then please do not hesitate to contact me. Thank you.

Andrew J. O'Connor

http://peakwatch.typepad.com/torched_and_burned.pdf

Torched and Burned: Why Does Colorado Subsidize the World ...

peakwatch.typepad.com

Let's stop squabbling about how to divvy up the existing severance tax pie, and order up a bigger one. Because of our low severance tax rates,

From: Doreen Spearman
To: [Boulder County Oil and Gas Comment](#)
Subject: Moratorium on Fracking
Date: Wednesday, March 08, 2017 5:19:03 PM

Boulder County Commissioners,

Please extend the moratorium on fracking in Boulder County. Better yet, vote to abolish the regulations that allow fracking, period. We must protect our planet from destructive enterprises and it begins with environmental protections in our own backyard. Please have the courage to stand up for what is right and tell the current Administration "NO"!!!!

Thank you!
Doreen Spearman

From: Christine Felz
To: [Boulder County Oil and Gas Comment](#)
Subject: Suggestion on pending oil and gas rules
Date: Thursday, March 09, 2017 8:43:01 AM
Attachments: [Encana TOE Amended Operator Agreement_201702240918212895.pdf](#)

Hello Boulder County Commissioners,

I wanted to reach out to you regarding the new oil and gas rules under consideration for Boulder County.

While these rules address new applications, that won't change the fact that I already live close to well pads on the Boulder County side of Erie. It is crucial that the new rules also address existing well pads and storage tanks throughout the county.

I have followed the state-wide oil and gas conversations and the task force meetings for a few years now. During the health and safety presentations at the January 15, 2015 task force meeting, Dr. Gabrielle Petron of Cooperative Institute for Research in Environmental Science (CIRES) and National Oceanic and Atmospheric Administration (NOAA) seemed to sum up my thoughts when she said she would want to know that tanks near her house were being monitored and whoever is doing the monitoring is held accountable (paraphrasing from Oil and Gas Task Force Webcast on 1/15/15).

Two years later, it doesn't seem like there is currently a way for the public to access records regarding the operator's leak detection inspections on tanks through the COGCC or CDPHE. While annual reports are available on CDPHE's air quality page, it does not give specific locations of leaks detected and repaired. As new storage tank LDAR regulations have been phased in over the past couple years, I believe it is important for Boulder County residents to have access to these records, which should include inspection findings and any actions taken if leaks were detected.

I would like to suggest that when Boulder County moves forward with new rules, we request that the operators send the County quarterly reports with the results of all inspections on all tanks and associated equipment in the County. These inspections are already required at the State level and could be easily shared with the public. However, it should be easy for the public to locate the reports for tanks near our homes. I had suggested this to the Town of Erie when they were developing a new Memorandum of Understanding (MOU) with Encana (now Crestone Resources) in 2015. The Town incorporated this and other best management practices into the new operator agreement. Unfortunately, other operators in the Town such as Extraction and Anadarko have not come to the table to sign similar MOUs. Additionally, the current MOU with Crestone Resources does not require them to show the specific locations of inspections and which tanks or equipment were leaking, instead the report only gives a total number of the leaks detected and repaired. A Boulder County requirement would ensure it is required of all operators county-wide to make these inspections available to the public.

An interactive map placed on the County website would be excellent. Residents could visit the County's website, click on a storage tank near their home and an informational pop-out could appear with a link to the inspection and repair reports for that exact location.

Just as residents are sent Consumer Confidence Reports for our water quality, we should be able to know that the production sites near our homes are monitored and any issues are addressed. Since long-term and thorough health studies still have not been completed, this might help give residents living near these operations a little more piece of mind.

Thanks for taking the time to read my email. Please see the attached Town of Erie and Encana Operator Agreement for reference.

Please feel free to let me know if you have any comments or questions. Thank you.

--

Christine Felz
Land and Environmental Manager

OPERATOR AGREEMENT

This Operator Agreement ("Agreement") is made and entered into this 25 day of August, 2015 ("Effective Date") by and between the Town of Erie, a Colorado municipal corporation ("Erie"), whose address is 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516, and Encana Oil & Gas (USA) Inc., a Delaware corporation ("Encana"), whose address is 370 17th Street, Suite 1700, Denver, Colorado 80202. Encana and Erie may be referred to individually as a "Party" or collectively as the "Parties."

BACKGROUND

A. Encana is the owner of oil and gas leasehold and mineral interests within Erie's town limits and part of Erie's development planning area. Encana currently operates oil and gas wells within Erie's town limits and part of Erie's development planning area, and seeks to develop its current and future oil and gas leasehold and mineral interests by drilling additional wells within Erie's town limits and part of Erie's planning area.

B. Erie and Encana value a balanced approach to oil and gas development that is protective of human health, safety and welfare, as well as the environment and wildlife. To that end, in order to achieve such goals in a cooperative manner, Erie and Encana enter into this Agreement to accomplish the following:

1. To identify the new well pad sites that Encana plans to develop within the Erie town limits and on certain adjacent land during the next five (5) years;
2. To provide for a centralized product gathering and storage facility to reduce air emissions from and consolidate infrastructure for the new wells;
3. To supplement state environmental requirements by adopting 18 best management practices ("BMPs") that will further mitigate the potential environmental and land use effects associated with this development, including BMPs for pad siting, noise mitigation, leak detection and repair, berm construction, closed loop system use, lighting installation, underground injection, water reuse, traffic management, road repairs, access road improvement, fencing construction, and hydraulic fracturing product selection;
4. To create a review process for these well pads, which includes enhanced submittal and notice requirements;
5. To approve the development of these well pads, subject to the submittal of certain documentation and fees, meetings with staff and neighbors, and mailed and posted notices, as well as compliance with the identified BMPs and, under specified circumstances, additional environmental requirements;
6. To create a process of regular meetings between Erie and Encana to improve communication and cooperation regarding Encana's operations within the Erie town limits and on the adjacent land; and

7. To replace and supersede the Memorandum of Understanding between Encana and Erie dated August 28, 2012 (the "2012 MOU").

NOW THEREFORE, the Parties agree as follows:

ARTICLE I. GENERAL PROVISIONS

1. **Effective Date.** This Agreement shall be effective as of the Effective Date and shall replace and supersede the 2012 MOU in its entirety with respect to new wells that Encana starts after the Effective Date within the Operator Agreement Area.
2. **Intent to Supplement State Rules and Regulations.** The Parties recognize that pursuant to the Colorado Oil and Gas Conservation Act, Colo. Rev. Stat. §34-60-101 et seq., the Colorado Oil and Gas Conservation Commission ("COGCC") regulates the development and production of oil and gas resources in Colorado, and the Act authorizes the COGCC to adopt statewide rules and regulations, which the COGCC has done. The Parties further recognize that pursuant to the Colorado Air Pollution Prevention and Control Act, Colo. Rev. Stat. §25-7-101 et seq., the Colorado Air Quality Control Commission ("CAQCC") regulates air quality in Colorado, and the Act authorizes the CAQCC to adopt statewide rules and regulations, which the CAQCC has done. The BMPs developed jointly by the Parties and identified in this Agreement are intended to supplement and are in addition to these state rules and regulations.
3. **Applicability.** Unless otherwise provided herein, this Agreement shall apply to all new wells that Encana starts within the Operator Agreement Area during the Term of this Agreement. This Agreement shall not apply to any wells: (i) in which Encana may have an interest but for which Encana is not the operator; or (ii) that were drilled or started by Encana prior to the Effective Date, except as set forth in Appendix A, Section 4.
4. **Term.** The Term of this Agreement shall commence upon the Effective Date and shall remain in effect for five (5) years at which time the Agreement will automatically be renewed and extended for an additional five (5) years unless either Party elects to terminate the Agreement at the end of the then current term by providing written notice to the other party of such intent at least thirty (30) days prior to the expiration of this Agreement.
5. **Effect of Termination on Obligations and Authorizations.** If the Agreement is terminated by either Party, any development authorized by the Agreement and for which the Conceptual Review Meeting has occurred shall continue to be authorized under and subject to this Agreement. Upon termination of the Agreement, any development authorized by the Agreement and for which a Conceptual Review Meeting has not yet occurred shall be subject to the then applicable Town Regulations or such other agreement to which the Parties may agree.
6. **Comprehensive Drilling Plan.** In consultation with Erie and pursuant to this Agreement, Encana has developed a Comprehensive Drilling Plan that includes both: (i) the new well pad sites that Encana plans to develop during the next five (5) years within the Operator Agreement Area (the "Identified Well Pads" or the "Identified Pad Sites"); and (ii) the BMPs that will apply to such development. The BMPs are listed on the Best Management Practices for Pad Site Locations attached as Appendix A, and the Identified Well Pads are depicted in the Operator Agreement Area Map attached as Appendix B.

7. **Incorporation of Best Management Practices into COGCC Submittals.** Encana shall include the BMPs listed in Appendix A on all Forms 2, Applications for Permit to Drill, and Forms 2A, Oil and Gas Location Assessments, submitted to the COGCC for new wells that Encana drills during the Term of this Agreement within the Operator Agreement Area.

8. **Regular Meetings between the Parties.** Erie and Encana will meet on a quarterly basis to discuss the implementation of this Agreement, the Comprehensive Drilling Plan, and the Erie Comprehensive Plan, as well as any changes to their respective plans and intentions. The responsibility to meet and confer shall survive the termination of this Agreement until the Parties mutually agree to terminate these meetings. As part of these discussions, the Parties intend to exchange information regarding the possibility, location, and schedule for future oil and gas, residential, commercial, and other development so as to minimize future land use conflicts and concerns while allowing for the responsible exercise of land and mineral ownership rights. The Parties may jointly agree to share certain information on a confidential basis, to invite third parties to participate, and to change the frequency of the meetings.

9. **Annexation by Another Municipality.** If a municipal government other than Erie annexes any portion of the Operator Agreement Area, then this Agreement shall apply to the annexed portion of the Operator Agreement Area only if both Encana and the annexing municipality so agree in writing.

ARTICLE II. DEFINITIONS

BMPs. Best management practices.

CAQCC. The Colorado Air Quality Control Commission.

Code. The Erie Unified Development Code.

Comprehensive Drilling Plan. The Identified Pad Sites depicted on the Operator Agreement Area Map attached as Appendix B and the BMPs listed in Appendix A.

Conceptual Review Meeting. Conceptual Review Meeting has the meaning set forth in Article III, Section 2.

COGCC. The Colorado Oil and Gas Conservation Commission.

Effective Date. July __, 2015.

Encana. Encana includes Encana Oil & Gas (USA) Inc., a Delaware corporation, as well as any agents or affiliates that develop the eight Identified Well Pads.

Erie Building Unit. A Building Unit as defined in the COGCC 100 Series Rules and Regulations that is located within the Erie Town Limits.

Erie Town Limits. The area that is within Erie's town limits. The Erie Town Limits as of the Effective Date are depicted on the Operator Agreement Area Map.

Federal or State Study. A peer reviewed scientific study that is funded, conducted, or adopted by a United States federal or Colorado state agency. For this purpose: funding or conducting includes situations where the agency partially funds or conducts the study; and agency excludes the legislative and judicial branches and educational institutions.

Filings. All filings, site plans, permits, licenses, applications, easements, rights-of-way and other approval requests.

Financial Assurance. A Financial Assurance as defined in the COGCC 100 Series Rules and Regulations, except that the reference to the Commission shall mean Erie.

Hub. Hub has the meaning set forth in Appendix A, Section 3.

Identified Well Pads and Identified Pad Sites. These terms are interchangeable and shall mean the eight well pads identified by name and polygon on the Operator Agreement Area Map.

Operator Agreement Area. The area depicted on the Operator Agreement Area Map attached as Appendix B, which includes the Erie Town Limits as of the Effective Date and certain adjacent land.

Plans and Materials. Plans and Materials has the meaning set forth in Article III, Section 3.

Recompletion. An operation whereby additional completion activity is conducted within the existing and previously producing wellbore.

Regulation 7. Regulation Number 7 adopted by the CAQCC.

Rework. An operation conducted in the wellbore of the well after it is completed to secure, restore, or improve production in a formation which is currently open to production in the wellbore.

Term. Term has the meaning set forth in Article I, Section 4.

Town Review Process. Town Review Process has the meaning set forth in Article III.

ARTICLE III. TOWN REVIEW PROCESS

1. **Applicability.** This review process shall apply to any new well pad that Encana develops within the Operator Agreement Area during the Term of this Agreement, except for: (i) the Woolley Beckey Sosa pad site which was previously approved by the COGCC and is outside the Erie Town Limits; and (ii) the Morgan Hill pad site, which as of the Effective Date is already being reviewed under the Code. Although both the Woolley Beckey Sosa pad site and the Morgan Hill pad site are exempt from the Town Review Process, they each are subject to the BMPs listed in Appendix A and Encana will amend the Form 2A, Oil and Gas Location Assessment for each of them to include such BMPs.

2. Conceptual Review Meeting. The purpose of the Conceptual Review Meeting is for the Erie staff and Encana, prior to submittal of a Form 2A, Oil and Gas Location Assessment to the COGCC, to review the proposed development in a manner that ensures compliance with this Agreement. This meeting shall also allow Encana and the staff to explore site-specific concerns, to discuss impacts and potential mitigation methods including field design and infrastructure construction to minimize impacts, to discuss coordination of field design with other existing or potential development and operators, to review plans, and to discuss other elements of this Agreement. Erie and Encana agree that there shall be one separate Conceptual Review Meeting for each Identified Pad Site (and any other new pad site within the Operator Agreement Area).

a. Encana shall schedule the Conceptual Review Meeting to occur at least ninety (90) calendar days prior to its submission of a Form 2A, Oil and Gas Location Assessment to the COGCC.

b. If Encana's scheduling constraints prevent it from scheduling the Conceptual Review Meeting to occur at least ninety (90) calendar days in advance of submitting a Form 2A, Oil and Gas Location Assessment to the COGCC, Encana may schedule the Conceptual Review Meeting to occur no less than thirty (30) calendar days prior to the submission of the Form 2A, Oil and Gas Location Assessment to the COGCC. In such event, Erie may retain an outside consultant to review the materials and to participate in and/or conduct the conceptual review process and the other timeframes established in this Article will be readjusted or waived. Encana shall have the ability to approve the consultant's budget and scope of work, and Encana shall be responsible for the costs of the consultant retained by Erie for this purpose.

3. Submittal of Materials to Erie. No less than fifteen (15) calendar days prior to the Conceptual Review Meeting, Encana shall submit the following plans and materials ("Plans and Materials") to Erie. During the Conceptual Review Meeting, Erie and Encana will discuss modifications to any of the Plans and Materials that would better mitigate the impacts of operations and ensure compliance with the BMPs. The Plans and Materials shall include:

1.) a summary of planned operations, and an initial estimated timeline, suitable for posting to a local community information web-page;

2.) a topographic map at a scale not to exceed 1"=40' showing the proposed oil and gas locations, access roads and gathering systems reasonably known to Encana. The map shall specify the shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Erie Building Unit (as of the Effective Date);

3.) a current aerial photo showing the proposed oil and gas locations displayed at the same scale as the topographic map to facilitate use as an overlay. The photograph shall specify the shortest distance between any proposed well or surface equipment on the well pad and the nearest exterior wall of an existing Erie Building Unit (as of the Effective Date);

4.) a list of all proposed oil and gas facilities to be installed;

5.) an access road plan sufficient to demonstrate compliance with Access Road standards contained in Section 10.3.2. D.3.b. of the Code;

- 6.) a site plan for site preparation, mobilization, and demobilization;
- 7.) a plan for interim reclamation and revegetation of the site and final reclamation of the site, together with locations of any proposed reference areas to be used as guides for interim and final reclamation;
- 8.) a lighting plan describing the lighting to be installed at the well site consistent with the BMP standard in Appendix A;
- 9.) a dust suppression and control plan;
- 10.) a traffic management plan showing the estimated number of vehicle trips per day for each type of vehicle, proposed access routes to and from the site, and measures to mitigate adverse impacts to traffic patterns and safety caused by the proposed operation consistent with Section 10.3.2.D.3.b. of the Code;
- 11.) a grading/drainage plan showing existing (dashed lines) and proposed (solid lines) contours at two-foot intervals;
- 12.) a geological report detailing the geological characteristics of the site prepared by a registered engineer, including any potential natural or man-made hazards which would have a significant influence on the proposed oil and gas development and a determination of what effect such factors would have and proposed corrective or protective measures;
- 13.) any other information requested by Erie demonstrating how Encana will comply with and implement the BMPs on Appendix A; and
- 14.) a planning review fee of one thousand dollars (\$1000) per well and an engineering review fee of one thousand two hundred dollars (\$1200) per well pad.

If Encana revises any of the Plans and Materials during the Town Review Process, Encana will notify Erie of the revisions made and Erie will advise Encana whether the revisions will affect compliance with the BMPs, but such communications will not affect the date by which Encana may submit the Form 2A, Oil and Gas Location Assessment to the COGCC. Following the Town Review Process, Encana may revise the Plans and Materials from time to time, provided that Encana will discuss any such revisions with Erie either at the time they are made or alternatively at the next quarterly meeting required under Article I, Section 8. Any revisions to the Plans and Materials shall comply with the BMPs.

4. Erie Completeness Determination. If the Plans and Materials are incomplete, Erie shall inform Encana of the deficiencies promptly after discovery and no later than at the Conceptual Review Meeting. Encana shall promptly correct any such deficiency in the Plans and Materials and resubmit the corrected documents to Erie by a mutually agreed upon date.

5. Referral to Staff, Consultants, and Outside Agencies. Upon request by Erie, Encana will submit to Erie copies of the Plans and Materials for review by Erie staff, Erie consultants, and outside referral agencies, if any. For this purpose, Erie will provide Encana with a list

identifying the staff, consultants, and referral agencies to receive referral packets. Within seven (7) calendar days after receiving this list, Encana will provide Erie with the requested referral packets in unsealed Tyvek envelopes, addressed to the identified referral recipients and containing all submittal information properly folded and compiled. Once Erie has received the referral packets, it will distribute them to the appropriate staff, consultants, and referral agencies. Erie will send copies of the referral comments to Encana upon receipt. Any referral will be undertaken so as not to delay the Town Review Process.

6. Comments by Erie to the COGCC. Following the Conceptual Review Meeting, the parties may agree to meet further to resolve any remaining issues and ensure that the Plans and Materials demonstrate that the planned development will comply with the BMPs. If Erie determines that the planned development will not conform to the BMPs, Erie shall submit a letter to the COGCC explaining the deficiencies and proposing conditions of approval to achieve such compliance.

7. Neighborhood Meeting. Prior to Encana's submission of a Form 2A, Oil and Gas Location Assessment to the COGCC, Encana shall hold a neighborhood meeting at the Erie Community Center or a similarly convenient location approved by Encana and Erie. Encana shall provide 3 x 5 cards for the public to make written comments. Erie shall provide a lockbox for purposes of collecting written comments from meeting attendees. The Local Government Designee ("LGD") or his appointee will attend the meeting and collect the lockbox containing any written comments from meeting attendees. The LGD will transmit the written comments to the COGCC with any comments he submits on behalf of Erie regarding the Form 2A.

8. Mailed Notice. Encana shall mail notice of the anticipated Form 2A, Oil and Gas Location Assessment no more than ten (10) calendar days after the Conceptual Review Meeting has taken place. Properties to receive notice will be jointly determined by Erie and Encana at the Conceptual Review Meeting based on those properties within at least one-half (1/2) mile of the pad site that would be affected by the proposed operation. Owners of record shall be ascertained according to the records of the County Assessor's Office, unless more current information is made available in writing to Erie prior to the mailing of the notices. This notice shall include reference to the neighborhood meeting, if applicable, contact information for Encana, and the approximate date drilling will begin. Encana will provide Erie with an affidavit or certificate of mailing showing that notice was provided to the list of property owners.

9. Posted Notice. Encana shall also post a sign, which conforms to the dimensions and requirements in the Code at the pad site, giving notice to the general public of the proposed development and contact information for Encana. For parcels of land exceeding ten (10) acres in size, two (2) signs shall be posted. Such signs shall be approved by Erie and shall be posted on the subject property in a manner and at a location or locations reasonably calculated by Erie to afford the best notice to the public, which posting shall occur within ten (10) days preceding the neighborhood meeting.

10. Pre-Drilling Notice. If Encana begins drilling the first well on the pad site more than six (6) months after the Form 2A, Oil and Gas Location Assessment for the site is approved by the COGCC, then Encana shall provide a pre-drilling notice. Encana will mail this notice at least thirty (30) days before drilling begins to all properties that received mailed notice under Article III, Section 8. The pre-drilling notice will include the location of the wells to be drilled, the

anticipated date drilling will begin, and Encana's contact information. Encana may satisfy this requirement by mailing the Move-In, Rig-Up Notice required by COGCC Rule 305.h to all properties that received mailed notice under Article III, Section 8.

11. Submission of Form 2A, Oil and Gas Location Assessment to the COGCC. Notwithstanding any other provision of this Agreement, after (i) Encana has submitted its Plans and Materials to Erie, (ii) the Parties have held a Conceptual Review Meeting, (iii) Encana has provided mailed notice under Article III, Section 8 and posted notice under Article III, Section 9, (iv) the Parties have held a neighborhood meeting under Article III, Section 7, and (v) Erie has completed its review of the Plans and Materials under Article III, Sections 4, 5, and 6, then Encana may submit its Form 2A, Oil and Gas Location Assessment to the COGCC.

ARTICLE IV. ENCANA OPERATIONS DURING THE TERM OF THIS AGREEMENT

1. Identified Pad Sites.

a. Construction of Identified Pad Sites and Associated Wells and Facilities.

i. Encana shall develop the Identified Pad Sites, all wells and facilities located at such Pad Sites, all adjacent tanks used for such Pad Sites, and all storage facilities for such Pad Sites authorized under Article IV, Section 4 in accordance with this Agreement. Encana intends to commence and complete its development of these Identified Pad Sites as quickly as is commercially reasonable under the current circumstances.

ii. Additional operations on wells within the Identified Pad Sites may occur during this Agreement and after its termination, including but not limited to the installation of production facilities, production and maintenance operations, Rework or Recompletion operations, and/or plugging and abandonment operations.

b. Approval of Identified Pad Sites and Associated Wells and Facilities.

i. This Agreement shall constitute final approval by Erie of the Identified Pad Sites, all wells, facilities, and operations located at such Pad Sites, all adjacent tanks used for such Pad Sites, and all storage facilities for such Pad Sites authorized under Article IV, Section 4, and Encana is authorized by this Agreement to commence development of such Pad Sites, wells, tanks, facilities, and equipment and to undertake such operations subject to the requirements of this Agreement. With the exception of the Overweight Vehicle Permit, Encana shall not be required to obtain from Erie any site plans, permits, licenses, applications, easements, rights-of-way or other approvals for such Pad Sites, wells, facilities, and operations under the Code or any other authority. Instead, such Pad Sites, wells, tanks, facilities, and operations shall be subject to the terms and conditions of this Agreement, including the BMPs listed in Appendix A and the Operator Agreement Area Map attached as Appendix B.

ii. The Parties intend that this Agreement sets forth all of the obligations, duties, requirements, and conditions that Erie shall apply to the Identified Pad Sites, the wells, facilities, and operations located at such Pad Sites, the adjacent tanks used for such

Pad Sites, and the storage facilities for such Pad Sites authorized under Article IV, Section 4, as long as Encana complies with the terms and conditions of this Agreement.

iii. Other than approval of the use of Town property which must be approved by the Board of Trustees, if any approval by Erie becomes necessary for any of the Identified Pad Sites, any of the wells, facilities, or operations located at such Pad Sites, any adjacent tanks used for such Pad Sites, and any storage facilities for such Pad Sites authorized under Article IV, Section 4, then Erie shall promptly issue such approval through the town administrator or other designee and ensure that such approval is consistent with the terms and conditions of this Agreement.

c. **Relocation of Identified Pad Sites.** If Encana seeks to relocate any Identified Well Pad to a site other than the polygon depicted in the Operator Agreement Area Map, then such relocated pad site shall be subject to the following requirements:

i. The Town Review Process and the BMPs shall apply to the relocated pad site. If such pad site is within the then current Erie Town Limits, Encana shall obtain all necessary approvals for such site under the then current Erie regulations. In the case of a conflict between the Town Review Process and the BMPs included in this Agreement and the then-current regulations, the more stringent requirements shall apply.

ii. Encana shall discuss the site location with Erie at one of the quarterly meetings required under Article I, Section 8 or before Encana concludes surface use agreement negotiations for the site.

iii. The minimum distance between a well or surface equipment and the nearest exterior wall of an existing Erie Building Unit (as of the Effective Date) shall not be less than the shortest distance set forth in Appendix A, Section 1.

iv. Erie will process all properly submitted Filings for the relocated pad site within the time period required by the applicable law, Code, rule, regulation, or ordinance. Erie acknowledges that time is of the essence with respect to such Filings.

2. Pad Sites Not Identified on the Operator Agreement Area Map and Commenced During the First Term of Agreement.

a. The Town Review Process and the BMPs shall apply to any pad site not included on the Operator Agreement Area Map that is proposed to be commenced during the first term of this Agreement. If such pad site is within the then current Erie Town Limits, Encana also shall obtain all necessary approvals for such site under the then-current Erie regulations. In the case of a conflict between the Town Review Process and the BMPs included in this Agreement and the then-current regulations, the more stringent requirements shall apply.

b. Encana shall discuss the site location of pad sites not included on the Operator Agreement Area Map with Erie at one of the quarterly meetings required under Article I, Section 8 or before Encana concludes surface use agreement negotiations for the site.

c. For any pad site not included on the Operator Agreement Area Map and within the Erie Town Limits, Erie will process all properly submitted Filings within the time period required by the applicable law, Code, rule, regulation, or ordinance. Erie acknowledges that time is of the essence with respect to all such Filings.

3. **The Hub.** Erie will process all properly submitted Filings that are necessary for the construction or operation of the Hub within the time period required by applicable law, Code, rule, regulation or ordinance. Erie acknowledges that time is of the essence with respect to all such Filings.

4. **Pad Sites Unable to Connect to Hub.** Encana intends to utilize the Hub for all Identified Pad Sites. However, Encana may not be able to utilize the Hub for certain of these Pad Sites due to inability to obtain pipeline rights-of-way and/or other matters outside Encana's reasonable control. For any such Pad Sites where Encana is unable to utilize the Hub, Encana may, after conferring with Erie, install hydrocarbon storage tanks and any other facilities necessary for the production of hydrocarbons at those locations. All other provisions of this Agreement shall continue to apply to any such Pad Sites.

5. **Potential Encroachment.** To reduce the possibility of new residential development within Erie's Town Limits encroaching within one thousand (1,000) feet of any of the Identified Pad Sites before Encana has finished drilling and completing all of the wells on such Pad Site, the Parties will take the following action:

a. Erie will provide Encana with timely and regular information on planned unit developments and subdivisions approved and preliminary and final plats filed within the Erie Town Limits. For this purpose, Erie shall treat Encana as a referral agency for all such developments, subdivisions, and plats.

b. Erie will make its best efforts to promptly notify Encana if Erie determines that new residential development within the Erie Town Limits is likely to encroach within one thousand (1,000) feet of any of the Identified Pad Sites within the following six (6) months. Upon receiving such notice, Encana will use its best efforts to prioritize the development of that Pad Site so that all wells on it are drilled and completed before any such encroaching residential development is finished and occupied. Erie and Encana will attempt to work in good faith with the residential developer so that the wells can be drilled and completed before the residences are finished and occupied. The Parties acknowledge and agree that Encana's ability to prioritize development at a particular Pad Site may be limited by factors beyond its control, including equipment availability, contractual obligations, commodity prices, and the COGCC approval process and that Encana is not required to take any action that is commercially unreasonable.

6. **Additional Environmental Requirements.** Notwithstanding any other part of this Agreement, Erie reserves the right to enact by ordinance additional environmental requirements for the Identified Pad Sites, the wells, facilities, and operations located at such Pad Sites, all adjacent tanks used for such Pad Sites, and all storage facilities for such Pad Sites authorized under Article IV, Section 4; provided, however, that Erie determines: (i) that the results of a Federal or State Study completed after the Effective Date show that the BMPs are insufficient to protect public health within Erie; and (ii) that the additional environmental requirements will mitigate this demonstrated public health risk in a manner that allows for development of the Pad

Sites and the associated wells, facilities, and operations to the extent practicable. As part of its determination, Erie shall solicit comment on the additional environmental requirements from the Colorado Department of Public Health and Environment and the COGCC. In addition, any such environmental requirements must apply to all similarly-situated oil and gas development that is subject to regulation by Erie.

ARTICLE V. OTHER PROVISIONS

1. **No Waiver of Rights.** The Parties acknowledge and agree that this Agreement shall not be used as evidence that either Party has waived any rights to assert its claims concerning the validity of Erie's land use authority or jurisdiction or Encana's rights to develop its mineral resources. Nothing herein shall be construed as an admission by either Party of any legal right or obligation.

2. **Force Majeure.** Neither Party will be liable for any delay or failure in performing under this Agreement in the event and to the extent that the delay or failure arises out of causes beyond a Party's reasonable control, including, without limitation, war, civil commotion, act of God, strike or other stoppage (whether partial or total) of labor, any law, decree, regulation or order of any government or governmental body (including any court or tribunal), or inability to obtain permits, licenses, consents, easements, or rights-of way. If any Party is rendered, wholly or in part, unable to carry out its obligations under this Agreement due to any such force majeure event, it is agreed that, upon the affected Party's giving notice and a description of such delay in reasonable detail in writing to the other Party as soon as reasonably possible after the occurrence of the causes relied on, the obligation of the Party giving such notice, so far as it is affected by such condition or event, shall be suspended and any time periods shall be extended for a period equal to the period of the continuance of the event or condition.

3. **Authority to Execute Agreement.** Each Party represents that it has the full right and authority to enter into this Agreement.

4. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado without reference to its conflicts of laws provisions.

5. **No Third Party Beneficiaries.** Except for the rights of enforcement by the COGCC with respect to the BMPs, this Agreement is not intended to, and does not, create any right, benefit, responsibility or obligation that may be enforced by any non-party. Additionally, nothing in this Agreement shall entitle any third party to any claims, rights or remedies of any kind.

6. **Inspections.** Erie or its designated agent shall have the right to inspect Encana's operations and its sites for compliance with the BMPs during business hours, upon the giving of twenty-four (24) hour advance written notice to Encana. This paragraph shall also apply to existing wells. Erie hereby acknowledges that nothing herein grants Erie authority to assess fees for the inspection of the operations conducted by Encana hereunder.

7. **Notices.** All notices and other correspondence related to this Agreement shall be in writing and shall be delivered by: (i) certified mail with return receipt, (ii) hand delivery with signature or delivery receipt provided by a third party courier service (such as FedEx, UPS, etc.), (iii) fax transmission if verification of receipt is obtained, or (iv) email with return receipt, to the

designated representative of the Party as indicated below. A Party may change its designated representative for notice purposes at any time by written notice to the other Party. The initial representatives of the Parties are as follows:

Erie: Town of Erie
645 Holbrook Street
P.O. Box 750
Erie, Colorado 80516
Attn: Town Administrator
Telephone: 303.926.2710
Fax: 303-926-2706
Email: ajkrieger@erieco.gov

Encana: Encana Oil & Gas (USA) Inc.
370 17th Street, Suite 1700
Denver, CO 80202
Attn: Jessica Cavens
Telephone: 303-876-3888
Fax: 303-876-4888
Email: jessica.cavens@encana.com

With copy to: Encana Oil & Gas (USA) Inc.
370 17th Street, Suite 1700
Denver, CO 80202
Attn: General Counsel
Fax: 303-623-2300

8. Dispute Resolution. If either party believes that the other Party has violated any provision of this Agreement, the Party claiming that a violation has occurred shall send written notice to the other Party, identifying the violation and invoking the dispute resolution process in this Section. Upon receiving such written notice, the other Party shall have thirty (30) calendar days to remedy the alleged violation. If the other Party denies the alleged violation, then the Parties shall meet to resolve the alleged violation within thirty (30) calendar days of the date of delivery of the initial written notice. If a resolution of the matter cannot be achieved at the meeting, both parties agree to make a reasonable effort to work through and with a mutually acceptable mediator to attempt to resolve the dispute. Notwithstanding the foregoing, if either Party believes that the dispute will not otherwise be resolved in a sufficiently prompt and effective manner, such Party may, at its discretion, institute a legal proceeding in a court of proper jurisdiction to seek appropriate remedies. Such remedies may include, without limitation, an injunction to stop an alleged violation or an order requiring the performance of all acts and things required by the Agreement. Provided, however, that no such legal proceeding shall be initiated for a period of at least thirty (30) calendar days after delivery of the initial written notice.

9. Amendments to Agreement. No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by both Parties.

10. Assignment. Encana may convey or assign its rights and obligations for any or all of the Identified Well Pads provided that both Erie and such successor or assignee have expressly consented in writing to such conveyance or assignment and that such conveyance or assignment includes both Encana's rights and its obligations for the subject Well Pads. For purposes of this paragraph, Encana's rights include without limitation its vested development rights under Article IV, Section 1.b, and Encana's obligations include without limitation its BMP obligations under Appendix A. No successor or assignee of Encana shall assume any of Encana's rights or be subject to any of Encana's obligations under this Agreement without the express written consent of both Erie and such successor or assignee. Encana's Responsible Products Program is individual to Encana and shall not apply to its successors and assignees.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by a duly authorized representative on the day and year first above written.

ERIE:

THE TOWN OF ERIE

By:

Name: Tina Harris

Title: Mayor

Date: 08-25-2015



ENCANA:

ENCANA OIL & GAS (USA) INC., by its authorized agent, Encana Services Company Ltd.

By:

Name: Jessica Covens

Title: Senior Manager, DJ Basin

Date: August 26, 2015

APPENDIX A
BEST MANAGEMENT PRACTICES FOR PAD SITE LOCATIONS

1. Distance to Erie Building Units. For the Identified Well Pads, the minimum distance between a well or surface equipment, and the nearest exterior wall of an existing Erie Building Unit (as of the Effective Date) shall not be less than the following:

Oskarson	8,990 feet
Morgan Hill	2,190 feet
Woolley Beckey	
Sosa	1,010 feet
Woolley	2,450 feet
Erie Vessels	1,175 feet
Cosslett	1,150 feet
William Peltier	1,900 feet
Vessels Minerals	1,050 feet

Compliance with this requirement shall be determined from the actual as-built locations of the well or surface equipment. Nothing herein shall be construed to grant Encana any surface rights on property owned by the Town or another person. No Pad Site will be located on Town property without authorization by the Town Board of Trustees.

2. Noise mitigation. Encana will comply with the following noise mitigation requirements at all pad sites:

- (a) For db(A) scale noise, Encana will insure that the noise level from operations subject to the light industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) does not exceed sixty (60) db(A) and that the noise level from operations subject to the industrial zone noise standard under COGCC Regulations 802.b and 604.c.(2)(A) is reduced at least five (5) db(A) below the maximum level permitted by those Regulations. For this purpose, the noise level shall be measured as set forth in COGCC Regulations 802.b & c, except no measurements shall be taken when traffic is passing the sound level meter, Encana shall be present during all measurements, and building units shall be limited to those units existing as of the Effective Date. As set forth in COGCC Regulation 802.b, the noise levels shall be subject to increase for a period not to exceed fifteen (15) minutes in any one (1) hour period and reduction for periodic, impulsive or shrill noises.
- (b) For db(C) scale noise, Encana shall comply with the requirements of COGCC Regulation 802, as such requirements may be amended during the term of this Agreement.

3. **Central Hub.** In an effort to reduce air emissions, Encana intends to construct a central gathering and storage facility at a location in 1N-68W-Section 21 (the "Hub") to receive liquids from the wells which are the subject of this Agreement. As a result, Encana will not install hydrocarbon storage tanks at these pad sites, which will eliminate potential sources of hydrocarbons from the sites. However, Encana will still install at the pad sites all other equipment and facilities necessary for the production of hydrocarbons, including wellhead equipment, separation equipment, electrical equipment, and temporary flowback equipment (including temporary storage tanks). In addition, this BMP is subject to Article IV, Sections 3 and 4 of the Agreement.

4. **Well leak detection and repair**

- (a) To identify leaks, Encana will perform audio, visual and olfactory inspections on a monthly basis at all of its new and existing wells and related facilities and equipment within Erie's Town Limits, provided that such related facilities and equipment are located on the pads for such wells, are part of adjacent tanks used for such pad sites, or are part of storage tanks for such pad sites authorized under Article IV, Section 4 of the Operator Agreement. Encana will also inspect each such well with an infra-red camera on a monthly basis. The initial baseline inspections will occur within sixty (60) calendar days after the Effective Date. After a well has produced for twelve (12) months, the frequency of such inspections shall decrease from monthly to quarterly. If Encana determines that any repairs are required based on these inspections, Encana will promptly initiate these repairs.
- (b) Encana will report to Erie on the inspection results and any associated repairs the month after the inspection or repair occurs. This information will be collectively reported on a monthly basis in the same format that Encana uses for reporting to the Air Pollution Control Division under Regulation 7, but that is specific to wells located within the Erie Town Limits. Erie will make this information publicly available.
- (c) This BMP will terminate five (5) years after the Effective Date, after which Encana will continue to comply with the leak detection, repair, and reporting requirements of Regulation 7, as such requirements may be amended.

5. **Contact information.** Encana shall include its contact information on both the mailed notice required by Article III, Section 8 and the posted notice required by Article III, Section 9. This information shall include both a telephone number for Encana and the address and hours of Encana's Erie community office. Members of the public with concerns or complaints regarding the oil and gas development covered by this Agreement may use this information to speak with Encana.

6. **Steel-rim berms.** Encana shall use steel rim berms or some other state of the art technology that will contain fluids and other material instead of sand or soil berms.

7. **Closed-loop systems.** Encana shall use closed-loop systems for drilling and completion operations.

8. **Lighting.** Encana will install down cast lighting or some other form of lighting that mitigates light pollution and spill-over onto adjacent properties; provided, however, that Encana may still use lighting that is necessary for public and occupational safety.

9. **Class II underground injection control wells.** Encana shall not develop any new Class II underground injection control wells within the Operator Agreement Area during the Term of this Agreement.

10. **Recycling and reuse.** Encana will recycle and reuse water at the pad sites and otherwise minimize waste water production to the extent that it determines such recycling, reuse, and waste water minimization is technically and economically feasible.

12. **Town water supply.** To reduce truck traffic, Erie and Encana will encourage the use of nearby water resources for the drilling and hydraulic fracturing of wells at the pad sites, including the use of Erie municipal water when determined technically feasible and economically practicable by Encana.

13. **Traffic.** Encana will implement the Traffic Management Plan required by Article III, Section 3, Subpart 10.

14. **Road repairs.**

(a) Erie and Encana recognize that truck traffic accessing the Identified Well Pads may cause damage to Erie roads and that road repairs may be needed to mitigate such damage. To this end, Encana will arrange for a qualified outside consultant to perform a road impact study for all Erie roads that are used to access an Identified Well Pad during the Term of this Agreement. The consultant will conduct the first part of the study prior to Encana's operations at such Well Pad and the second part of the study after Encana completes all drilling and hydraulic fracturing at such Well Pad. Encana and Erie will use these studies to determine the extent of any damage accruing to the road during the study period. Encana will then promptly pay Erie to repair such damage or else arrange and pay the cost of such repairs itself whichever Erie prefers.

(b) Encana shall maintain Financial Assurance to secure its road repair obligations under this Agreement. The amount of such Financial Assurance shall equal Erie's annual road maintenance budget as of the Effective Date multiplied by the percentage yielded by dividing the total number of Erie road miles as of the Effective Date into the number of such road miles that Encana will use to access the Identified Well Pads. Encana shall select the form of such Financial Assurance and shall maintain such Assurance until Encana fulfills its obligation to repair road damage under Subsection (a).

15. **Access roads.** Access roads to well and production facilities that connect to a street within Erie shall be improved from the point of connection to a street within Erie a minimum distance of two hundred (200) feet on the access road as specified by the then current requirements of the Code.

16. Fencing. Oil and gas well facilities (above ground) within the Erie Town Limits shall be fenced as specified by the then current requirements of the Code.

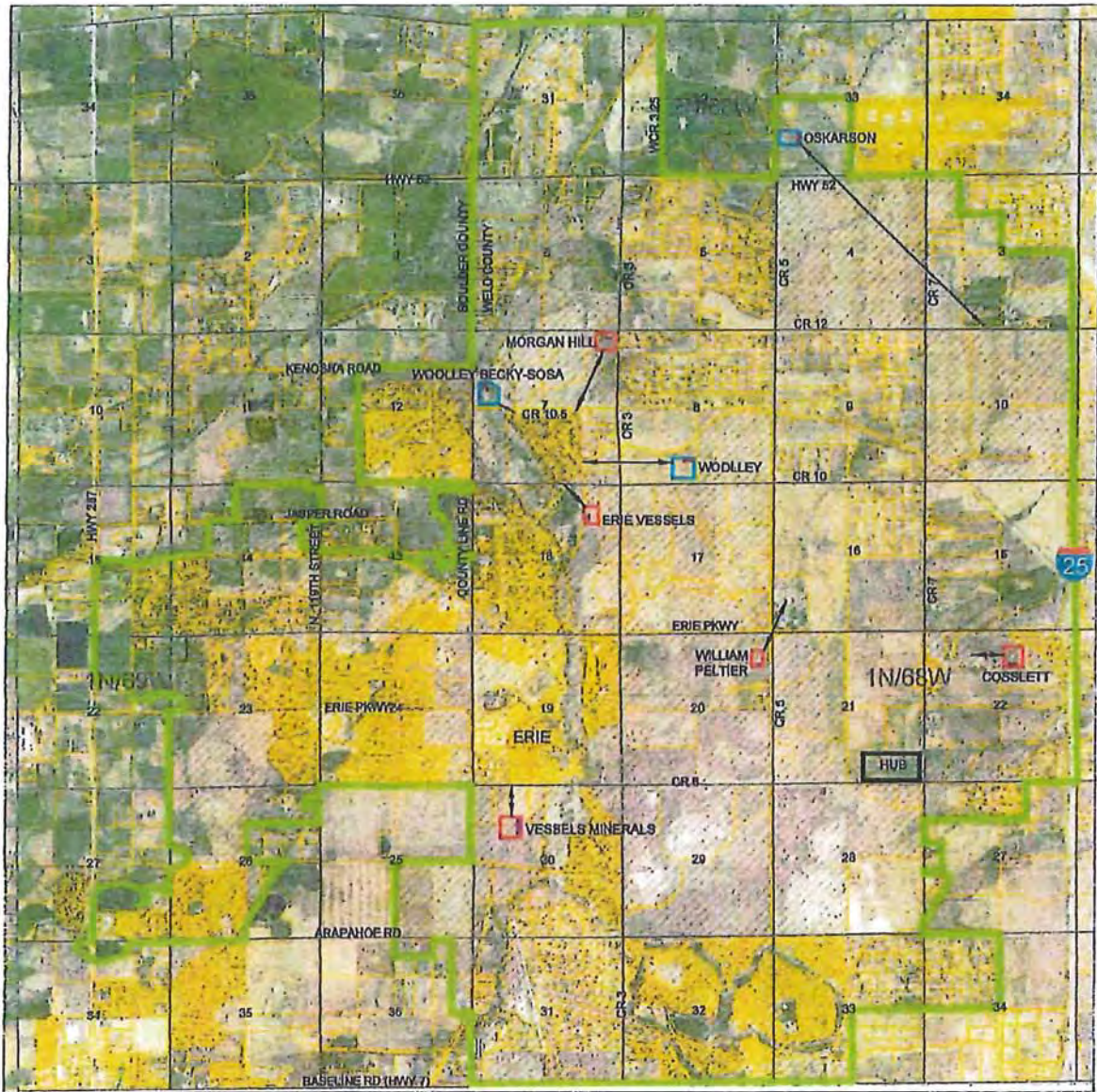
17. Operations conducted in accordance with plans. Encana shall conduct all operations in accordance with the plans discussed during the Conceptual Review Process as updated from time to time.







18. Hydraulic Fracturing Responsible Products Program. Encana has developed and implemented a company-wide Responsible Products Program to manage the fluid products used in its hydraulic fracturing operations. This Responsible Products Program helps Encana evaluate the hydraulic fracturing fluid products it uses in its operations for safety, effectiveness and potential public health and environmental impacts. As part of this program, Encana has informed all of its hydraulic fracturing fluid product suppliers that any products containing diesel fuels (as defined by EPA 816-R-12-004), 2-Butoxyethanol (2-BE), benzene or heavy metals (i.e. lead, mercury, arsenic, cadmium and chromium) cannot be used in hydraulic fracturing at Encana operations. Encana will continue to conduct its hydraulic fracturing operations within the Erie town limits in accordance with its Responsible Products Program.


19. Revision of best management practices. Upon the request of either party, the Parties may revise one or more of these BMPs if they mutually agree such revision would better avoid or mitigate impacts the BMP(s) is intended to address.

APPENDIX B

OPERATOR AGREEMENT AREA MAP



LEGEND	
	Pad Site Within the Erie Town Limits
	Pad Site Outside the Erie Town Limits
	Parcel Boundary
	Incorporated Erie
	Operator Agreement Area
	Well Pad Facilities



**IDENTIFIED WELL PADS WITHIN THE
OPERATOR AGREEMENT AREA**

WELD COUNTY, COLORADO

SCALE: 1" = 4000' JULY 22, 2015

AMENDMENT TO OPERATOR AGREEMENT

1. This amendment (the "Amendment") is made by the Town of Erie, a Colorado municipal corporation ("Erie") and Encana Oil & Gas (USA) Inc., a Delaware corporation ("Encana"), parties to the Operator Agreement dated August 25, 2015 (the "Agreement").

2. Article I, Section 7 of the Agreement is amended to read as follows:

7. Submittals to the COGCC.

a. For each well pad site covered by this Agreement, the location and development described on Form 2A, Oil and Gas Location Assessment, and Form 2, Application for Permit to Drill submitted to the COGCC shall be consistent with the terms and conditions of this Agreement, including the BMPs. Encana shall also include a copy of this Agreement with each Form 2A and Form 2 submitted to the COGCC for such well pad sites.

b. Regardless of any Conditions of Approval imposed by the COGCC on well pad sites covered by this Agreement, the location and development of such well pad sites is subject to the terms and conditions of this Agreement, including the BMPs, and the Town shall retain its independent authority to enforce such terms and conditions, including the BMPs, pursuant to Article V, Section 8.

3. Article III, Section 1 of the Agreement is amended to read as follows:

1. Applicability. This review process shall apply to any new well pad that Encana develops within the Operator Agreement Area during the Term of this Agreement, except for: (i) the Woolley Beckey Sosa pad site which was previously approved by the COGCC and is outside the Erie Town Limits; and (ii) the Morgan Hill pad site, which as of the Effective Date is already being reviewed under the Code. Although both the Woolley Beckey Sosa pad site and the Morgan Hill pad site are exempt from the Town Review Process, they each are subject to the BMPs listed in Appendix A.

4. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement or any earlier amendment, the terms of this Amendment will prevail.

ERIE:

THE TOWN OF ERIE

By: 

Name: Tina Harris

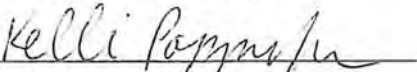
Title: Mayor

Date: April 26, 2016



ENCANA:

ENCANA OIL & GAS (USA) INC., by its
authorized agent,
Encana Services Company Ltd.

By: 

Name: Kelli Poppenhagen

Title: DJ Development Manager

Date: May 2, 2016

From: andrew oconnor
To: mike.foote.house@state.co.us; senatormattjones@gmail.com; christine.berg@cityoflafayette.com; kkreeger@broomfieldcitycouncil.org; BoulderCountyProtectors@gmail.com; [Boulder County Oil and Gas Comment](#); [Fred Smith](mailto:Fred.Smith@stephen.fenberg.senate.state.co.us); stephen.fenberg.senate@state.co.us; [Jim Tatten](#); jputterman@msn.com; [Mary O'Connor](#); [Yoav Benari](#); [Kevin Hennelly](mailto:Kevin.Hennelly@newsroom@dailycamera.com); newsroom@dailycamera.com; [Dave Krieger](#); [Dave Anderson](#)
Subject: Colorado Oil and Gas Industry Initiative
Date: Thursday, March 09, 2017 12:59:20 PM
Attachments: [Colorado Oil and Natural Gas Severance Tax Initiative.docx](#)

Representative Foote and Senator Jones:

Please find attached Colorado Oil and Gas Industry Initiative, which I wrote, for your review. I would appreciate any suggestions and edits to improve it. I am meeting with Representative Foote tomorrow, 3/9/17 at 3:30pm at Spring Café across from the Capitol in order to discuss same. I would like to meet with Senator Jones and Fenberg if you are interested in discussing the issue. Please advise. Thank you.

Andrew J. O'Connor

COLORADO SEVERANCE TAX ON THE OIL AND NATURAL GAS INDUSTRY
INITIATIVE

“SHALL STATE TAX REVUNE BE INCREASED ANNUALLY BY AN AMENDMENT TO COLORADO REVISED STATUTES CONCERNING SEVERANCE TAX ON OIL AND GAS EXTRACTED IN THE STATE AND IN CONNECTION THEREWITH FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2018, CHANGING THE TAX TO 10% OF TOTAL GROSS INCOME FROM THE SALE OF OIL AND GAS EXTRACTED IN THE STATE WHEN THE AMOUNT OF ANNUAL GROSS INCOME IS AT LEAST \$200,000.00; ELIMINATING THE CREDIT AGAINST THE SEVERANCE TAX FOR PROPERTY TAXES PAID BY THE OIL AND GAS INDUSTRY AND INTEREST OWNERS, ELIMINATING THE AD VALORUM TAX DEDUCTION AND STRIPPER WELL EXEMPTION THAT QUALIFIES WELLS FOR AN EXEMPTIOON FROM THE TAX; EXEMPTING REVUNES FROM THE TAX AND RELATED INVESTMENT INCOME FROM STATE AND LOCAL GOVERNMENT SPENDING LIMITS; AND REQUIRING THE TAX REVUNES TO BE CREDITED AS FOLLOWS: (A) 22% TO THE SEVERANCE TAX TRUST FUND, (B) 22% TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND, AND (C) 56% TO A NEW SEVERANCE TAX STABILIZATION TRUST FUND OF WHICH 60% IS USED TO FUND SCHOLARSHIPS FOR COLORADO RESIDENTS ATTENDING STATE COLLEGES AND UNIVERSITIES, 15% TO FUND MONITORING OF AIR POLLUTION IN COUNTIES AND MUNICIPALITIES BEARING THE BRUNT OF FRACKING-RELATED POLLUTION, 10% TO FUND RENEWABLE ENERGY; 15% TO FUND MEDICAL TREATMENT OF RESIDENTS SUFFERING FROM THE NEGATIVE HEALTH IMPACTS OF OIL AND GAS OPERATIONS?”

From: andrew oconnor
To: mike.foote.house@state.co.us; senatormattjones@gmail.com; christine.berg@cityoflafayette.com; kkreeger@broomfieldcitycouncil.org; BoulderCountyProtectors@gmail.com; [Boulder County Oil and Gas Comment](#); stephen.fenberg.senate@state.co.us; jputterman@msn.com; newsroom@dailycamera.com; [Jonathan Wolfer](#); [Fred Smith](#); [Jim Tatten](#); [Dave Krieger](#); [Mary O'Connor](#); [Dave Anderson](#)
Subject: Re: Colorado Oil and Gas Industry Initiative
Date: Thursday, March 09, 2017 1:38:12 PM
Attachments: [Colorado Oil and Natural Gas Severance Tax Initiative.docx](#)

Edited to include funding for kindergarten and elementary school education.

From: andrew oconnor <oconnorandrew@hotmail.com>
Sent: Thursday, March 9, 2017 12:59 PM
To: mike.foote.house@state.co.us; senatormattjones@gmail.com; christine.berg@cityoflafayette.com; kkreeger@broomfieldcitycouncil.org; BoulderCountyProtectors@gmail.com; oilgascomment@bouldercounty.org; Fred Smith; stephen.fenberg.senate@state.co.us; Jim Tatten; jputterman@msn.com; Mary O'Connor; Yoav Benari; Kevin Hennelly; newsroom@dailycamera.com; Dave Krieger; Dave Anderson
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Subject: Corrected Final Draft of Colorado Oil and Gas Industry Initiative
Date: Thursday, March 09, 2017 9:51:40 PM
Attachments: [Colorado Oil and Natural Gas Severance Tax Initiative.docx](#)

Please find corrected final draft for your review. Thank you.

From: andrew oconnor <oconnorandrew@hotmail.com>
Sent: Thursday, March 9, 2017 1:37 PM
To: mike.foote.house@state.co.us; senatormattjones@gmail.com; christine.berg@cityoflafayette.com; kkreeger@broomfieldcitycouncil.org; BoulderCountyProtectors@gmail.com; oilgascomment@bouldercounty.org; stephen.fenberg.senate@state.co.us; jputterman@msn.com; newsroom@dailycamera.com; Jonathan Wolfer; Fred Smith; Jim Tatten; Dave Krieger; Mary O'Connor; Dave Anderson
Subject: Re: Colorado Oil and Gas Industry Initiative

Edited to include funding for kindergarten and elementary school education.

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Sent: Thursday, March 9, 2017 12:59 PM
To: mike.foote.house@state.co.us; senatormattjones@gmail.com; christine.berg@cityoflafayette.com; kkreeger@broomfieldcitycouncil.org; BoulderCountyProtectors@gmail.com; oilgascomment@bouldercounty.org; Fred Smith; stephen.fenberg.senate@state.co.us; Jim Tatten; jputterman@msn.com; Mary O'Connor; Yoav Benari; Kevin Hennelly; newsroom@dailycamera.com; Dave Krieger; Dave Anderson
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From: All Events in City
To: [Boulder County Oil and Gas Comment](#)
Subject: Public Hearing to Demand We Uphold Boulder's Fracking Moratorium has been published on AllEvents.in
Date: Friday, March 10, 2017 10:35:03 AM



Public Hearing to Demand We Uphold Boulder's Fracking Moratorium has been published on allevents.in and listed among the best events in your city.

Take a quick look at your event below:



Public Hearing to Demand We Uphold Boulder's Fracking Moratorium

Tue Mar 14 2017 at 12:00 pm

[View Event](#)

Get your event Highlighted when someone searches for events in your city (or nearby cities) and increase your chances of reaching out to potential attendees.

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In case of any problems/queries, please check out our [FAQs](#) or email us at bizdev@allevents.in.

Happy to help,
Manoj Yadav
Customer Happiness Manager,
All Events in City - <http://allevents.in>
Call on +91 9033673504 or Skype ID manoj.allevents

P.S. - If the event was intended to be private and not supposed to be shared publicly, you can report it by hitting this [link](#). We will remove it within 24 hours.

Sell your **Tickets Online**
Zero Setup Fee, No per-transaction Charges

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Facebook

Twitter

Google+

Block future communication regarding your events

From: Jeffrey Kersting
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil & Gas Development
Date: Friday, March 10, 2017 1:13:25 PM

My wife and I are property owners in Unincorporated Boulder County -- Allenspark to be exact.

We purchased property here because of it's proximity to Wilderness areas as well as the fact that we consider Boulder County a Progressive Community. Though oil and gas development is primarily confined to the Front Range portion of the county we are personally opposed to it's further expansion. The current feeding frenzy attitude of the Trump administration, as well as Republican members of the House and Senate, regarding oil and gas development in National Parks and wilderness areas is frightening to say the least. We are further concerned, and saddened, to learn that Colorado's Attorney General Coffman, is in lockstep with the Trump Administration's desires. Obviously, Cynthia Coffman's constituents are NOT the people of Colorado but are instead the oil and gas industry. All of the concerns raised about health problems, air pollution, water contamination, soil contamination, loss of agricultural land, noise, odor, vibration, property damage, transportation impacts, and other local land use impacts that may be caused by oil and gas development, are too numerous to ignore. As Republican lawmakers exhibit more and more aggressive behavior, stating concepts such as "redefining water" (as heard recently on the PBS News Hour), it is now more important than ever for Communities such as Boulder to resist further incursions by polluting industries. History has shown industries to have complete disregard for a community's well-being had it not been for the regulations imposed to curtail their greedy ambitions. We applaud, and support, Boulder County's efforts to curtail and/or stop any further oil and gas development within Unincorporated Boulder County.

Thank you.

Regards.

Jeffrey Kersting
Denise Motta

From: Jan & Brian Wilson
To: [Sanchez, Kimberly](#)
Subject: Application for Rule 216 by Crestone Peak
Date: Friday, March 10, 2017 3:24:40 PM

My name is Jan Wilson and we received a notification of filing by Crestone Peak with the Colorado Oil and Gas Conservation Commission under Rule 216 for a Comprehensive Drilling Plan for my area of Boulder County. We have been given a presentation by Matt Sura on this Rule 216. Just wanted to touch bases with you as to the timing of this action. I understand the County will be approving new regulations in March for when the moratorium is up. My understanding is that we can try to have some say in this plan but I want to make sure we are in agreement with Boulder County set-backs etc. Please let me know what and how we proceed in light of the new County regulations coming soon.

Jan L Wilson
7557 Rodeo Dr
Longmont CO 80504

From: Anne Carto
To: [Boulder County Oil and Gas Comment](#)
Cc: [Sanchez, Kimberly](#); [Pearlman, Ben](#); [Dan Haley](#); [Mark Mathews](#)
Subject: COGA Comments re: DC-16-0004 Amendments to Oil and Gas Development Regulations
Date: Friday, March 10, 2017 4:57:31 PM
Attachments: [COGA Boulder Co Whitepaper 10.10.16.pdf](#)
[COGA Letter re Boulder Co. Regulations 3.10.17.pdf](#)
[COGA Redline Boulder County Regulations 3.10.17.docx.pdf](#)

Good afternoon,

Please include the attached letter, redline, and white paper in the public record as the Colorado Oil & Gas Association's comments to DC-16-0004 Amendments to Oil and Gas Development Regulations. Please feel encouraged to reach out with any questions.

Best,

Anne Carto

Anne Carto
Community Outreach Manager
[Colorado Oil & Gas Association](#)
p: 303-861-0362 c: 303-503-8367

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OIL & GAS REGULATION IN THE STATE OF COLORADO WHITE PAPER

The Colorado Oil and Gas Association (“COGA”) appreciates the opportunity to present this White Paper to Boulder County.

In the past few years, the Colorado Oil and Gas Conservation Commission (“COGCC”) has implemented numerous precedent-setting regulations, including baseline groundwater testing and monitoring, air regulations targeting methane leak detection and repair, spill detection and reporting, and large scale facility requirements in urban mitigation for the oil and gas industry.¹ The COGCC, with a staff of almost 100 experienced oil and gas personnel, has implemented these regulations to provide operators, local government and citizens with consistency, clarity and certainty regarding virtually every technical aspect of oil and gas operations. Before implementing its proposed oil and gas regulations (“Proposed Regulations”) in the Boulder County Land Use Code (“Code”), Boulder County should carefully consider the extent to which its Proposed Regulations could conflict with these extensive state regulations.

The purpose of this White Paper is two-fold. COGA first provides an overview of the law of preemption, which precludes local governments from regulating areas of oil and gas operations that the state regulates. The White Paper then explains some of the state regulations already in place, showcasing the depth and breadth of the existing regulatory framework, and points out certain Proposed Regulations that likely conflict with state regulations and may therefore be preempted by state authority.

I. Boulder County is Preempted from Implementing Regulations that Conflict with State Law.

Before implementing the Proposed Regulations, Boulder County should understand that Colorado law precludes local governments from regulating areas of oil and gas operations that are already regulated by state authority. The law of preemption, as recognized by statute and Colorado courts, plainly establishes what aspects of oil and gas operations local governments may and may not regulate.

¹ <http://cogcc.state.co.us/reg.html#/rules>; <https://www.colorado.gov/pacific/cdphe/aqcc-regs>.

The state's broad authority to regulate oil and gas arises under the Colorado Oil and Gas Conservation Act ("Act"), which mandates that the state foster the responsible development of Colorado's oil and gas natural resources.² Specifically, the Act requires the COGCC to regulate oil and gas development in Colorado to ensure: (i) the efficient exploration and production of oil and gas resources in a manner consistent with the protection of public health, safety and welfare, (ii) the prevention of waste, (iii) the protection of mineral owners' correlative rights, and (iv) the prevention and mitigation of adverse environmental impacts.³

The Colorado Supreme Court recently addressed the scope of the COGCC's authority to regulate oil and gas operations under the Act in two decisions, *Fort Collins v. COGA*⁴ and *Longmont v. COGA*.⁵ These cases define a new preemption balance between state and local government regulation of oil and gas development and clarify what local governments can regulate, how they can regulate, and how their regulations can be challenged.

The *Longmont* decision arose from Longmont's decision to ban hydraulic fracturing and the storage and disposal of fracking wastes. The *Fort Collins* decision resulted from a five-year moratorium enacted by Fort Collins in 2013 on hydraulic fracturing and storage of fracking waste product. In each case, the trial court held on summary judgment that the ban and the moratorium were operationally preempted by state law. On appeal, the Colorado Supreme Court upheld the decision of each trial court, concluding that Longmont's ban and Fort Collins's moratorium operationally conflicted with applicable state law and were therefore preempted.

These decisions impact local government regulation of hydraulic fracturing in two important ways. First, the cases articulate a clear statement of the operational conflict test. Clarifying decades of confusing law on the issue, the Court explained the operational conflict test as: "considering whether the effectuation of a local interest would materially impede or destroy a state interest, recognizing that a local ordinance that authorizes what state law forbids or that forbids what state law authorizes will necessarily satisfy this standard."⁶ Under this test, local government law can be preempted in two ways: (i) if it directly conflicts with state law; or (ii) if it indirectly conflicts with state law by materially impeding a state interest. As the Court made clear, this test applies beyond bans and moratoria to all efforts by local governments to regulate any aspect of hydraulic fracturing.

⁷

Applying this test, the Court held that Longmont's ban and Fort Collins's moratorium were operationally preempted because the cities' restrictions materially impeded the state's interest in regulating oil and gas by undermining the state's interest in the uniform

² Colo. Rev. Stat. § 34-60-101, *et seq.*

³ Colo. Rev. Stat. §34-60-102(1)(a).

⁴ *City of Fort Collins v. Colo. Oil and Gas Ass'n*, 2016 CO 28.

⁵ *City of Longmont v. Colo. Oil and Gas Ass'n*, 2016 CO 29.

⁶ 2016 CO 29, ¶42.

⁷ 2016 CO 29, ¶42.

regulation of oil and gas development. The Colorado Supreme Court’s analysis relied upon the state’s interest in oil and gas development as expressed in the “exhaustive set of rules and regulations to prevent waste and to conserve oil and gas in the State of Colorado while protecting public health, safety, and welfare.”⁸ These “pervasive rules and regulations,” according to the Court, would be rendered “superfluous” by the ban and moratorium.⁹

Second, and just as important as offering a clear operational conflict test, the Court also clarified how this operational conflict test is applied. The Court rejected arguments by the cities that an operational conflict can only be shown through a fact-based, evidentiary hearing, ruling instead that “in virtually all cases,” the operational conflict test “will involve a facial evaluation of the respective statutory and regulatory schemes, not a factual inquiry as to the effect of those schemes ‘on the ground.’”¹⁰ Under this holding, challenges to local government oil and gas regulation should be resolved on summary judgment within a few months of the filing of a complaint by the trial court comparing the language of the applicable state regulation with the local government ordinance and determining whether they facially conflict.

In the wake of these decisions, local government authority to implement oil and gas regulation is limited to areas that do not conflict with state law and that do not impinge upon the technical and operational areas that are solely within the jurisdiction of the COGCC to regulate. This means that local governments may not adopt regulations that facially conflict with state requirements or that render those state requirements “superfluous.”¹¹ For example, under the *Longmont* and *Fort Collins* cases, no local government may impose more extensive setbacks or mitigation requirements than provided by the state (COGCC rules specify “statewide location requirements” (Rule 603) and setbacks and mitigation measures for oil and gas facilities and drilling and servicing operations (Rule 604)).

Additionally, local governments may not enact regulations mirroring state law and then seek to enforce those provisions. The Colorado Court of Appeals has specifically rejected the authority of a statutory town to enforce COGCC requirements on oil and gas operations.¹² That decision is consistent with the Colorado Supreme Court decisions in *Longmont* and *Fort Collins*, under which duplicative regulations were deemed to impede the COGCC’s comprehensive authority to permit oil and gas wells and to achieve uniform regulation of fracking and oil and gas operations in general.

⁸ 2016 CO 29, ¶52; 2016 CO 28, ¶29.

⁹ 2016 CO 29, ¶53; 2016 CO 28, ¶30.

¹⁰ 2016 CO 29, ¶ 15; 2016 C 28 ¶21.

¹¹ Of course, this means not only that local governments may not in the future adopt unlawful regulations, but also that existing regulations adopted by local governments that facially conflict with state requirements or render state requirements “superfluous” are operationally preempted and open to legal challenge. It is possible that some of the current Code provisions fall into this latter category. A list of Code provisions potentially preempted by state regulations is attached as Appendix A.

¹² *Town of Frederick v. N. Am. Res. Co.*, 60 P.3d 758, 765-766 (Colo. App. 2002).

Finally, local governments also may not implement broad “performance-based” oil and gas regulations purporting to ensure compatibility with surrounding uses or to protect public health, safety and welfare that conflict with the state’s interests. Although such regulations are cloaked in land-use terms such as “compatibility,” regulations of this sort nonetheless seek to give local governments decision-making control in areas such as environmental impacts of operations or final siting authority that are heavily regulated by the state. Preemption law is about who gets to make the ultimate decisions, and performance-based regulations may unlawfully attempt to shift final authority to the local governments. Moreover, performance-based standards may interfere with the COGCC’s interest in the uniform regulation of oil and gas operations covered by the comprehensive state regulations. While local governments can, under their general police power, require permits for certain aspects of oil and gas facilities, regulate road traffic and transportation improvements associated with oil and gas operations, and require building permits for above-ground structures, they cannot adopt regulations that essentially switch ultimate decision-making authority from the state to themselves under the guise of performance-based standards.

Colorado courts have not hesitated to strike down local government laws that they view as preempted by State statute and regulations. Colorado courts have done so in both facial and as-applied challenges to local government regulations. For example, in *Town of Frederick*,¹³ the court of appeals affirmed the trial court’s facial invalidation of several Town regulations because they were in conflict with state regulations. Those included the Town’s setback requirements for the location of wells that conflicted with COGCC Rule 603a; the Town’s noise abatement requirements that went beyond those required by the State; and the Town’s visual impact requirements that conflicted with the detailed requirements in five COGCC rules. *See also Bd. of Cnty. Comm’rs. v. BDS Int’l*,¹⁴ (holding that a county cannot reserve the right to determine financial requirements where the COGCC has reserved for itself the sole authority to impose fines.)

Colorado courts have been even more willing to strike down local government regulations on operationally preemption ground in as-applied challenges. While courts have sometimes required further evidence in a facial challenge to determine whether certain performance standards conflict with State law, they have readily struck down conflicting local government regulations and permit conditions on an as applied basis. *See e.g., Bd. of Cnty. Comm’rs. v. Vandemoer*,¹⁵ (court strikes down local government’s ban of sprinkler systems on county roads after hearing on preliminary injunction because it operationally conflicted with state law allowing such usage); *Commerce City v. State*,¹⁶ (upholding trial court’s decision that sections of local government law on automated vehicle identification system were operationally preempted because they conflicted with state law, including local regulations concerning use of signage, lack of warning to first-time traffic violators, and size of fines). These decisions all presage the *Longmont* holding that local government

¹³ *Town of Frederick*, 60 P.3d at 765-766 (Colo. App. 2002).

¹⁴ *Bd. of Cnty. Comm’rs. v. BDS Int’l*, 159 P.3d 773 (Colo. App. 2006).

¹⁵ *Bd. of Cnty. Comm’rs. v. Vandemoer*, 205 P.3d 423, 427 (Colo. App. 2008).

¹⁶ *Commerce City v. State*, 40 P.3d 1273, 1285 (Colo. 2003).

regulations, whether challenged facially or on an as-applied basis, will be struck down if they conflict with state law.

Because of the *Fort Collins* and *Longmont* decisions, operators, local governments and citizens in Colorado have a clear statement articulated by the highest state court as to what the operational conflict standard is and how it will be applied. The Colorado Supreme Court also explicitly recognized the “exhaustive” and “pervasive” set of state rules and regulations governing virtually every aspect of oil and gas development. While the Court recognized that local governments have some authority to regulate the land use aspects of oil and gas activity, there is no doubt that such scope of authority is confined to a limited area of regulation that does not operationally conflict with state law.¹⁷

II. Several aspects of the Proposed Regulations are Likely Preempted by Comprehensive State Regulations.

The purpose of this section of the White Paper is to present the extensive nature of COGCC regulations in certain areas that are also addressed in the Proposed Regulations. As discussed above, any local government regulation that conflicts with state law will be null and void under the operational conflict preemption doctrine. Given this established law, it is startling that the Proposed Regulations provide, “[t]he County strongly recommends that applicants apply to the County for special review prior to applying for [Application and Permit to Drill] to avoid the *potential for conflicting requirements and mitigation measures*.”¹⁸ Because conflicting requirements are unlawful, that statement strongly suggests that application of some of the Proposed Regulations may result in terms and conditions that are illegal under the preemption doctrine.

A. Siting of Oil and Gas Operations.

The Act and COGCC regulations plainly give the state authority to site oil and gas operations.¹⁹ This has been confirmed by the Colorado Supreme Court in *Longmont v. COGA*. There, in characterizing *Voss v Lundvall Bros.*,²⁰ the Court stated: “[W]e

¹⁷ While state law plainly preempts local governments from regulating in many areas of oil and gas operations, local governments do have meaningful involvement in the COGCC permitting process. Indeed, the COGCC actively facilitates collaborative development of oil and gas within a local jurisdiction’s boundaries by providing local governments with many opportunities to be involved in the state permitting process. Boulder County and other local governments have express authority to participate in the COGCC regulatory process and to cooperate with the operation seeking a permit at the early stages of oil and gas development. For example, the COGCC has enacted numerous regulations over the past few years that allow local governments immediate notice of Form 2, Applications for Permit to Drill (“APD”) and Form 2A, Oil and Gas Location Assessment (Form 2A or Oil and Gas Location), permits. COGCC 300 Series and 500 Series Rules (as of March 16, 2016). COGCC Rules 303, 305A, 305, 306, 507 and 508 also provide express authority for a local government, through a Local Government Designee (“LGD”), to provide early and immediate input on Large Scale Facilities in Urban Mitigation Areas, other Oil and Gas Locations or APDs, and drilling and spacing units proposed by operators within the boundaries of their jurisdictions. See Appendix B.

¹⁸ Proposed Regulation, 12-400 A (4)(emphasis added).

¹⁹ Colo. Rev. Stat. §§34-60-103(6.5), 35-60-106 (1)(f),(2)(a),(2)(c).

²⁰ *Voss v Lundvall Bros.*, 830 P.2d 1061, 1065 (Colo. 1991).

concluded that the state’s interest in the efficient and fair development of oil and gas resources in the state, including the location and spacing of individual wells, suggested that the matter was one of state concern In our view the same reasoning applies to the state’s interest in hydraulic fracturing.”²¹

The Proposed Regulations appear to intrude upon the state’s authority to decide all oil and gas siting issues. The Proposed Regulations give the County authority to impose site-specific mitigation measures that include the ability to change the proposed location of the well pad.²² Several of the “special review standards” listed in the Proposed Regulations also appear to give the County siting authority, including the County’s virtual ban on operations in floodplains (discussed below), the mitigation criteria for land disturbance, and the requirement that operations shall be compatible with surround land uses, as determined by the County.²³ The County may not grant to itself under the Proposed Regulations final siting authority that alters the state’s siting authority for oil and gas operations.

B. *Floodplains*

Boulder County proposes an outright ban on oil and gas operations in floodplains “unless the Applicant can demonstrate that extraction of the resource is impossible from an area outside of the mapped floodplain.”²⁴ This regulation forbids what the COGCC regulations permit. On March 2, 2015, the COGCC adopted regulations in response to the 100-year flood of 2013. The COGCC officially defined “Floodplains” in its 100-series rules and regulations as “any area of land officially declared to be in a 100-year floodplain by and Colorado Municipality, Colorado County, State Agency, or Federal Agency.” COGCC Rule 603.h explicitly permits operations in floodplains if operators follow certain well control and safety requirements. The County’s Proposed Regulation on floodplains clearly falls within the operational conflict test by forbidding what state law expressly authorizes.

C. *Best Management Practices (BMPs)*

The use of Best Management Practices is the defining factor in what makes Colorado the most thoroughly and robustly regulated state in the country with respect to oil and gas. The state’s BMPs are specifically designed to accomplish two important objectives: (i) create and maintain an operating environment that prioritizes and ensures safety at all times and at all phases of operations, and (ii) minimize, where possible, any inconveniences or impacts to the community that could possibly occur as a result of oil and natural gas development.

²¹ 2016 CO 29, ¶ 22.

²² Proposed Regulation, 12-701 (C) (1).

²³ Proposed Regulations, 12-600 (F), (H), and (M).

²⁴ Proposed Regulation, 12-600 (F).

Many of the applicable BMPs are governed by the COGCC²⁵ and the Colorado Department of Public Health and Environment (“CDPHE”). BMPs are defined by the COGCC as practices that are designed to prevent or reduce impacts caused by oil and gas operations to air, water, soil, or biological resources and to minimize adverse impacts to public health safety and welfare, including the environment and wildlife resources.²⁶ Additionally, the COGCC specifies that in minimizing adverse impacts, cost-effectiveness and technical feasibility must be taken into consideration.²⁷ Similarly, BMPs for water quality are defined by the CDPHE as a practice or combination of practices that are determined to be “the most effective, practicable (*including technological, economic; and institutional considerations*) means of preventing or reducing the amount of pollution.”²⁸ Under COGCC and CDPHE regulations, changing the configuration of the BMPs would require technical expertise applied on a site-by-site basis.

The Proposed Regulations frequently use a concept similar to BMPs, but there the practices are labeled “Most Effective Performance Techniques and Practices” and are *not* made upon a determination that the practices are practicable in terms of technological, economic, and institutional considerations.²⁹ This could lead the County to require “Most Effective Performance Techniques and Practices” that materially impede the state’s interest in recovering oil and gas resources by imposing practices that are cost-prohibitive for oil and gas development or that are technologically and/or institutionally impracticable.

D. *Air Quality*

Air quality for oil and gas operations is regulated by the CDPHE and partially the COGCC. The State of Colorado, through regulation by the CDPHE, has the most stringent air regulations in the United States, with the EPA using Colorado’s air quality regulations as a model for its own rulemakings. On February 23, 2014, Colorado’s Air Quality Control Commission (“AQCC”) voted to adopt new precedent-setting rules targeting air emissions from the oil and gas industry. These regulations fully adopted federal regulations (EPA’s NSPS OOOO) and added controls and strategies to reduce fugitive Volatile Organic Compounds (“VOCs”) and hydrocarbon emissions from condensate tanks and other sources. Colorado’s regulations include mandatory installation of emission control devices and implementation of leak detection and repair programs. Key elements of the 2014 air quality regulations³⁰ include, among several other components, leak detection and repair (“LDAR”), storage tank regulations, and expanded applicability to include pneumatics. Additionally, there are plentiful COGCC Rules that address air quality.³¹ Boulder County should review each and every one of the CDPHE and COGCC rules relating to air quality

²⁵ COGCC Rules 604, 802, 803, 804 and 805.

²⁶ See COGCC 100 Series, Definitions.

²⁷ See *id.*

²⁸ 5 C.C.R. §1002-31.5(6)(emphasis added).

²⁹ See Proposed Regulation, 12-400.

³⁰ <https://www.colorado.gov/pacific/cdphe/aqcc-regs>.

³¹ COGCC Rule 604.c.1 and 805.b.(1) – (3).

and emissions when analyzing the inclusion of air quality standards in its Code. While local governments can regulate in the air quality space, regulations that extend so far beyond the state regulations that they effectively prohibit the practicable extraction of oil and gas are likely operationally preempted.

E. *Pipelines.*

Pipelines are regulated in varying capacities by the CDPHE, CDOT, COPUC and certain federal agencies, depending upon the type of pipeline. In February 2016, the COGCC issued an Operator Guidance (“Guidance”) that explains the differences between the different types of lines.³² In this Guidance, the COGCC unequivocally defers the regulation of gas gathering lines to the COPUC and confirms that regulation of gathering lines is beyond the scope of the COGCC policy.

Boulder County proposes that all oil and gas pipelines be subject to special review, the contours of which are unclear.³³ Because this area is heavily regulated by state and federal agencies, local governments should be wary of establishing regulations related to pipelines and gathering lines. Indeed, local government regulation in this area is likely preempted by state and Federal law by another preemption doctrine: express preemption.

F. *Water Quality*

The COGCC has comprehensive regulations regarding water monitoring and testing, disposal, and use of water in oil and gas operations.³⁴ It also regulates thoroughly spill notification and remediation of groundwater contamination.³⁵ The COGCC also regulates the management of Exploration & Production Waste (“E&P Waste”) and produced fluids (produced water) in the 900-series rules that govern the treatment of produced water and E&P waste relating to the permitting, lining and closure of pits, spills and releases of E&P waste and produced fluids, remediation and closure of sites, and closure concentrations.³⁶ The CDPHE also has regulations regarding produced water and E&P waste relating to injection, commercial facilities and discharge of produced water or E&P waste.

As with air quality, Boulder County should review these rules relating to water use and quality when considering appropriate water quality standards for its Code. The Proposed Regulations appear to grant the County extensive authority to require sampling and remediation of groundwater and to evaluate water quality information as part of the approval process.³⁷ These regulations are likely preempted as conflicting with state authority to regulate water quality aspects of oil and gas operations.

³³ Proposed Regulation, 12-600 (J).

³⁴ COGCC Rules 609 and 318A.f.

³⁵ COGCC Rule 909.

³⁶ COGCC Rules 901 through 910.

³⁷ Proposed Regulations, 12-600 (O), 12-700 (DD), 12-701(B), 12-500(Y).

G. *Compatibility*

The Proposed Regulations allow the County to approve, deny or condition a permit based on its “compatibility” with nearby land uses.³⁸ The Proposed Regulations will determine compatibility of Applications based upon the Special Review Standards set forth in 12-600. This is an illegal expansion of issues that local government’s authority may legally consider, because it allows the County to consider virtually every aspect of oil and gas operations in considering permit applications. , including many technical and environmental areas already subject to extensive COGCC regulations. As the Colorado Supreme Court determined in the *Longmont* and *Fort Collins* decisions, local governments may not impose regulations or conditions of approval on permits that conflict with state statute and regulations. Yet this is precisely what the broad definition of “compatibility” (as informed by the provisions of 12-600) allows.

H. *Fees and Bonding Requirements*

The COGCC regulations require oil and gas operators to provide financial assurance or a “bond” to the COGCC to ensure performance of the Act’s standards and regulations promulgated thereunder, as well as to fund the Oil and Gas Conservation and Environmental Response Fund, which performs site reclamation and remediation and conducts other authorized environmental activities.³⁹

Provision 12-700 (Q) of the Proposed Regulations provides: “If approval is conditioned upon revegetation, road improvements, or similar specific site improvements, the Applicant will be required to submit a letter of credit in a form satisfactory to the County for the full cost of such improvements prior to issuance of a special review construction permit.” This regulation is duplicative of the bonding required by the COGCC, renders the COGCC bonding “superfluous,” and is therefore likely to be operationally preempted. Indeed, local governments may not impose fees or bonding requirements on areas within COGCC jurisdiction. See *Bd. of Cnty. Comm’rs. v. BDS Int’l*,⁴⁰ (holding that a county cannot reserve the right to determine financial requirements where the COGCC has reserved for itself the sole authority to impose fines); *Town of Milliken v. Kerr-McGee*⁴¹ (relevant inquiry is whether the Town’s inspection fees concern “matters that are subject to rule, regulation, order, or permit conditions administered by the commission.”)

IV. **Conclusion**

The COGCC, the CDPHE and other state agencies regulate Colorado oil and gas operations under some of the nation’s most rigorous regulations for oil and gas development. To avoid operational conflict preemption under established Colorado law, local governments

³⁸ Proposed Regulation, 12-701 (C).

³⁹ COGCC Rule 701, *et seq.*; *Colo. Rev. Stat. §34-60-124*.

⁴⁰ *Bd. of Cnty. Comm’rs. v. BDS Int’l*, 159 P.3d 773 (Colo. App. 2006).

⁴¹ *Town of Milliken v. Kerr-McGee*, 2013 WL 1908965, *1 (2013)

that enact oil and gas regulations under their land use authority must ensure that such regulations do not conflict with state regulations. To that end, it is crucial that Boulder County has a thorough understanding of the issues and legal implications set forth in this White Paper. The information and principles provided herein also inform all other parties involved as they review and provide input on any revisions to the Code's oil and gas operations regulations that Boulder County proposes to enact.

Appendix A

Code provisions potentially preempted by COGCC and/or CDPHE regulations

- Section 12-400 (E),(H): Applicant Neighborhood Meeting, Notice
- Section 12-500(I), (K),(M),(Q), (R), (U), (X),(Y): Site Plan and Parcel Information, Air Quality Plan, Land Disturbance Mitigation Plan, Offsite Transport Plan, Electrification Plan, Natural Resources Mitigation Plan, Surrounding Land Uses Mitigation Plan, Water Quality Plan
- Section 12-600(C), (I), (J), (M), (O): Air Quality, Natural Resources, Pipelines, Surrounding Land Uses, Water Quality
- Section 12-700(A),(C),(E),(F),(I),(Q),(S),(T),(V),(W),(BB),(DD),(EE): Anchoring, Air Quality Certification, Discharge Valves, Dust Suppression and Fugitive Dust, Flammable Material, Performance Guarantee, Removal of Debris, Removal of Equipment, Spills and Leaks, Stormwater Control, Vegetation, Water Quality, Weed Control
- Section 12-701(A), (B), (C): Air Quality, Water Quality Monitoring and Well Testing, Land Disturbance and Compatibility
- Section 12-1000: Enforcement
- Section 12-1400: Definitions, certain of these, particularly Most Effective Performance Techniques and Practices
- Amendment to Article 4-514 Utility and Public Service Uses, “Gas and/or Hazardous Liquid Pipelines”

Appendix B

COGCC Regulations Requesting Local Government Comment, Consultation and Collaboration

- Rule 303.b.(1).J, K requires operators to certify that the appropriate LGD has been notified of and has been given opportunity to comment and consult on a Form 2A under Rule 305A and 305.a. and b. COGCC Rule 303.b.(1).J, K.
- Rule 305A.a., b. and c. requires operators to deliver a written Notice of Intent to Construct a Large Urban Mitigation Area facility no later than 90 days from initiating the Form 2A process and such notice must include an offer to meet and consult on the specific location of the Form 2A. COGCC Rule 305.A.a., b. and c.
- Rule 305.a. and b. require operators to notify the LGD if an Oil and Gas Location will be located within an Urban Mitigation Area and provides building unit owners within 1,000 feet of an Oil and Gas Location with the LGD's contact information if there are concerns. The rule further provides for the notice of a Large Urban Mitigation Area facility to the LGD. The LGD, if on its own volition or on a request from a building unit owner, may provide comment and input on an operator's Form 2A early in the permitting process or may provide input on the Large Urban Mitigation Area facility prior to an operator submitted a Form 2A. COGCC Rule 305.a., b.
- Rule 306 provides that local governments that have appointed a Local Governmental Designee and have indicated to the Director a desire for consultation shall be given an opportunity to consult with the Applicant and the Director on an Application for Permit-to-Drill, Form 2, or an Oil and Gas Location Assessment, Form 2A, for the location of roads, Production Facilities and Well sites, and mitigation measures or Best Management Practices during the comment period under Rule 305.d. COGCC Rule 306.
- Rule 507 mandates that any operator requesting an order from the COGCC for a drilling and spacing unit application and any application for a state unit submit notice to the applicable Local Government, Colorado Department of Public Health and Environment, and Colorado Parks and Wildlife. COGCC Rule 507.c.
- Rule 508 allows for a Local Government to request a local public forum if an operator is seeking an increased density application from the COGCC. The provisions of this Rule 508 only apply to applications that would result in more than one (1) well site or multi-well site per forty (40) acre nominal governmental quarter- quarter section or that request approval for additional wells that would result in more than one (1) well site or multi-well site per forty (40) acre nominal governmental quarter-quarter section, within existing drilling units, not previously authorized by Commission order. A local public forum may be used to address impacts to public health, safety and welfare, including the environment and wildlife resources, which may be raised by an application for increased well density. A local

public forum shall be convened on the Commission's own motion, or upon request from the local governmental designee or the applicant. COGCC Rule 508.a.

Appendix C
COGCC and CPDHE Rule References

I. Large Scale Urban Mitigation Area (Siting)

- 100-Series Rules: Defined large scale oil and gas facility in an urban mitigation area (Large UMA Facility) as any facility that proposes eight or more new wells or the cumulative new and existing on-site storage capacity for produced hydrocarbons exceeds 4,000 barrels. COGCC Rule 100 – Definition of Large Urban Mitigation Area Facility.
- Rule 305A: Any operator seeking to develop a Large UMA Facility is required to notify the local government with land use jurisdiction and offer to consult on siting and best management practices. The operator is also required to provide notice to the surface owner on which the Large UMA Facility is proposed. This notice must be provided 90 days prior to submitting a Form 2A oil and gas location assessment to the COGCC. The local government receiving the Notice of Intent to Construct a Large UMA Facility may immediately initiate a consultation and collaboration process with the operator and ensure that its concerns about the proposed facility, best management practices and mitigation measures are addressed. Consultation is not required if the local government with land use authority has opted out of the consultation process OR if the local government with land use authority and the operator seeking to develop have an existing agreement, like an existing local government permit or Memorandum of Understanding, in place to guide the siting of a proposed location. COGCC Rule 305A.
- Rule 604.c.(4): Operators are required to incorporate Required Best Management Practices in to their Form 2A Oil and Gas Location Assessment permit application. The local government has the opportunity to consult with the operator prior to initiating the Form 2A process and to comment on the Form 2A with respect to Best Management Practices and mitigation measures it believes should be applied to the final Form 2A. The Director of the COGCC may also require site specific mitigation measures as conditions of approval on an operator's permit, including conditions regarding noise, ground and surface water protection, visual impacts, and remote stimulation operations. COGCC Rule 604.c.

II. Floodplains. COGCC Rule 603.h. specifically provides for Statewide Floodplain Requirements as follows:

(1) The following requirements apply to new Oil and Gas Locations and Wells:

A. Effective August 1, 2015, Operators must notify the Director when a new proposed Oil and Gas Location is within a defined Floodplain, via the Form 2A.

B. Effective June 1, 2015, new Wells must be equipped with remote shut-in capabilities prior to commencing production. Remote shut-in capabilities include, at a minimum, the ability to shut-in the well from outside the relevant Floodplain.

C. Effective June 1, 2015, new Oil and Gas Locations must have secondary containment areas around Tanks constructed with a synthetic or geosynthetic liner that is mechanically connected to the steel ring or another engineered technology that provides equivalent protection from floodwaters and debris.

(2) The following requirements apply to both new and existing Wells, Tanks, separation equipment, containment berms, Production Pits, Special Purpose Pits, and flowback pits:

A. Effective April 1, 2016, Operators must maintain a current inventory of all existing Wells, Tanks, and separation equipment in a defined Floodplain. Operators shall ensure that a list of all such Wells, Tanks, and separation equipment is filed with the Director. As part of this inventory, Operators must maintain a current and documented plan describing how Wells within a defined Floodplain will be timely shut-in. This plan must include what triggers will activate the plan and must be made available for inspection by the Director upon request.

B. Effective June 1, 2015 for new and April 1, 2016 for existing, tanks, including partially buried tanks, and separation equipment must be anchored to the ground. Anchors must be engineered to support the Tank and separation equipment and to resist flotation, collapse, lateral movement, or subsidence.

C. Effective June 1, 2015 for new and April 1, 2016 for existing, containment berms around all Tanks must be constructed of steel rings or another engineered technology that provides equivalent protection from floodwaters and debris.

D. Effective June 1, 2015 for new and April 1, 2016 for existing, Production Pits, Special Purpose Pits (other than Emergency Pits), and flowback pits containing E&P waste shall not be allowed within a defined Floodplain without prior Director approval, pursuant to Rule 502.b.

E. An Operator may seek a variance from the effective date for the requirements for existing facilities referenced in subparts 603.h(2)B, C or D by filing a request for an alternative compliance plan with the Director on or before February 1, 2016. COGCC Rule 603.h.

IV. Best Management Practices (BMPs). COGCC Rule 604.c. addresses Mitigation Measures and BMPs, including almost all of those addressed in the Boulder County Code as noted above.

- Rule 604.c.(2) provides for Well or Production Facility proposed to be located within a Designated Setback Location for which a Form 2, Application for Permit—to-Drill or Form 2A, Oil and Gas Location Assessment, is submitted on or after August 1, 2013 the following BMPs will apply to the location:
 - A. Noise. Operations involving pipeline or gas facility installation or maintenance, or the use of a drilling rig, are subject to the maximum permissible noise levels for Light Industrial Zones, as measured at the nearest Building Unit. Short-term increases shall be allowable as described in 802.c. Stimulation or re-stimulation operations and Production Facilities are governed by Rule 802.
 - B. Closed Loop Drilling Systems – Pit Restrictions.
 - i. Closed loop drilling systems are required within the Buffer Zone Setback.
 - ii. Pits are not allowed on Oil and Gas Locations within the Buffer Zone Setback, except fresh water storage pits, reserve pits to drill surface casing, and emergency pits as defined in the 100-Series Rules.
 - iii. Fresh water pits within the Exception Zone shall require prior approval of a Form 15, Earthen Pit Report/Permit. In the Buffer Zone, fresh water pits shall be reported within 30-days of pit construction.
 - iv. Fresh water storage pits within the Buffer Zone Setback shall be conspicuously posted with signage identifying the pit name, the operator's name and contact information, and stating that no fluids other than fresh water are permitted in the pit. Produced water, recycled E&P waste, or flowback fluids are not allowed in fresh water storage pits.
 - v. Fresh water storage pits within the Buffer Zone Setback shall include emergency escape provisions for inadvertent human access.
 - C. Green Completions – Emission Control Systems.
 - i. Flow lines, separators, and sand traps capable of supporting green completions as described in Rule 805 shall be installed

- at any Oil and Gas Location at which commercial quantities of gas are reasonably expected to be produced based on existing adjacent wells within 1 mile.
 - ii. Uncontrolled venting shall be prohibited in an Urban Mitigation Area.
 - iii. Temporary flowback flaring and oxidizing equipment shall include the following:
 - aa. Adequately sized equipment to handle 1.5 times the largest flowback volume of gas experienced in a ten (10) mile radius;
 - bb. Valves and porting available to divert gas to temporary equipment or to permanent flaring and oxidizing equipment; and
 - cc. Auxiliary fuel with sufficient supply and heat to sustain combustion or oxidation of the gas mixture when the mixture includes non- combustible gases.
- D. Traffic Plan. If required by the local government, a traffic plan shall be coordinated with the local jurisdiction prior to commencement of move in and rig up. Any subsequent modification to the traffic plan must be coordinated with the local jurisdiction.
- E. Multi-well Pads.
 - i. Where technologically feasible and economically practicable, operators shall consolidate wells to create multi-well pads, including shared locations with other operators. Multi-well production facilities shall be located as far as possible from Building Units.
 - ii. The pad shall be constructed in such a manner that noise mitigation may be installed and removed without disturbing the site or landscaping.
 - iii. Pads shall have all weather access roads to allow for operator and emergency response.
- F. Leak Detection Plan. The Operator shall develop a plan to monitor Production Facilities on a regular schedule to identify fluid leaks.
- G. Berm construction. Berms or other secondary containment devices in Designated Setback Locations shall be constructed around crude oil, condensate, and produced water storage tanks and shall enclose an area sufficient to contain and provide secondary containment for one-hundred fifty percent (150%) of the largest single tank. Berms or other secondary containment devices shall be sufficiently impervious to contain any spilled or released material. All berms and containment devices shall be inspected at regular intervals and maintained in good condition. No potential ignition sources shall be installed inside the secondary containment area unless the containment area encloses a fired vessel. Refer to API Bulletin D16:

Suggested Procedure for “Development of a Spill Prevention Control and Countermeasure Plan,” 5th Edition (April 2011). Only the 5th Edition of the API bulletin applies to this rule; later amendments do not apply. All material incorporated by reference in this rule is available for public inspection during normal business hours from the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203. In addition, these materials may be examined at any state publications depository library and are available from API at 1220 L Street, NW Washington, DC 20005-4070.

- H. Blowout preventer equipment (“BOPE”). Blowout prevention equipment for drilling operations in a Designated Setback Location shall consist of (at a minimum):
 - i. Rig with Kelly. Double ram with blind ram and pipe ram; annular preventer or a rotating head.
 - ii. Rig without Kelly. Double ram with blind ram and pipe ram.

Mineral Management certification or Director approved training for blowout prevention shall be required for at least one (1) person at the well site during drilling operations.

- I. BOPE testing for drilling operations. Upon initial rig-up and at least once every thirty (30) days during drilling operations thereafter, pressure testing of the casing string and each component of the blowout prevention equipment including flange connections shall be performed to seventy percent (70%) of working pressure or seventy percent (70%) of the internal yield of casing, whichever is less. Pressure testing shall be conducted and the documented results shall be retained by the operator for inspection by the Director for a period of one (1) year. Activation of the pipe rams for function testing shall be conducted on a daily basis when practicable.
- J. BOPE for well servicing operations.
 - i. Adequate blowout prevention equipment shall be used on all well servicing operations.
 - ii. Backup stabbing valves shall be required on well servicing operations during reverse circulation. Valves shall be pressure tested before each well servicing operation using both low-pressure air and high-pressure fluid.
- K. Pit level indicators. Pit level indicators shall be used.
- L. Drill stem tests. Closed chamber drill stem tests shall be allowed. All other drill stem tests shall require approval by the Director.
- M. Fencing requirements. Unless otherwise requested by the Surface Owner, well sites constructed within Designated Setback Locations, shall be adequately fenced to restrict access by unauthorized persons.

- N. Control of fire hazards. Any material not in use that might constitute a fire hazard shall be removed a minimum of twenty-five (25) feet from the wellhead, tanks and separator. Any electrical equipment installations inside the bermed area shall comply with API RP 500 classifications and comply with the current national electrical code as adopted by the State of Colorado.
- O. Loadlines. All loadlines shall be bullplugged or capped.
- P. Removal of surface trash. All surface trash, debris, scrap or discarded material connected with the operations of the property shall be removed from the premises or disposed of in a legal manner.
- Q. Guy line anchors. All guy line anchors left buried for future use shall be identified by a marker of bright color not less than four (4) feet in height and not greater than one (1) foot east of the guy line anchor.
- R. Tank specifications. All newly installed or replaced crude oil and condensate storage tanks shall be designed, constructed, and maintained in accordance with National Fire Protection Association (NFPA) Code 30 (2008 version). The operator shall maintain written records verifying proper design, construction, and maintenance, and shall make these records available for inspection by the Director. Only the 2008 version of NFPA Code 30 applies to this rule. This rule does not include later amendments to, or editions of, the NFPA Code 30. NFPA Code 30 may be examined at any state publication depository library. Upon request, the Public Room Administrator at the office of the Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203, will provide information about the publisher and the citation to the material.
- S. Access roads. At the time of construction, all leasehold roads shall be constructed to accommodate local emergency vehicle access requirements, and shall be maintained in a reasonable condition.
- T. Well site cleared. Within ninety (90) days after a well is plugged and abandoned, the well site shall be cleared of all non-essential equipment, trash, and debris. For good cause shown, an extension of time may be granted by the Director.
- U. Identification of plugged and abandoned wells. The operator shall identify the location of the wellbore with a permanent monument as specified in Rule 319.a.(5). The operator shall also inscribe or imbed the well number and date of plugging upon the permanent monument.
- V. Development from existing well pads. Where possible, operators shall provide for the development of multiple reservoirs by drilling on existing pads or by multiple completions or commingling in existing wellbores (see

Rule 322). If any operator asserts it is not possible to comply with, or requests relief from, this requirement, the matter shall be set for hearing by the Commission and relief granted as appropriate.

- W. Site-specific measures. During Rule 306 consultation, the operator may develop a mitigation plan to address location specific considerations not otherwise addressed by specific mitigation measures identified in this subsection 604.c.
- COGCC Rule 604.c.(3) provides for additional mitigation measures within the Exception Zone Setback as follows:
 - A. All mitigation measures required pursuant to subsection 604.c.(2), above,
and:
 - B. Berm Construction:
 - i. Containment berms shall be constructed of steel rings, designed and installed to prevent leakage and resist degradation from erosion or routine operation.
 - ii. Secondary containment areas for tanks shall be constructed with a synthetic or engineered liner that contains all primary containment vessels and flowlines and is mechanically connected to the steel ring to prevent leakage.
 - iii. For locations within five hundred (500) feet and upgradient of a surface water body, tertiary containment, such as an earthen berm, is required around Production Facilities.
 - iv. In an Urban Mitigation Area Exception Zone Setback, no more than two (2) crude oil or condensate storage tanks shall be located within a single berm.
 - COGCC Rule 604.c(4) also provides BMPs and mitigation measures for Large UMA Facilities discussed above. Large UMA Facilities are to be operated using the best available technology to avoid or minimize adverse impacts to adjoining land uses. To achieve this objective, the Director will require a combination of best management practices and required mitigation measures, and may also impose site specific conditions of approval related to operational and technical aspects of a proposed Large UMA Facility.
 - A. All Rule 604.c.(3) Exception Zone Setback mitigation measures are required for all Large UMA Facilities, regardless of whether the Large UMA Facility is located in the Buffer Zone or the Exception Zone.
 - B. Required Best Management Practices. A Form 2A for a Large UMA Facility will not be approved until best management practices addressing all of the following have been incorporated into the Oil and Gas Location Assessment permit.

- i. Fire, explosion, chemical, and toxic emission hazards, including lightning strike hazards.
- ii. Fluid leak detection, repair, reporting, and record keeping for all above and below ground on-site fluid handling, storage, and transportation equipment.
- iii. Automated well shut in control measures to prevent gas venting during emission control system failures or other upset conditions.
- iv. Zero flaring or venting of gas upon completion of flowback, excepting upset or emergency conditions, or with prior written approval from the Director for necessary maintenance operations.
- v. Storage tank pressure and fluid management.
- vi. Proppant dust control.

C. Site Specific Mitigation Measures. In addition to the requirements of subsections A. and B. of this Rule 604.c.(4), the Director may impose site-specific conditions of approval to ensure that anticipated impacts are mitigated to the maximum extent achievable. The following non-exclusive list illustrates types of potential impacts the Director may evaluate, and for which site-specific conditions of approval may be required:

- i. Noise;
- ii. Ground and surface water protection;
- iii. Visual impacts associated with placement of wells or production equipment; and
- iv. Remote stimulation operations.

D. In considering the need for site-specific mitigation measures, the Director will consider and give substantial deference to mitigation measures or best management practices agreed to by the operator and local government with land use authority.

V. Air Quality.

Colorado Department of Public Health and Environment – Air Quality Control Divisions governs air quality of oil and gas operations in Colorado. There are massive amounts of regulations that operators must comply with for almost every aspect of oil and gas development. While too many to include in this whitepaper, it is imperative that Boulder County be aware of Regulation 3, 5 and 7 when reviewing its own oil and gas regulations.

See <https://www.colorado.gov/pacific/cdphe/oil-and-gas-industry-air-permits>; <https://www.colorado.gov/pacific/cdphe/oil-and-gas-odor-and-dust-permitting>.

COGCC Rule 604.c. mandates Closed Loop Drilling Systems and Pit Restrictions, Green Completions for Emission Control Systems, and Leak Detection Plans in Buffer Zone and Exception Zone areas. The CPDHE through its Regulation 7, 5 CCR 1001-9 and Regulation 3, 5 CCR 1001-5 address various air quality issues and best management practices including detection, recordkeeping and monitoring. and reporting. COGCC Rule

805.b.(1), (2) and (3) also addresses, via BMPs or otherwise, the issues of odors and air emissions in accordance with CPDHE Regulation No. 2, 5 C.C.R. 1001-4, Regulation No. 3 (5 C.C.R. 1001-5), and Regulation No. 7 Section XVII.B.1 (a-c) and Section XII, as well as Green Completions for purposes of air quality concerns.

VII. Water Monitoring, Testing, Supply and Usage for Drilling, Completion, and Operation Phases.

COGCC Rule 609, and a similar Rule 318A.f., governs groundwater baseline sampling and monitoring associated with oil and gas operations in Colorado. Rule 609 (and 318A.f.) applies to Oil Wells, Gas Wells, Multi-Well Sites, and Dedicated Injection Wells, but do not apply to an existing Oil or Gas Well that is re-permitted for use as a Dedicated Injection Well or to Oil and Gas Wells, Multi-Well Sites, or Dedicated Injection Wells that are regulated under Rule 608.b., Rule 318A.e.(4), or Orders of the Commission with respect to the Northern San Juan Basin promulgated prior to the effective date of this Rule that provide for groundwater testing. Further, nothing in the rules preclude or limit the Director from requiring groundwater sampling or monitoring at other Production Facilities consistent with other applicable Rules, including but not limited to the Oil and Gas Location Assessment process, and other processes in place under 900-series E&P Waste Management Rules (Form 15, Form 27, Form 28).

Rule 609 is very clear on the sampling locations and timing of sampling. Rule 609.b. provides as follows:

- b. Sampling locations. Initial baseline samples and subsequent monitoring samples shall be collected from all Available Water Sources, up to a maximum of four (4), within a one-half (1/2) mile radius of a proposed Oil and Gas Well, Multi-Well Site, or Dedicated Injection Well. If more than four (4) Available Water Sources are present within a one-half (1/2) mile radius of a proposed Oil and Gas Well, Multi-Well Site, or Dedicated Injection Well, the operator shall select the four sampling locations based on the following criteria:

- (1) Proximity. Available Water Sources closest to the proposed Oil or Gas Well, a Multi-Well Site, or Dedicated Injection Well are preferred.

- (2) Type of Water Source. Well maintained domestic water wells are preferred over other Available Water Sources.

- (3) Orientation of sampling locations. To extent groundwater flow direction is known or reasonably can be inferred, sample locations from both downgradient and up-gradient are preferred over cross-gradient locations. Where groundwater flow direction is uncertain, sample locations should be chosen in a radial pattern from a proposed Oil and Gas Well, Multi-Well Site, or Dedicated Injection Well.

(4) Multiple identified aquifers available. Where multiple defined aquifers are present, sampling the deepest and shallowest identified aquifers is preferred.

(5) Condition of Water Source. An operator is not required to sample Water Sources that are determined to be improperly maintained, nonoperational, or have other physical impediments to sampling that would not allow for a representative sample to be safely collected or would require specialized sampling equipment (e.g. shut-in wells, wells with confined space issues, wells with no tap or pump, non-functioning wells, intermittent springs).

c. Inability to locate an Available Water Source. Prior to spudding, an operator may request an exception from the requirements of this Rule 609 by filing a Form 4, Sundry Notice, for the Director's review and approval if:

(1) No Available Water Sources are located within one-half (1/2) mile of a proposed Oil and Gas Well, Multi-Well Site, or Dedicated Injection Well;

(2) The only Available Water Sources are determined to be unsuitable pursuant to subpart b.5, above. An operator seeking an exception on this ground shall document the condition of the Available Water Sources it has deemed unsuitable; or

(3) The owners of all Water Sources suitable for testing under this Rule refuse to grant access despite an operator's reasonable good faith efforts to obtain consent to conduct sampling. An operator seeking an exception on this ground shall document the efforts used to obtain access from the owners of suitable Water Sources.

(4) If the Director takes no action on the Sundry Notice within ten (10) business days of receipt, the requested exception from the requirements of this Rule 609 shall be deemed approved.

d. Timing of sampling.

(1) Initial sampling shall be conducted within 12 months prior to setting conductor pipe in a Well or the first Well on a Multi-Well Site, or commencement of drilling a Dedicated Injection Well; and

(2) Subsequent monitoring: One subsequent sampling event shall be conducted at the initial sample locations between six (6) and twelve (12) months, and a second subsequent sampling event shall be conducted between sixty (60) and seventy-two (72) months following completion of the Well or Dedicated Injection Well, or the last Well on a Multi- Well Site. Wells that are drilled and abandoned without ever producing hydrocarbons are exempt from subsequent monitoring sampling under this subpart d.

(3) Previously sampled Water Sources. In lieu of conducting the initial sampling required pursuant to subsection d.(1) or the second subsequent sampling event required pursuant to subsection d.(2), an Operator may rely on water sampling analytical results obtained from an Available Water Source within the sampling area provided:

- A. The previous water sample was obtained within the 18 months preceding the initial sampling event required pursuant to subsection d.(1) or the second subsequent sampling event required pursuant to subsection d.(2); and
- B. the sampling procedures, including the constituents sampled for, and the analytical procedures used for the previous water sample were substantially similar to those required pursuant to subparts e.(1) and (2), below. An operator may not rely solely on previous water sampling analytical results obtained pursuant to the subsequent sampling requirements of subsection d.(2), above, to satisfy the initial sampling requirement of subsection d.(1); and
- C. the Director timely received the analytical data from the previous sampling event.

(4) The Director may require additional sampling if changes in water quality are identified during subsequent monitoring.

March 10, 2017

VIA EMAIL – NO ORIGINAL TO FOLLOW

Boulder County Board of County Commissioners
2045 13th Street, Suite 200
Boulder, CO 80302

RE: Colorado Oil & Gas Association – Comments to Docket DC – 16-0004:
Amendments to Oil and Gas Development Regulations

Dear Board of County Commissioners,

The Colorado Oil & Gas Association (“COGA”) respectfully submits this letter to the Boulder County Board of County Commissioners (“BOCC”) for consideration prior to the BOCC Hearing on Tuesday, March 14, 2017, with respect to Docket DC-16-0004: Proposed Amendments to Oil and Gas Development Regulations (“Proposed Regulations”).

It is clear that Boulder County has put effort into revising its previous draft regulations concerning oil and gas development in Boulder County. COGA appreciates the outreach of the Boulder County Planning Department staff throughout the drafting process and the opportunity to participate in industry stakeholder meetings to discuss the numerous issues and concerns that industry has with the Proposed Regulations. COGA, and its members participating in the meetings, have found these meetings to be fruitful and helpful in understanding the intent and purpose of many of the Proposed Regulations.

While COGA is pleased to see some of its and its members’ previous recommendations incorporated in the most recent draft regulations, COGA and its members believe there remain a number of areas of concern within the Proposed Regulations. These concerns are specifically addressed in the attached redline of the Proposed Regulations.

A brief summary of the key concerns with Boulder County’s Proposed Regulations are as follows:

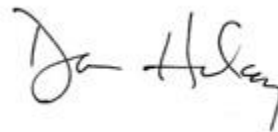
- The regulations in certain areas conflict with state regulations, and likely are operationally preempted;

- The regulations give the County the ability to mandate siting of oil and gas locations, which is within the sole jurisdiction of the Colorado Oil and Gas Conservation Commission (“COGCC”);
- The regulations employ an overly broad definition of “Oil and Gas Operations,” as opposed to the appropriate definition of “Oil and Gas Location” employed in the COGCC regulations;
- The regulations include Best Management Practices or Mitigation Measures that exceed or overlap state agency regulations;
- The regulations include air and water quality standards that exceed or overlap state agency regulations and are operationally preempted;
- The regulations include pipeline permitting requirements that place an extraordinary burden on applications for proposed transmission pipelines and are likely preempted by federal and state law;
- The regulations include a potential automatic *de facto* denial of any special review permit for oil and gas operations deemed “incompatible” by the Planning Staff, even if State approval has been granted; and
- The regulations include a permitting process with an indefinite length of time.

The BOCC may recall that COGA developed and submitted to it a White Paper on November 7, 2016, discussing the legal dividing line between the COGCC’s primary jurisdiction over oil and gas development and operations and Boulder County’s land use authority. The White Paper also discussed areas of the Proposed Regulations that cause operators the highest level of concern. COGA encourages the BOCC to again refer to the White Paper, as many of the issues discussed in that document remain relevant to the latest version of the Proposed Regulations.

COGA and its members respectfully request that the BOCC give due consideration to their reasonable and practical concerns regarding the Proposed Regulations and incorporate the attached redline’s recommendations in the final approved regulations.

Sincerely,



Dan Haley, President and CEO
Colorado Oil & Gas Association

Enclosures:

- Redline of Proposed Regulations
- COGA White Paper

cc: Ben Pearlman – Boulder County Attorney
Kim Sanchez – Boulder County Chief Planner
Mark Mathews – Brownstein, Hyatt, Farber & Schreck, COGA Counsel

Attachment A New Article 12

Special Review for ~~Oil and Gas Operation~~Oil and gas locations

12-100 Purpose

- A. The County's objective is to protect public health, safety, welfare, and the environment to the maximum extent permitted by law. Oil and gas exploration and development is industrial in nature, intensive, and has the potential to significantly impact the surrounding community and environment. Boulder County residents, officials, and staff have raised concerns about health problems, air pollution, water contamination, soil contamination, loss of agricultural land, noise, odor, vibration, property damage, transportation impacts, and other local land use impacts that may be caused by oil and gas development, particularly the extraction method known as hydraulic fracturing or fracking. ~~Traditional zoning would separate these industrial uses from residential and rural areas. However, due to the unique circumstance of the severed mineral estate, complete separation of uses may not be possible, and T~~his Article has been enacted to minimize potential land use and transportation conflicts between those activities and current or future land uses.
- B. Although Colorado state agencies and the federal government also have controlling authority to regulate certain aspects of ~~oil and gas operation~~oil and gas locations, they may not adequately review the impact that individual proposed oil and gas development operations may have on local residents. Boulder County believes that a responsible review of such development should include (1) the submission of all necessary information related to proposed oil and gas development and its potential impacts; (2) thorough analysis and review of such information; (3) multiple opportunities for public input, especially from those who are near the proposed development; and (4) action on the proposal, including a thorough evaluation of and determination about all necessary or warranted mitigation measures. These local land use regulations are intended to provide close scrutiny of all proposed oil and gas development and multiple opportunities for public input prior to any decision being made. They also allow staff, the Planning Commission, and the Board of County Commissioners to consider site-specific circumstances related to each development application and to customize avoidance, minimization, and mitigation measures to best address each of the site-specific circumstances. Finally, these regulations will help to ensure close inspection, monitoring, and enforcement of all post-permit approval compliance with all requirements and mitigation measures imposed by this Article.

Commented [A1]: This is not true given that the Local Government Designee can be involved in Form 2 or Form 2A with the COGCC.

Commented [A2]: Regarding the enforcement aspect, bear in mind that Boulder County cannot require an operator to cease its operations as part of its enforcement authority under this Article. The operator will have authority to conduct its operations under the approved COGCC permit. Boulder County may immediately contact the COGCC and request a cease and desist order under the appropriate COGCC procedures, but it cannot order an operator to shut down. Accordingly, Section 12-1000 below must be stricken. Relatedly, and as a general global comment for all regulations, the County cannot enforce any COGCC regulation or regulate where the COGCC regulates under the doctrine of operational conflict preemption, which is explained in the attached comment letter.

Commented [A3]: Bear in mind that a public nuisance must affect the public at large, not just specific individuals, and that the injury or interference to the public must be substantial and unreasonable; a mere annoyance does not rise to the level of an actionable public nuisance. Also, using the principle of "nuisance" already implies that the County views oil and gas development as inherently incompatible with other land-uses.

Commented [A4]: Any permit under this Article should be for the permitting of an Oil and Gas *location*, as defined by the COGCC 100 Series Rules. The Article's definition of "Oil and gas operations" includes aspects of oil and gas operations that exceed the scope of Boulder County's authority to regulate.

12-200 Authority of Article

This article is authorized by C.R.S. §§ 25-8-101 et seq., 29-20-101 et seq., 30-28-101 et seq., 34-60-101 et seq., 25-7-101 et seq., ~~Colorado common law related to public nuisances~~, and other authority as applicable.

12-300 Effective Date; Pre-Existing Uses

- A. This Article shall become effective on the date specified in the adopting resolution of the Board. The provisions of this Article shall apply to all ~~new oil and gas operation~~oil and gas locations locations for which a complete application for special review has not been accepted by the County as of the effective date.
- B. ~~Oil and gas operation~~Oil and gas locations-locations that were legally established prior to the effective date of this Article but do not conform to this Article shall be allowed to continue. Any substantial modification of such pre-effective date ~~oil and gas operation~~oil and gas locations

locations requires special review under this Article. ~~For any proposed amendment, substantial modification, maintenance, or repair, the~~ Director shall make substantial modification determinations for such ~~oil and gas operation~~ oil and gas locations as provided in 12-900(D) ~~and (E).~~

- ~~C. Should the Applicant dispute the Director's determination that a pre-effective date operation is not effectively the same as the post effective date operation, the Applicant may appeal the Director's determination to the Boulder County Board of Adjustment. During the course of any Board of Adjustment Proceeding or subsequent appeal, the application shall not be processed.~~

Commented [A5]: Needs to be a check on Director's discretion to make substantial modification determinations.

12-400 Application Procedure for Special Review

A. Review and Community Engagement

- 1. Special Review Required.** Except as provided for in 12-300, all ~~new oil and gas operation~~ oil and gas locations ~~locations~~ on public and private land within the unincorporated areas of Boulder County must comply with this Article. Prior to the commencement of any new oil and gas location ~~operations~~ in the unincorporated County, an Applicant must submit a special review application and the Board must approve the application according to this Article. No other form of discretionary land use review under this Code is required for ~~oil and gas operation~~ oil and gas locations ~~locations~~ covered by this Article 12. Special review approval is also required prior to the issuance of any County building permits, or associated pipeline, grading, access, floodplain, transportation impact fee, or other County permits necessary for the ~~oil and gas operation~~ oil and gas location. ~~Oil and gas operation~~ Oil and gas locations ~~locations~~ that may not require a building or other associated County permit must still obtain special review approval under this Article.
- 2. Community Engagement.** Boulder County requires Applicants to engage with local communities, residents, and other stakeholders prior to exploration or development activity. The purpose of this engagement is to provide sufficient opportunity for comment on plans, operations, and performance, to listen to concerns of the community, and to address all reasonable concerns ~~as a result of a proposed operation related to the site specific development as a result of he proposed location.~~
- 3. Surface Use Agreements.** Oil and gas operators commonly enter into surface use agreements with landowners at or near the location of the development. The County ~~recommends~~ that surface agreements not be finalized until the Applicant has completed special review, at which time the impacts related to the proposed siting of the ~~operation~~ location will be analyzed. The County recognizes, however, that a private landowner can enter into a surface use agreement with an Applicant without County involvement.
- 4. APD approval.** Application and Permit to Drill ("APD") approval from the COGCC is not local approval, and compliance with all terms and conditions of special review approval is required in addition to the requirements of APD approval. The County strongly recommends that applicants apply to the County for special review prior to applying for APD so that the Applicant is aware of applicable County requirements and mitigation measures prior to filing its APD application. ~~However, as the County recognizes that the COGCC permits have primary authority over oil and gas locations for all matters outside of these land use regulations, it is not required that local approval be secured before seeking APD approval from the COGCC.~~

Commented [A6]: Pipelines should not have a separate special review process. Nor should floodplain.

Commented [A7]: To ensure that an operator may get a reasonable estimate of approval time, Boulder County should provide for concurrent review of the operator's plans for all necessary permits.

Commented [A8]: It should be understood that there are no repercussions for not following "recommended" action. Applicants following a recommended, but not required course, will not have their applications take precedence over other applications.

Commented [A9]: The County may wish to rethink its recommendation. The COGCC needs to know about the project so that it may respond appropriately to the local government or residents if approached about the project.

B. Operator Registration and Renewal. All operators ~~operating or planning to operate oil and gas operations~~ ~~oil and gas locations~~ ~~locations~~ within the County must ~~complete an Operator Registration Form~~ ~~submit the following operator registration information and pay the registration or renewal fee before requesting a pre-application conference.~~ ~~The Operator Registration Form must contain the following information:~~

1. Company name, address, email and mobile phone contact information for two individuals associated with the company who live within thirty miles of Boulder County and who will serve as 24 hour emergency contacts.
2. Comprehensive planning information as follows:
 - a. Based on an operator's business plan as of the date of the request, a good faith estimate of the number of wells the operator intends to drill in the next five years within unincorporated Boulder ~~County~~. A publicly traded company's well estimates may be based on reserves classified as "proved undeveloped" for SEC reporting purposes.
 - b. A map showing the location within unincorporated Boulder County of the Operator's existing well sites and related production facilities; sites for which the operator has approved or has submitted applications for drilling and spacing orders, or Form 2s or Form 2As; and sites the operator has identified for development ~~within the next five years~~ on its current drilling schedule for which it has not yet submitted applications for COGCC permits.

3. Well estimates provided under this subsection must be made using reasonable business judgment based on information known to the operator as of the date the estimates are requested. ~~Well estimates are subject to change at any time, at the operator's sole discretion. If the operator's estimate does change, t~~The operator must update the Form at the time of any changes.

~~Information demonstrating that the operator is capable of fulfilling and is likely to fulfill the obligations imposed by this Article and the Oil and Gas Conservation Act, including:~~

- ~~A certified list of all instances within the past ten years where the COGCC, other state agency, city, or county found that the Operator has not complied with applicable state or local requirements with respect to drilling, operation, or decommissioning of a well. The list must identify the date of the determination, the entity or agency making the determination, the nature of the non-compliance, and, if applicable, the final resolution of the issue. If no such instances of non-compliance exist, the operator must certify to that effect.~~
- ~~Certified copies of all financial assurances filed with the COGCC under COGCC Rules 703, 706, and 707.~~
- ~~A certified copy of a policy of general liability insurance or a self insurance program approved by the Colorado Insurance Commission, in the amount of no less than \$1,000,000.00 per occurrence, insuring the Applicant against property damage and bodily injury to third parties. The policy shall be written by a company authorized to do business in the State of Colorado unless the applicant provides evidence to the Director that the applicant is adequately self-insured. The policy shall include the COGCC as a certificate holder.~~
- ~~A report on greenhouse gas emissions for all oil and gas facilities in Boulder County owned or leased by the operator for the calendar year prior to registration or renewal. The report must be in form required by the United States Environmental Protection Agency for reporting greenhouse gas emissions (EPA sub part W).~~

4. An operator must submit its operator registration and fee:

- a. If already operating wells in Boulder County, within thirty (30) days of the effective date of this article;

Commented [A10]: County's specifically excluded from COGCC rule requiring 5 year plan and not required for other land users in the county can they require for O&G?

Fee singling out one type of land user?

Commented [A11]: The number of wells depends upon the sites. That number may not be known at the time of registration. Once an operator knows the site, it can then be required to provide a more accurate good faith estimate of the number of wells. Without knowing the location of the oil and gas sites, it is difficult to impossible to provide this a well estimate number.

Commented [A12]: Duplicative of COGCC regulations. For example, COGCC Rule 708 requires operators to maintain general liability insurance policies and to list the COGCC as a certificate holder. The doctrine of operational conflict preemption prevents Boulder County from enacting or enforcing a regulation already promulgated by the COGCC. Further, some information requested, like the ten year history, is outside of and not relevant to Boulder County's land-use authority. Boulder County does not have jurisdiction to concern itself with enforcement/compliance issues that may have or are alleged to have happened outside of Boulder County.

b. If not already operating wells in Boulder County, at least thirty (30) days ~~prior~~
~~after to assuming responsibility for operating an existing well; and~~
c. In all cases, an Applicant must submit an operator and registration and fee prior
to scheduling a pre-application conference.

4-5. An operator registration must be updated and renewed ~~annually~~ every three years.

Commented [A13]: It is unreasonable to force operators engaged in A&D to complete, execute and submit its operator registration prior to executing the acquisition/divestiture.

Commented [A14]: Will there be a renewal fee?

Commented [A15]: The special use review permit is valid for three years; three years is a sensible duration for operator registrations.

C. **Special Review Process.** The special review process is a regulatory process based primarily upon subjective or context-specific criteria for new or substantially modified ~~oil and gas operation~~ oil and gas locations. Special review applications require staff review, public hearing, and recommendation by the Planning Commission followed by review, public hearing, and decision by the Board of County Commissioners. Some applications may also require review by the Parks and Open Space Advisory Committee as provided for in subsection (I).

D. **Pre-Application Conference.**

1. **Timing.** A pre-application conference as defined in Article 3-201 of this Code must be held ~~at~~ prior to the Applicant submitting an application for special review.

Commented [A16]: With what specific timing?

2. **Conference.** At the pre-application conference, the Director and the Applicant will discuss the points contained in Article 3-201 of this Code and review the County's special review process so that the Applicant can ~~plan construct and maintain~~ its proposed ~~oil and gas operation~~ oil and gas location-location in a manner that ensures compliance with the special review regulations and applicable state and federal regulations. The pre-application conference allows the Applicant and Director to identify potential site-specific concerns ~~related to the potential well and well pad location~~ and issues that relate to the special review process, to discuss project impacts and potential mitigation methods, and to discuss coordination of the County process with the State permitting process, ~~if the State permitting process has not already been completed.~~ Applicants are encouraged, ~~but not required,~~ to conduct the pre-application conference with the County prior to ~~completing-finalizing~~ well siting decisions. Completion of the pre-application conference qualifies the Applicant to submit an application for a special review provided the application is filed within six (6) months after the pre-application conference.

3. **Site Visit.** At the discretion of the Director ~~after consultation with the landowner,~~ the Director may ~~require the Applicant to secure permission from the surface owner(s) to conduct~~ a site visit as part of the pre-application conference with the Applicant to evaluate well locations, compliance with this Article, or mitigation measures that may be required to adequately ensure compliance with this Article. ~~If the Director wishes to conduct a site visit, the Director will secure permission from the surface owner(s) before such visit.~~

E. **Applicant Neighborhood Meeting.** The Applicant must conduct a neighborhood meeting with adjacent and surrounding land owners and other interested parties at a convenient date, time, and public location. The meeting must occur at least twenty days (20) after the pre-application conference. The neighborhood meeting must be noticed to the County and to all individuals entitled to notice pursuant to Section 12-400(H)(2) at least fourteen (14) days prior to the meeting. At the neighborhood meeting, the Applicant ~~must may~~ provide an overview of its proposed ~~oil and gas operation~~ oil and gas location-location, ~~distribute a handout provided by the Director with an explanation of the County Special Review process,~~ and allow those in attendance to provide input as to the proposed operation, including, but not limited to, well siting and well locations, issues that arise from application of this Article to the proposed operation, and suggested mitigation to adequately ensure compliance with this Article. The Applicant may not submit an application until at least ~~twenty ten~~ (20) days after the neighborhood meeting and must provide ~~video recording of the meeting and evidence that the meeting occurred and a report summary~~ of all of the neighbor

Commented [A17]: If the Director wishes to provide a handout, that literature should reflect that siting authority is not within Boulder County's discretion. Boulder County is preempted by COGCC authority concerning siting authority. Operators may take into consideration attendees concerns, but they are not controlling.

comments and any proposals from the Applicant for addressing neighborhood concerns to the Director with the Application. If warranted by the location of the proposal or in other appropriate circumstances, the Director may approve video conferencing or other remote attendance options for the neighborhood meeting.

F. Application Submission. The application must include documentation establishing how the proposed ~~operation-location~~ complies with all applicable requirements of Section 12-600. The Applicant must submit the application, the application fee, and supporting documentation in electronic format with up to two (2) additional copies of the application materials in paper format. The Director may require additional paper copies of the application, or a portion of the application materials, if needed for review purposes. The application must contain a certification from the Applicant ~~that the proposed operation complies with all applicable provisions of this Article and~~ that the information in the application, as well as in any accompanying documentation, is true and accurate. The application must be signed by a person authorized to sign on behalf of the Applicant and identify who will be the primary contact during the course of processing the application. The point of contact information in the application must be amended to specify the new point of contact if the Applicant's point of contact changes during the application process. Amending point of contact information will not delay application processing or cause the process to start over.

G. Completeness Determination. Upon acceptance of the application, the Director will determine if Land Use staff needs consultants or staff other than the Land Use Department to assist the Director with the completeness determination. Upon review of the application materials by the Director and any necessary outside consultants, the Director shall determine whether a special review application is complete. The Director shall make a completeness determination within ~~forty five (45) fourteen (14) ten (10)~~ days of acceptance of the application. After notice to and consultation with the Applicant and an appropriate time of no less than thirty (30) days for the Applicant to cure deficiencies, the Director may reconsider his completeness determination at any time during the application process, including upon the request of a referral agency. If the Applicant amends toward the purpose of cure, the Director must reconsider the determination.

1. Application Deemed Incomplete. If the Director finds that the application is incomplete, the Director shall inform the Applicant of the deficiencies. No further action shall be taken on an incomplete application until all of the specified deficiencies have been addressed or waived under this Article. Should the Applicant fail to correct deficiencies within twenty-four (24) months, the application shall expire and the Applicant may submit a new application and fee as specified in section (F) above. The twenty-four (24) month time frame may be extended by the Director according to Article 4-604(D). Should the Applicant dispute the Director's completeness determination at any time, the Applicant may appeal the Director's determination to the Boulder County Board of Adjustment. During the course of any Board of Adjustment Proceeding or subsequent appeal, the application shall not be processed. The Boulder County Board of Adjustment shall hear the appeal at its next meeting or within fourteen (14) days, whichever date occurs first. During the course of any Board of Adjustment Proceeding or subsequent appeal, the application shall not be processed.

2. Application Deemed Complete. If the Director finds that the application is complete within the ten day determination period, containing all documentation required by this Article, the Director shall process the application as expeditiously as possible.

H. Notice.

1. The Applicant must mail notice to surface owners, to surrounding landowners, ~~to water well owners,~~ and to residents as identified in this section after the neighborhood meeting but no more less than ten (10) days after prior to the application is accepted being submitted to the

Commented [A18]: An operator needs certainty when planning for a permit and addressing local permitting issues with internal management and investors. A completeness determination should be an expedited part of the review process.

Commented [A19]: When filing applications with the State, a completeness determination is made within ten (10) days. COGCC Rule 303.e.

Commented [A20]: That is not to say that the Director must reconsider to deem it complete, but this it to explain that the permissive "may" of the previous sentence is regardless of whether there is an attempt to cure, but that if an attempt has been made, the Director must consider the new information and not start the clock over for the Applicant.

Commented [A21]: It is standard course for municipal codes to provide a time frame for appeals. Operators need certainty.

Commented [A22]: This will be a second notice as these parties would also have had notice of the neighborhood meeting under Section 12-400.E.

Department. If approved by the Director, the Applicant may ~~provide~~ deliver the notice defined in this section using ~~alternative notice methods~~ methods other than mail.

2. Notice of the application must be made as follows:

- a. To the surface owners of the parcels of land on which the ~~oil and gas operation~~ oil and gas location location is proposed to be located; and
- b. To the owners of the parcels of land within ~~one half mile (2,640 feet)~~ one thousand (1,000) feet of the oil and gas location; of the parcel on which the oil and gas operation oil and gas location is proposed to be located; and
- c. To the physical address of all parcels within ~~one thousand (1,000) feet of the oil and gas location~~ one half mile (2,640 feet) of the parcel on which the oil and gas operation oil and gas location is proposed to be located if Boulder County Assessor's records indicate a mailing address for the parcel owner that is different than the physical address.
- d. ~~Water well source owners within one thousand (1,000) feet of the oil and gas location; one half mile (2,640 feet) of the parcel on which the oil and gas operation oil and gas location is proposed to be located. The Applicant is responsible for determining the addresses of such well owners and providing a list of such owners to the Director. Notice to well source owners may be made by publishing a notice in the area's local newspaper.~~

Commented [A23]: General note that measurements should be taken in accordance with COGCC measurement requirements. *E.g.* COGCC Rule 303a.(5).D.iii.

Commented [A24]: Not consistent with COGCC regulations. See COGCC Rule 609. Newspaper notice should suffice. Otherwise it is unduly burdensome to obtain this information. Sampling is required under COGCC rules and if any sampling demonstrates that any water well is affected, notice will be provided to the owner as appropriate.

The Land Use Department shall provide the list of addresses of record for property owners within ~~one thousand (1,000) feet of the oil and gas location; one half mile (2,640 feet) of the parcel on which the oil and gas operation~~ oil and gas location is proposed to be located to the Applicant at the pre-application conference so the Applicant can provide notice as required by subsection (a), (b), and (c) of this Section.

3. The notice must contain the following:

- a. A message in bolded 14-point or larger font on the front page of the notice that states as follows: "**Attention: An ~~oil and gas operation~~ oil and gas location location consisting of [number of wells] is being proposed in within 1,000 feet of your parcel, your area. Please read this notice carefully.**" Slight variations in this notice language may be approved by the Director at the Applicant's request.
- b. A description of the proposed ~~operation site~~ location, including the legal description; parcel number; a street address for the site, if available from the County's rural addressing system; the company name of the operator; the name of a company contact; the current business address, telephone number, and email address for the Applicant; a vicinity map; and a brief description and overview of the proposed operation, ~~including details of the drilling techniques (i.e., a detailed description of the type and estimated duration of any proposed hydraulic fracturing).~~
- c. Information concerning the facilities and equipment proposed at the site when operational, and proposed access roads and gathering lines.
- d. The anticipated submittal date of the application to the Department.

Commented [A25]: The COGCC extensively regulates fracturing (*see, e.g.* COGCC Rule 400 series). Any regulation referencing or requiring durational limits on fracking is operationally preempted by COGCC regulation.

- e. ~~An attachment provided by the Director explaining the Special review process and explaining statement~~ that public comments on the application may be submitted to the County Land Use Department after the application submittal ~~date~~.
 - f. A statement concerning the County's right to enter property that is the subject of the application as follows: "For the purpose of implementing and enforcing the County's special review for ~~oil and gas operation~~ oil and gas location regulations, County staff may from time to time need to enter onto the property that is the subject of a special review application."
 - g. The current mailing address, website address, email, and telephone number for both the Local Government Designee for the County Land Use Department and the Local Government Liaison for the COGCC, as well as a statement that additional information on the application will be available from the County Land Use Department.
4. **Notice Review.** The Applicant must submit a copy of the notice for review by the Director. If the Director determines that the notice does not comply with the requirements of this Article, the Director may require the Applicant ~~to~~ send additional notice complying with this Article.
5. **Posting Public Notice Signage Onsite.** Within five (5) days after submitting the application, the Applicant must post a public notice sign or signs on the site of the proposed ~~operation~~ location that meet the following requirements:
- a. The sign must be posted in a location visible to the public (i.e., visible from a public road) and approved by the Director. If the Director determines that a single sign will not provide adequate public notice, multiple signs meeting the requirements of this section may be required.
 - b. Signs must be four feet by six feet in area. The background must be bright yellow and the lettering must be in black.
 - c. In lettering clearly visible and proportionate to the size of the sign, the sign must contain the following:
 - i. "Attention: An ~~oil and gas operation~~ oil and gas location consisting of potentially [number of wells] is being proposed in your area. Please read this notice carefully."
 - ii. "The applicant has applied for Special Review, [docket number]"
 - iii. "Information regarding this application may be obtained from the Boulder County Land Use Department at [phone number]"
 - d. Within five (5) days of the posting of the sign, the Applicant must submit a photograph of the sign or signs as posted for review by the Director. If the Director determines that the sign not comply with the requirements of this Article, the Director may require the applicant post a sign or signs complying with this Article.
 - e. The ~~approved sign~~ or signs must be posted and kept on the site until the special review process is complete. The Applicant must repair or replace signs ~~that are damaged or defaced whose text becomes illegible from damage or defacement~~ within five (5) days of learning of damage or defacement.

Commented [A26]: No objection as such to this provision, but a caution that the attachment provided by the Director must not mislead the public with respect to how much authority the County has with respect to oil and gas regulation.

Commented [A27]: The specific point of contact should be referenced so that people may connect with the appropriate person easily.

Commented [A28]: To the extent that this suggests a sign must be formally approved, it should be stricken. The sign should be presumed valid unless the Director determines otherwise.

Commented [A29]: Only should refer to Parks and Open Space if the well site is on or within 1,000 feet of County Parks and Open Space property.

I. Referral Agency Comments Requirements and Agency Review.

1. Following the determination that an application is complete, the ~~Director shall forward~~ Land Use Department shall refer the application materials ~~one copy~~ to the County Transportation and Parks and Open Space ~~Departments~~; Boulder County Public Health; the appropriate fire district; County Sheriff; and any appropriate municipality and school district for review and comment. Referral comments on the proposal shall be returned to

the Director within ~~seventy-five (75)~~thirty (30) days of date of referral, unless the referral agency or consultant makes a reasonable request to the Director for additional time.

~~1-2.~~ The Applicant is responsible for preparing the referral packets in the manner prescribed by the Director. An error made by the applicant in the preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.

~~2-3.~~ Following the determination that an application is complete, the Director shall send a referral notice to all individuals entitled to notice pursuant to Section 12-400(H)(2). The notice shall also include information on where to access application materials on the County's website and provide staff contact information. The complete application referral packet shall be available for public review in hard copy form at the County Land Use Department during business hours. Referral responses must be received by the Director within ~~seventy-five~~thirty (30) days of transmittal in order to insure that comments are considered.

~~4.~~ If the proposed well site is on or within 1,0500 feet of County Parks and Open Space property, the Parks and Open Space Director may refer the application to the Parks and Open Space Advisory Committee for a public hearing at the next regularly scheduled public hearing or within fourteen (14) days, whichever date occurs first. After the public hearing, the Parks and Open Space Advisory Committee may forward recommendations for assuring the protection of environmental, ecological, wildlife, historical, archeological, and agricultural resources of the open space. The Director may also refer the application to other government agencies or entities for review and comment. Referral comments on the proposed development shall be returned to the Director within ~~seventy-five (75)~~ days of date of referral, unless the referral agency or consultant makes a reasonable request to the Director for additional time. Referral comments on the proposed development shall be returned to the Director within twenty-one (21) days of referral, unless the referral agency or consultant provides a written explanation to the Director explaining why the extension request is being made.

~~J-I.~~ Consultant Review. Where reasonable, ~~and necessary,~~ and discussed in advance with Applicant, the Director may submit the application for review and recommendation by consultants retained by the County with the necessary expertise to review technical or other aspects of the application. Among other consultant reviews, third party consultant review may be required to evaluate the risks and associated mitigation plans addressing the use of hydraulic fracturing near residential development. The Applicant shall be notified if the Director decides to retain a consultant and shall be given the opportunity to provide input concerning consultant selection and scope of work, ~~and shall escrow funds sufficient to cover the anticipated cost of the consultant's review. The Applicant shall be responsible for the actual costs associated with this consultant review and shall be refunded any excess escrowed funds.~~ If the Director intends to submit the application for review and recommendation to outside assistance, the Director shall declare that intent within ten (10) days of the Completeness Determination.

~~J-K.~~ Site Visit. ~~The~~ If not conducted concurrently with the pre-application conference, the Department ~~will~~ may conduct a site visit to allow the Director to determine compliance with these standards. The Department may coordinate a site visit with other County departments and governmental agencies.

~~K-L.~~ Planning Commission Notice and Hearing. Not less than fourteen (14) days prior to the Planning Commissioner's public hearing, a legal notice of the public hearing shall be published in a newspaper of general circulation within the County, and written notice to the surface owners and surrounding property owners of the time and place of the Planning Commission's public hearing shall be provided pursuant to Section 12-400(H). The Planning Commission shall hold a public

Commented [A30]: Two and a half months is an unreasonably long period of time. At minimum, the referral agency should be required to provide adequate rationale for the extension request and the Operator should be entitled to rebut such request or to offer assistance to expedite the process.

Commented [A31]: Clerical errors should not delay processing.

Commented [A32]: Why should operators be tasked with preparing "referral packets" if the application materials will be on the County website? One hard copy at the County Land Use Department is sufficient for hard copies.

Moreover, this is a full delegation of duties to the operator Applicant. This places the full responsibility of ensuring compliance with an unknown process on the Applicant. This is another source of undue delay – the Planning Dept should be sending out the referrals.

Commented [A33]: An additional month and a half as a default term is unreasonably long.

Commented [A34]: An Applicant should not be required to pay for consultants as part of the local review process, especially in light of the unknown timing on receipt of a permit under the proposed process. These costs could escalate quickly. High costs could make drilling economically infeasible, which would make this section preempted. *Voss v. Lundvall Bros. Inc.*, 830 P.2d 1061, 1067-1068 (Colo. 1992).

Additionally, there should be time limits on how long outside consulting may last.

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Commented [A35]: Please clarify that this is responsibility of the Planning Commissioners.

hearing on the application and shall make a recommendation of approval, approval with conditions necessary to ensure compliance with this Article, or denial, and the recommendation shall be forwarded to the Board of County Commissioners for review at the next regularly scheduled meeting.

L.M. Notice of Board of County Commissioners' Hearing. Not less than fourteen (14) days prior to the Board of County Commissioners' public hearing on the standard permit review, a legal notice of the public hearing shall be published in a newspaper of general circulation within the County, and written notice to the surface owner and surrounding property owners of the time and place of the Board's public hearing shall be provided pursuant to Section 12-400(H).

M.N. Board of County Commissioners Hearing and Decision. The Board of Commissioners shall conduct a noticed public hearing for review of a special review application. Any action taken by the Board of County Commissioners will be based on the entire record of proceedings on the matter, as that record is maintained by the Land Use Department Director and/or the Clerk of the Board of County Commissioners, including but not limited to: recordings or transcripts of public hearings; all written comments of referral agencies; the review and recommendations of the Land Use Department; and all written commitments, statements, or evidence made or submitted by or in behalf of the Applicants, landowners or interest holders or their agents, and interested members of the public who live or work within 1,000 feet of the oil and gas location. The Applicant shall have the burden of proof to show that the applicable criteria for approval have been met. On the basis of the evidence received at such public hearing(s), the Board shall make its determination to approve, approve with conditions necessary to ensure compliance with this Article, or deny the application. The Board's action shall contain appropriate findings or reasons in support of its decision. The Board shall render its decision on the special review application in writing following the conclusion of the public hearing.

Commented [A36]: This timing is important to provide assurance that once an application is recommended by the Planning Commission it will be immediately placed on the BOCC's agenda at the next regularly scheduled meeting.

Commented [A37]: Please clarify that this is responsibility of the BOCC.

Commented [A38]: Please clarify that this is responsibility of the BOCC.

Commented [A39]: It is understood that a public meeting is open to all citizens, however, the record should be based on the citizens within the notice radius.

Commented [A40]: Operators would have already have done that previously in the process.

12-500 Application Submittal Requirements

Unless the submittal requirement is waived or modified by the Director based upon the Applicant's request, the Applicant must submit the information and documents specified in this section with the special review application for oil and gas operation oil and gas locations. If the contents or relevant information in any required submittal material changes, the Applicant must promptly update those materials with the Land Use Department. The Director may waive or modify the submission requirements in this section if (1) because of the nature of the Application, the requested information is unlikely to be useful to the Board in applying the special review criteria or determining appropriate mitigation measures; (2) the usefulness of the information is substantially outweighed by the hardship placed on the Applicant in providing the information. Should the Applicant request a modification or waiver and dispute the Director's determination a submission requirement under this section should not be modified or waived, the Applicant may appeal the Director's determination to the Boulder County Board of Adjustment. Once appealed, the Boulder County Board of Adjustment shall hear the appeal at the next regularly scheduled meeting or within fourteen (14) days, whichever date comes first. During the course of any Board of Adjustment Proceeding or subsequent appeal, the application shall not be processed.

A. County Application Form.

B. Ownership. Certification of ownership of the mineral estate proposed for development or of all necessary lease interests in the mineral estate proposed for development. Identification of all persons with a real property interest in surface of the subject property. A title report supporting the certification of mineral interest ownership and identification of the surface interests. A map of

Commented [A41]: What forms of certification will be acceptable?

Commented [A42]: COGCC requires surface lease; all leases within the spacing unit our outside scope of local permitting requirements nor are they necessary for land use review.

~~the mineral interests Applicant will extract, including ownership interests, lease interests, and statutory pooling.~~

Commented [A43]: There may not be full title on the mineral interest of the oil and gas location. It is unreasonable and unnecessary to require one.

- C. **Neighborhood Meeting Information.** A ~~video recording of the meeting and a summary of the report identifying all~~ neighbor comments and specific proposals from the Applicant for addressing neighborhood concerns.

- D. **Date of APD Filing.** Anticipated or actual date of associated APD filing with the COGCC. ~~If the APD filing has occurred prior the filing of the application, the Applicant must include a written explanation regarding why the Applicant chose to proceed with APD prior to special review.~~

Commented [A44]: There is no requirement that the local permit must be applied for or received prior to the governing COGCC permit. The Applicant does not have to explain to the County why it went to the primary authority first.

- E. **Surface Agreements.** ~~The County recommends that surface agreements not be finalized until after the Applicant has completed special review. Nonetheless, Applicant will provide a~~ copy of any ~~non-confidential~~ surface use agreements or memorandums of surface use agreements the Applicant entered into related to the ~~oil and gas operation~~ oil and gas location.

Commented [A45]: Many surface use agreements are confidential and cannot be legally submitted under this requirement. If a surface use agreement or similar memorandum has been recorded, than that may be submitted.

Operators specifically challenged this at the COGCC LUMA rulemaking.

- F. **Proof of pre-application Conference.** Date the Applicant conducted the pre-application conference with the Department.

- G. **Proof of Notice.** Certification of proper notice, including Director approval of the notice, as required by Section 12-400(H).

Commented [A46]: What forms of certification will be acceptable?

- H. ~~Verification of Legal Access and Use of Private Roads.~~ Information demonstrating that the Applicant has or will have the right to use private access roads that are necessary for the ~~operation location. A copy of any signed or proposed and that the Applicant has entered into an agreements~~ with the private road owners ~~regarding maintenance, improvements necessitated by the proposed oil and gas operation~~ oil and gas location, and ~~reimbursement for damages, must be provided, if not confidential. The County recommends that surface agreements not be finalized until the Applicant has completed special review.~~ Recorded or historically used easements providing access to or across the parcel(s) must be provided.

Commented [A47]: Boulder County has no authority to interfere with private agreements or their terms. Like SUAs, these too can be confidential. Disclosure would result in an operator being in breach of contract.

- I. **Proximity of Other Wells and Other** ~~Oil and Gas Operation~~ Oil and gas locations. A map showing the location of all producing, closed, abandoned, and shut-in wells and any other ~~oil and gas operation~~ oil and gas locations within one (1) mile of the site.

- J. **Site Plan and Parcel Information.** The following information must be included:

1. **Facility siting.** The proposed location of wellhead, pumping units, tanks, treaters, staging and storage areas, temporary use areas and permanent well pads for all phases, fencing, and equipment associated with the ~~oil and gas operation~~ oil and gas location.
2. **Alternative site analysis.** Submission of an alternative site analysis that identifies and examines the feasibility of ~~at least three (3) alternative well~~ any alternative locations that would allow for extraction of the resource ~~and that considers concentration of multiple wells on a single well pad versus smaller well pads with fewer or single wells.~~ The Applicant shall show that reasonable consideration has been given to such alternative sites.
3. **Existing structures.** Identification of all existing occupied structures and other improvements within one-half (1/2) mile from any wellhead, pumping units, tanks, and treaters.
4. **Water bodies.** Any surface water bodies including, but not limited to, ditches and reservoirs as identified and mapped on the County's Ditch and Reservoir Directory, within one-half (1/2) mile of the wellhead, pumping units, tanks, and treaters.

5. **Water wells.** Any domestic or commercial water wells or irrigation wells within one-half mile of the wellhead, pumping units, tanks, and treaters.
 6. **Geologic hazards.** All high hazard geologic areas as defined in the Comprehensive Plan within one-half mile of the wellhead, pumping units, tanks, and treaters.
 7. **Floodplain.** Mapping of all floodplains and floodways as defined in Article 4-400, including the FEMA Floodplain and the Boulder County Floodplain, within one-half mile of the wellhead, pumping units, tanks, and treaters.
 8. **Comprehensive Plan natural resources.** All mapped significant natural communities, natural landmarks and natural areas, rare plant areas, significant riparian corridors, or critical wildlife habitat as each is defined in the Comprehensive Plan, in effect as of the effective date of this Article within one-half (1/2) mile of the wellhead, pumping units, tanks, and treaters.
 9. **Drainage.** Drainage patterns, ditches, wetlands or aquatic habitat, vegetative cover, wildlife habitat and wildlife migration routes, and geologic features as defined in the Comprehensive Plan or identified onsite and within one-half mile of the ~~location on which the operation is proposed~~proposed oil and gas location.
 10. **Site disturbance.** Dimensions of the site, indicating area in square feet and acres, and the area of the site to be disturbed for permanent operations and temporary operations.
 11. **Easements and Rights-of-Way.** Utility line easements and rights-of-way within 150 feet of the proposed site and access road.
 12. **Existing and Proposed Lines.** Existing and proposed water pipelines to or from the site and all other pipelines, tanks, wells, gathering lines, and flow lines serving the site, including information on the age, location, depth, diameter, thickness, typical and maximum operating pressures, the nature of the material carried in the pipes.
 13. **Existing and Proposed Roads.** Existing and proposed roads within the parcel and on the site as well as ingress and egress from public and private roads.
 14. **Topography.** Existing and proposed topography at five-foot intervals to portray the direction and slope of the area within 1500 feet of the operation.
- K. **Agricultural Land Mitigation Plan.** An assessment of any agricultural lands potentially impacted by the proposed operation and a plan for mitigating impacts in compliance with Section 12-600 ~~(b)~~.
- L. **Air Quality Plan.** A plan establishing compliance with the air quality provisions of Section 12-600, including a leak detection and repair ~~program~~.
- M. **Emergency Preparedness Plan.** Each Applicant with ~~an operation at a~~ oil and gas location in the County is required to implement an emergency preparedness plan for each ~~oil and gas operation~~ oil and gas location, unless an overall emergency preparedness plan for an Applicant's oil and gas locations within Boulder County has been approved by the Director. The emergency preparedness plan must consist of at least the following information:
1. Name, address and phone number, including 24-hour emergency numbers for at least two persons located in or near Boulder County who are responsible for emergency field

Commented [A48]: Please provide more guidance regarding what type of plan will be acceptable. An Applicant should not have to see its diligent work in preparing an assessment discarded and face additional delay. This is a global comment for all "plans" required under this section.

Commented [A49]: The State extensively regulates air quality. To the extent any of Section 12-600 may be in operational conflict with COGCC regulation, it should be stricken.

operations. The Applicant is responsible for ensuring that at least one of these emergency contacts can respond to a phone call within thirty (30) minutes.

2. Once construction is finalized on an oil and gas location, a An as-built facilities map in a format suitable for input into the County's GIS system depicting the locations and type of above and below ground facilities including sizes and depths below grade of all onsite and offsite oil and gas gathering and transmission lines and associated equipment, isolation valves, surface operations and their functions. The as-built map must be submitted with thirty (30) days of removal of the completions crew from the specific oil and gas location. The information concerning pipelines and isolation valves shall be held confidentially by the County's Office of Emergency Management, and shall only be disclosed in the event of an emergency.
3. Transportation routes to and from exploration and development sites for emergency response and management purposes, including at least two evacuation routes.
4. Detailed information addressing each potential emergency that may be associated with the operation. This may include any or all of the following: explosions, fires, gas, oil or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills. This may also include hazards to the site such as earthquakes, floods, or wildfire. For each potential emergency that can be reasonably anticipated, threshold / trigger levels shall be pre-identified that govern when an emergency state is-should generally be declared by the Applicant. Because of the unforeseen nature of emergencies, it is understood that identified threshold/trigger levels must be evaluated under the circumstances of the emergency.- Applicants are to use their best judgement and err on the side of declaring an emergency state. That said, there may be circumstances under which a threshold/trigger is superficially reached but that do not require that an emergency state be declared.
5. The plan must include a provision that any health-threatening spill outside of the containment area or that has the potential to leave the facility or to threaten a water body or groundwater must be reported to the emergency dispatch and the Director immediately, and in no case more than twenty-four (24) hours.
6. Detailed information identifying access or evacuation routes, and health care facilities anticipated to be used.
7. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas.
8. The plan ~~must~~ may include a provision that obligates the Applicant to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency. The appropriate emergency response service provider may specify alternative methods for reimbursement of its services. If requested by the emergency response agency, a provision in the plan that includes regular training exercises.
9. Detailed information that the Applicant has adequate personnel, supplies, and funding to implement the emergency response plan immediately at all times during construction and operations.
10. The plan must include provisions that obligate the Applicant to keep onsite and make immediately available to any emergency responders the identification and corresponding Safety Data Sheets (SDS) of all products used, stored or transported to the site. The SDS

must be updated weekly and provided immediately upon request to the Director, emergency responders, a County Public Health representative, or a health professional. Operators must timely provide SDS to the public in response to a written request. In cases of spills or other emergency events, the plan must include provisions establishing a notification process to emergency responders of potential products they may encounter, including the products used in the hydraulic fracturing fluids.

11. The plan ~~must~~ may include a provision establishing a process by which the Applicant engages with the surrounding neighbors to educate them on the risks and benefits of the onsite operations and to establish a process for surrounding neighbors to communicate with the Applicant.

~~**N. Land Disturbance Mitigation Plan.** An assessment of areas of land disturbance, an analysis of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed operation, and a plan, including proposed landscaping, revegetation, temporary fencing, and other mitigation measures, demonstrating compliance with the standards of Section 12-600. If site work has been done less than one year before the application submittal, the condition of the property prior to site work shall be used as a baseline. The application shall include any COGCC required interim and final reclamation procedures.~~

G.N. Operations Plan. A plan describing the proposed operations including the method, schedule, and duration of time for drilling, completion, transporting, production and post-operation activities.

A. Transportation Plan. The Applicant must submit a plan establishing compliance with the transportation standards in Section 12-600 and which contains the following information:

2.O. Map indicating proposed trip routes for all traffic serving the ~~oil and gas operation~~ oil and gas location during all phases of well development and operations.

3-1. Indicate for each segment of the proposed route in Boulder County the types, sizes, weight, number of axles, volumes, and frequencies (daily, weekly, total) and timing (times of day) of all vehicles to be used for the proposed ~~oil and gas operation~~ oil and gas location.

4-2. Identify all measures necessary to ensure the safety and quality of life experience of other users of the county transportation system, adjacent residents, and affected property owners, including without limitation:

- a. operational measures to minimize impacts to the public including, but not limited to, time of day, time of week, vehicle fuel and emissions reduction technology, noise minimization, and traffic control safety measures;
- b. maintenance practices on the proposed route, including without limitation, grading of unpaved roads, dust suppression, vehicle cleaning necessary to minimize re-entrained dust from adjacent roads, snow and ice management, sweeping of paved roads/shoulders, pothole patching, repaving, crack sealing, and chip sealing necessary to maintain an adequate surface of paved roads along the proposed route; and

5-3. any necessary physical infrastructure improvements to ensure public safety for all modes of travel along travel routes to and from the site.

P. Water Supply. Applicant must submit estimated water supply requirements and usage for the proposed development including:

Commented [A50]: This already will have happened at the neighborhood meeting prior to filing the application. Boulder County should accept that meeting as sufficient for this process.

Commented [A51]: This provision is preempted under the doctrine of operational conflict preemption. The COGCC already requires a reclamation plan and within the COGCC's authority. See COGCC 1000 Series.

Commented [A52]: An Applicant may have an estimate of the duration for drilling, etc., but Boulder County cannot mandate a duration of time/drilling obligation on the oil and gas location.

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Commented [A53]: Preempted by COGCC regulation.

1. An estimate of the amount of water needed for ~~the through~~ all phases ~~of the~~ on the oil and gas operation oil and gas location location;
2. A list of all available physical ~~water~~ sources of water ~~supply~~ for the project, and if multiple sources are available, ~~and~~ analysis of which source is least detrimental to the environment;
3. A description of the physical source of water ~~supply~~ that the Applicant proposes to use to serve the ~~oil and gas operation~~ oil and gas location location;
4. Water conservation measures, if any, that may be implemented within the ~~oil and gas operation~~ oil and gas location location; and
5. An estimate of the amount of water that will be used at the site, where and how the water will be consumed, the amount of wastewater produced, and disposal plans for wastewater.

Q. Offsite Transport Plan. A plan identifying the alternatives for transporting water and oil and gas resources to and from the site. The plan must include:

1. Pipeline Option. A plan demonstrating how pipelines may be used to transport water, wastewater, and the resource, including all flowlines, gathering lines, and pipelines located within Boulder County that may be used to serve the site and establishing compliance with the pipeline provisions of Section 12-600.
2. Vehicle Option. A plan demonstrating how truck transportation may be used to transport water, wastewater, and the resource as an alternative to pipelines. The plan must include the information in subsection (P) above with respect to trucks uses to transport water and oil and gas.

R. Electrification Plan. A plan identifying all sources of electricity that will be brought to or used at the site during all phases, including drilling, completion, and operations.

S. Cultural and Historic Resources Mitigation Plan. A cultural, historical and archeological survey of the parcel or parcels to be used for the proposed ~~oil and gas operation~~ oil and gas location location that demonstrates compliance with the standards of Section 12-600.

T. Geologic Hazard Area Mitigation Plan. A geologic hazard mitigation plan identifying hazard types and areas on the parcels demonstrating compliance with the standards of Section 12-600. If the Applicant proposes above-ground oil and gas facilities in the floodplain, a flood mitigation plan must be included as a part of the geologic hazard mitigation plan.

U. Natural Resources Mitigation Plan. A plan identifying natural resources on the parcels and information demonstrating compliance with Section 12-600.

V. Recreational Activity Mitigation Plan. Information identifying recreational activities, such as public trails and open space, in the immediate area of the proposed ~~oil and gas operation~~ oil and gas location location, and a plan demonstrating how impacts will be mitigated and compliance with the standards of Section 12-600.

W. Scenic Attributes and Rural Character Mitigation Plan. An assessment of scenic attributes and rural character potentially impacted by the proposed ~~oil and gas operation~~ oil and gas location location and a plan for mitigating impacts in compliance with Section 12-600.

X. Surrounding Land Uses Mitigation Plan. Information identifying surrounding land uses within one-half (1/2) mile of the proposed ~~oil and gas operation~~ oil and gas location location, an assessment of any potential impacts to surrounding land uses, and a plan mitigating impacts in compliance with Section 12-600.

Y. **Waste Disposal Plan.** Information identifying the projected waste from the site and plans for disposal of such waste.

Commented [A54]: Preempted by COGCC regulation.

Z. **Water Quality Plan.** A plan establishing compliance with the water quality provisions of Section 12-600. The plan may include details such as the Applicant's plans for water quality testing, prevention of illicit or inadvertent discharges, stormwater discharge management, containment of pollutants, and spill notification and response as required by federal and state agencies. The Applicant shall provide the County with the information it provides to the COGCC ensuring compliance with the water quality protection standards contained in Rule 317(B), Rule 910, and any other applicable COGCC rules governing water quality protection. The Applicant shall provide all water well-source test results. The Applicant shall provide its plans concerning downhole construction details and installation practices, including casing and cementing design, and shall inform the County how the plans establish that the operation does not create significant degradation to surface waters or drinking water aquifers.

Commented [A55]: Preempted by COGCC regulation.

AA. Wetlands Protection Plan. Information identifying wetlands in the area and demonstrating compliance with the standards of Section 12-600.

AA-BB. Operator Registration. Operator registration materials for the applicant are incorporated into the application materials. The Director, Planning Commission, or Board, may consider such materials in reviewing any special use application.

BB-CC. Additional Information. If the Director determines that the County needs additional information to determine whether the proposed ~~oil and gas operation~~ oil and gas location meets the criteria in Section 12-600, the Director may require the Applicant to submit such information prior to the determination of the completeness to avoid delays in the permitting process.

12-600 Special Review Standards

All special review applications shall be reviewed according to the following standards, ~~which the Board, considering the advice of the Director, has determined to be applicable based on the nature and extent of the proposed development.~~ When two or more of the standards listed below conflict, the Board, based upon advice of the Director, shall evaluate the applicability and importance of each of the conflicting standards under the facts of the specific application and make a reasonable attempt to balance the conflicting standards in reaching a decision. The Board's decision will be based upon compliance with all special review standards it determines are applicable. In evaluating compliance with these standards, the Board shall take into consideration the number of wells proposed on a well pad and the parcel. Depending on site specific factors, a greater number of wells on a site is likely to have a greater impact and, as a result, may require more mitigation measures than a pad or parcel with fewer wells.

Commented [A56]: Boulder County stated that this section will be used to determine the "compatibility" of an oil and gas location plan. There is significant concern about using the term "compatibility" as an attempt to trump COGCC rules and regulations, which have primary authority over oil and gas locations and locations in Colorado.

A. **Adequate Water Supply.** Development applications for proposed ~~oil and gas operation~~ oil and gas locations must demonstrate that the available water supply is the least detrimental to the environment among the available sources and adequate to meet the needs of the development. Special review approval may be conditioned upon sufficient proof of adequate water supply.

Commented [A57]: This standard is subject to the regulations of COGCC (see COGCC Rule 317B), CDPHE and Department of Water Resources. This inclusion falls within the aforementioned concern of "compatibility" being used outside the scope of Boulder's land use authority.

B. **Agricultural Land.** ~~Oil and gas operation~~ Oil and gas locations-locations shall, to the maximum extent practicable, avoid the loss of agricultural land, including farm or ranch land, or any other vegetated land; shall minimize impacts on agricultural operations, including irrigation water, water delivery systems and irrigation schedules; and shall avoid impacts to livestock, grazing permits or leases, or grazing permittees or lessees.

C. **Air Quality.** The installation and operation of any ~~oil and gas operation~~ oil and gas location shall, to the maximum extent practicable, avoid causing ~~degradation~~ to air quality. To the maximum extent practicable, the installation and operation of any ~~oil and gas operation~~ oil and gas location must eliminate, capture, or minimize all potentially harmful emissions and dust associated with onsite activities and traffic on access roads must be minimized.

Commented [A58]: This standard is also subject to the regulations of COGCC and CDPHE. This inclusion falls within the aforementioned concern of “compatibility” being used outside the scope of Boulder’s land use authority.

Commented [A59]: The use of the term degradation is subjective and may be used to deny oil and gas locations by their very nature of being perceived as “inherently incompatible” as suggested in 12-100.A.

D. **Cultural and Historic Resources.** ~~Oil and gas operation~~ Oil and gas locations shall, to the maximum extent practicable, avoid causing ~~degradation impacts to~~ cultural or historic or archaeological resources, sites eligible for County landmarking, or sites in the National Historic Register.

E. **Emergency Prevention and Response.** ~~Oil and gas operation~~ Oil and gas location shall, to the maximum extent practicable, avoid risks of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, and hazardous material vehicle accidents or spills. ~~Oil and gas operation~~ Oil and gas locations shall ensure that, in the event of an emergency, adequate practices and procedures are in place to protect public health and safety and repair damage caused by emergencies.

F. ~~Floodplains and Floodways.~~ Above ground ~~oil and gas operation~~ oil and gas locations are prohibited in floodways. Above ground ~~oil and gas operation~~ oil and gas locations shall not be located in a floodplain unless all alternate locations outside of the floodplain that allow for extraction or transportation of the resource are more detrimental to health, safety, welfare or the environment than the proposed location in the floodplain. All above-ground ~~oil and gas operation~~ oil and gas location approved in a floodplain must comply with the flood protection measures in Article 4-400. Tanks in the 500 year floodplain also require flood protection measures.

Commented [A60]: Please refer to COGA White Paper submitted in October 2016 for comments regarding flood plains. COGCC Rule 603.h explicitly permits operations in floodplains if operators follow certain well control and safety requirements. The County’s Proposed Regulation on floodplains falls within the operational conflict test by forbidding what state law expressly authorizes.

G. **Geologic Hazard Areas Other than Floodplains and Floodways.** To the maximum extent practicable, ~~oil and gas operation~~ oil and gas location shall not be located in geologic hazard areas as mapped in the Comprehensive Plan.

H. **Land Disturbance.** The installation and operation of any ~~oil and gas operation~~ oil and gas location shall, to the maximum extent practicable, avoid causing ~~degradation impacts~~ to the surface of the property used for the ~~oil and gas operation~~ oil and gas location. Considerations for application of this standard include, but are not limited to, the natural topography and existing vegetation, unnecessary or excessive site disturbance, and minimization of the amount of cut and fill.

I. **Natural Resources.** The installation and operation of any ~~oil and gas operation~~ oil and gas location shall, to the maximum extent practicable, avoid causing degradation to mapped significant natural communities, natural landmarks and natural areas, rare plant areas, significant riparian corridors, prominent natural features such as distinctive rock and land forms, rivers and streams and other landmarks or other identified visual or scenic resources, wildlife, or critical wildlife habitat as defined in the Comprehensive Plan or identified on the site.

Commented [A61]: This standard is subject to the regulations of COGCC, CDPHE, CPW and other state agencies. This inclusion falls within the aforementioned concern of “compatibility” being used outside the scope of Boulder’s land use authority.

J. **Odor.** ~~Oil and gas operation~~ Oil and gas locations must comply with Department of Public Health and Environment, Air Quality Control Commission, Regulation No.2 Odor Emissions, 5 CCR 1001-4, Regulation No. 3, 5 CCR 1001-5, and Regulation No. 7, 5 CCR 1001-9 Section VII and VIII.- The operator must notify the Director no later than 24-hours after receiving an odor complaint.

Commented [A62]: Boulder County has determined that pipelines may be utilized as a mitigation measure, yet requires pipelines to be subjected to the lengthy permitting process. Pipelines provide a significant reduction in many impacts from oil and gas development and should be allowed to be permitting on an expedited basis with special review permit under this Article 12.

K. **Pipelines.**

1. Any newly constructed or substantially modified as defined in 12-900 oil and gas flow lines, gathering lines or transmission lines located on the site of Applicant's oil and gas operation ~~oil and gas locations are subject to special review under this Article 12. pipelines on site must meet the Additional Provisions listed at Article 4-514(E)(5)(a) (f). If the Applicant's special review application under Article 12 includes or creates a need for new or substantially modified oil and gas pipelines located off the site of the special review application but within Boulder County, such pipelines are subject to separate special review under Article 4-514(E), which the special review application must be processed in tandem with the separate application for Applicant's special review application under Article 12, required for such offsite pipelines under Article 4-514(E). In such case, any approval of the special review application for oil and gas operations under Article 12 shall be conditioned on approval of the separate Article 4 special review application for the associated off site Gas and/or Hazardous Liquid Pipelines, and vice versa. If the an Applicant's special review under Article 12 creates a need for new or substantially modified water or wastewater pipelines located on the site of Applicant's oil and gas operations, such pipelines are subject to special review under Article 12. If Applicant's special review under this Article 12 includes or creates a need for new or substantially modified water or wastewater pipelines located off the site of the special review application Applicant's operations but within Boulder County, the special review application must be processed in tandem with the separate special review required for permanent offsite pipelines under Article 4-514(K) or limited impact review required for temporary offsite water or wastewater transmission lines under Article 4-517(J). Any approval of the Article 12 special review application for oil and gas operations shall be conditioned on approval of the separate Article 4 special review or limited impact special review application, as applicable, for the associated water or wastewater pipelines, and vice versa.~~
2. To the maximum extent practicable, and subject to any provisions contained elsewhere in Article 12, gathering lines and flow lines within Applicant's area of operations shall be sited to avoid areas containing residential, commercial, and industrial buildings; places of public assembly; and surface water bodies.
3. Flow lines within Applicant's well pad shall be located as necessary for efficient use of the well pad area, efficient and safe transport of oil and gas, and maximum avoidance of residential, commercial, or industrial buildings, places of public assembly, the high-water mark of any surface water body and sensitive environmental features.
4. Any pipelines outside of the well pad and subject to Article 12 review shall, to the maximum extent practicable, be sited to avoid areas that will impact county open space or impede road rights-of-way. Surface impacts and habitat fragmentation and disturbance must be minimized where such pipelines are permitted.
5. To the maximum extent practicable, Applicant shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize impact.
6. For pipelines outside the well pad and subject to Article 12 review, setbacks from residential, commercial, or industrial buildings, places of public assembly, the high-water mark of any surface water body and sensitive environmental features will be determined on a case-by-case basis in consideration of the size and type of pipeline proposed and features of the proposed site. ~~In no instance may a~~ pipeline must not be located closer than one hundred and fifty (150) feet from a residential, commercial or industrial building, a place of public assembly, or the high-water mark of any surface water body except in extraordinary circumstances. All setback distances will be measured from the nearest edge of the pipeline.

Commented [A63]: This is beyond the scope of what Boulder can mandate for flowlines and gathering lines.

Furthermore, Pipeline construction and modifications are jurisdictional and subject to the regulations Colorado Department of Transportation, Colorado Public Utilities Commission, CDPHE and COGCC. Not only is this outside of what Boulder can do, but certain projects simply do not allow for dual filings. In many instances, the pipeline project/permit will be after an Oil and Gas Location permit.

Commented [A64]: Operators may not have information related to pipelines at the time of application as midstream infrastructure is owned operated by a 3rd party and would not be within the operators planning scope once custody transfer occurs at the meter house and or LACT unit.

Commented [A65]: This is a mandated setback on pipelines of an unknown footage but no less than 150' away from everything. Unclear and burdensome.

Commented [A66]: API guidelines allow for 50' to 25' away in general.

Commented [A67]: Significant impact to surface owners by burdening more of the property with unusable setback areas.

K.L. Recreational Activity. ~~Oil and gas operation~~ Oil and gas locations shall, to the maximum extent practicable, avoid causing degradation to the quality and quantity of recreational activities in the

County. Considerations for application of this standard include, but are not limited to, designated environmental resources, trails, and recreational uses, as identified in the Comprehensive Plan or identifiable on or near the site.

Commented [A68]: What are “designated environmental resources”? Who has the authority to designate?

L.M. Scenic Attributes and Rural Character. ~~Oil and gas operation~~Oil and gas locations shall, to the maximum extent practicable, avoid causing degradation to the scenic attributes and rural character of the area.

M.N. Surrounding Land Uses. ~~Oil and gas operation~~Oil and gas locations shall be, to the maximum extent practicable, sited and operated in a manner so that the operation is compatible with surrounding land uses. In applying this standard, separation from surrounding land uses shall be considered the most effective measure to ensure compatibility between proposed ~~oil and gas operation~~oil and gas locations and existing land uses. Considerations for application of this standard also include, but are not limited to, impacts on used or occupied structures; the natural topography and existing vegetation; the location of surrounding land uses; prevailing weather patterns, including wind directions; and hilltops, ridges, slopes, and silhouetting.

Commented [A69]: The COGCC has exclusive siting authority over oil and gas locations. There is significant concern about using the term “compatibility” above for this section as an attempt to trump COGCC rules and regulations. All of these standards can be used to deny oil and gas operations by their very nature of being perceived as “inherently incompatible” as suggested in 12-100.A.

N.O. Transportation, Roads, and Access. ~~Oil and gas operation~~Oil and gas locations shall, to the maximum extent practicable, be designed and implemented to minimize or mitigate impacts to physical infrastructure of the county transportation system, ensure public safety, and maintain quality of life for other users of the county transportation system, adjacent residents, and affected property owners. Where available, existing private roads must be used to minimize ~~or mitigate~~ land disturbance unless traffic safety, visual concerns, noise concerns, or other adverse surface impacts dictate otherwise.

O.P. Water Quality. ~~Oil and gas operation~~Oil and gas locations shall, to the maximum extent practicable, avoid causing degradation to surface or ground waters within Boulder County.

Commented [A70]: This standard is subject to the regulations of COGCC, CDPHE, DOW and other state agencies. The use of the term degradation is subjective and may be used to deny oil and gas operations by their very nature of being perceived as “inherently incompatible” as suggested in 12-100.A.

P.Q. Wetlands Protection. ~~Oil and gas operation~~Oil and gas locations shall, to the maximum extent practicable, avoid causing degradation to wetlands within Boulder County. Among other methods to achieve compliance with this standard, the proposed ~~oil and gas operation~~oil and gas location shall not alter historic drainage patterns and/or flow rates or shall include acceptable mitigation measures to compensate for anticipated drainage impacts.

Commented [A71]: This standard is subject to the regulations of COGCC, CDPHE, CPW, DOW and other state agencies. The use of the term degradation is subjective and may be used to deny oil and gas operations by their very nature of being perceived as “inherently incompatible” as suggested in 12-100.A.

12-700 Conditions of Approval Applicable to All Special Review Approvals

Commented [A72]: Many of these COA overlap the COGCC’s or other state regulations and are preempted under the tests applied by the Colorado Supreme Court in the cases referenced in the COGA White Paper submitted in October, 2016.

The following oil and gas facility operational requirements and mitigation measures are likely necessary to meet the approval criteria in 12-600. Accordingly, unless the Board deems a condition unnecessary to establish compliance with this Article, all of the following shall apply to all ~~oil and gas operation~~oil and gas locations in the form of conditions of approval applicable to each special review permit:

Commented [A73]: Many of these COA overlap the COGCC’s or other state agencies’ regulations and are preempted.

~~**Access.** The Applicant must submit copies of all necessary surface use agreements and proof of legal access to the site prior to the commencement of any construction activities.~~

Further, an Applicant could be viewed as being subject to dual enforcement under many of the conditions of approval set forth in this section between Boulder County and the COGCC regulations.

A. Anchoring. All mechanized equipment associated with ~~oil and gas operation~~oil and gas locations must be anchored to minimize transmission of vibrations through the ground and prevent flood hazards.

Commented [A74]: As mentioned above, many surface use agreements are confidential and cannot be shared with Boulder County.

B. Applications and Permits. The Applicant must provide copies of local, state and federal applications required for the operation, and permits, when issued, to the Director.

C. Certification and Reporting. An authorized representative for the Applicant must submit ~~monthly~~ annual reports to the Director certifying compliance with all ~~air quality testing and monitoring~~ requirements imposed by the State and the County as conditions of approval and documenting any periods of non-compliance, including the date and duration of each deviation and a compliance plan and schedule to achieve compliance. The reports must contain a certification as to the truth, accuracy and completeness of the reports. The Applicant must immediately notify the Director whenever public health or safety is in jeopardy. The Applicant must notify the Director within twenty-four (24) hours of any uncontrolled oil, gas, ~~or~~ water flowing from a well ~~or~~ The Applicant must otherwise notify the Director within ten days of any significant downhole problem, mechanical failure, or accident or natural event that results in injuries to a member of the public requiring medical treatment or significant damage to the well site.

Commented [A75]: Does Boulder County have a specific form it will be using for this certification? An Applicant should not be in the position of assuming that its certification will work, only to be rejected. Too, the County should make clear that it will accept the electronic submission of routine reports required under this Article, such as this reporting requirement.

D. Color. Facilities must be painted in a uniform, non-contrasting, non-reflective color that blend with the surrounding landscape.

Commented [A76]: This COA is governed by COGCC regulations.

E. Discharge Valves. Open-ended discharge valves on all storage tanks, pipelines and other containers must be secured where the operation site is unattended or is accessible to the general public. Open-ended discharge valves must be placed within the interior of the tank secondary containment.

Commented [A77]: This COA is governed by CDPHE regulations.

F. Dust Suppression and Fugitive Dust. Dust associated with on-site activities and traffic on access roads must be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or the site to the extent practicable given wind conditions. On-site sand, silica, or similar material must be stored in covered containers. The Applicant must comply with permit and control provisions of the Colorado Air Quality Control Program ~~and~~ Boulder County Public Health's best management practices for dust suppression.

Commented [A78]: This COA is governed by COGCC and CDPHE regulations.

G. Emergency Preparedness Plan. The Applicant must implement the Emergency Preparedness plan approved by the Director. The plan must be updated on an annual basis, or as conditions change, such as responsible field personnel and ownership.

H. Exhaust. The exhaust from all engines, motors, coolers and other mechanized equipment must be vented up or in a direction away from the closest occupied structures.

I. ~~Flammable Material~~ Fire Hazards. ~~Oil and gas operation~~ Oil and gas locations must comply with COGCC rules concerning control of fire hazards. The Applicant must comply with the applicable provisions of any fire code adopted by the fire district with jurisdiction over the site of the Applicant's oil and gas operation ~~oil and gas locations~~.

Commented [A79]: Again, operators must comply with these referenced requirements on their own terms as they are written by the body with jurisdiction to regulate and enforce in this space.

J. Flares and Combustion Devices. All flares shall be designed and operated as follows:

Commented [A80]: This COA is governed by COGCC and CDPHE regulations. See, e.g. COGCC Rule 912.

1. The flare must be fired with natural gas.
2. The flare must be designed and operated in a manner that will ensure no visible emissions during normal operation. Visible emissions means observations of smoke for any period or periods of duration greater than or equal to one (1) minute in any fifteen (15) minute period during normal operation, pursuant to EPA Method 22. Visible emissions do not include radiant energy or water vapor.
3. The flare must be operated with a flame present at all times when emissions may be vented to it.
4. All combustion devices must be equipped with an operating auto-igniter.

5. If using a pilot flame ignition system, the presence of a pilot flame must be monitored using a thermocouple or other equivalent device to detect the presence of a flame. A pilot flame must be maintained at all times in the flare's pilot light burner. If the pilot flame goes out and does not relight, then if no telemetry system is in place, a visible alarm shall be in place on-site and activated.
6. If using an electric arc ignition system, the arcing of the electric arc ignition system must pulse continually and a device must be installed and used to continuously monitor the electric arc ignition system.

K. Hydrocarbon Emissions Leak and Detection and Repair. The Applicant must develop and maintain a leak detection and repair program approved by the Director using modern leak detection technologies, such as infra-red cameras, for equipment used on the well site. Any leaks discovered should be reported to the County immediately. Operators must repair leaks as quickly as practicable; if more than 48-hours repair time is needed after a leak is discovered, an explanation of why more time is required must be submitted to the Director.

Commented [A81]: This COA is governed by CDPHE regulations.

L. Lighting. Except during drilling, completion or other operational activities requiring additional lighting, down-lighting is required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture. A lighting plan must be developed to establish compliance with this provision. The lighting plan must indicate the location of all outdoor lighting on the site and any structures, and must include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures. Lighting must be no greater than required for safe operation.

Commented [A82]: This COA is governed by COGCC regulations.

M. Log. The Applicant must maintain a log for each well completion operation at each gas wellhead affected facility. The log must be completed on a daily basis and must contain the records specified in 40 C.F.R. § 60.5420(c)(1)(iii).

Commented [A83]: The COGCC requires operators to submit a drilling completion report that includes daily operation summaries. E.g. COGCC Rule 308A.

N. Maintenance of Machinery. Routine field maintenance of vehicles or mobile machinery must not be performed within three hundred (300) feet of any water body.

O. Noise. Any equipment used in drilling, completion, or production of an ~~oil and gas operation~~ oil and gas location must comply with the maximum permissible noise levels set forth in COGCC regulations.

P. Notice of Commencement. The Applicant must mail notice to the Department; surface owners of the parcels of land on which the ~~oil and gas operation~~ oil and gas location is located; owners of the parcels of land within one-half mile (2,640 feet) of the parcel on which the ~~oil and gas operation~~ oil and gas location is located; and the physical addresses of all parcels within one-half mile (2,640 feet) of the parcel on which the ~~oil and gas operation~~ oil and gas location is located at least thirty (30) days prior to the commencement of the drilling and completion phase. The notification must include contact information for the Applicant; the American Petroleum Institute (API) well number; the latitude and longitude coordinates for each well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using the North American Datum of 1983; and the planned date of the beginning of drilling and estimated date of completion.

Commented [A84]: The financial assurance required by COGCC, *see* COGCC Rule 700 Series, preempts any financial assurance for oil and gas locations in Boulder County.

Commented [A85]: This entire section is unduly burdensome and preempted by federal and COGCC regulations.

Commented [A86]: Must differentiate Gathering Lines from Flowlines. While flowlines are owned and maintained by the operator seeking approval under this code; gathering lines even within the operations area may be owned and operated by a 3rd party. The applicant would not have the required documentation in these instances.

Q. Performance Guarantee. If approval is conditioned upon revegetation, road improvements, or similar specific site improvements, the Applicant will be required to submit a letter of credit or other financial guarantee in a form satisfactory to the County for the full cost of such improvements prior to issuance of a special review construction permit. The Applicant may apply to the Director for release of the letter of credit upon completion of the improvements.

Q.R. Pipelines.

1. Construction

- a. Flow lines and gathering lines within Applicant's area of operations must be buried below the level of cultivation and must be installed so that the cover between the top of the pipe and the ground level is at least three (3) feet.
- b. During pipeline construction, for trenches that are left open for more than five (5) days and are greater than five feet in width, wildlife crossovers and escape ramps must be installed where the trench crosses well-defined game trails. If the trench parallels well-defined game trails, wildlife crossovers and escape ramps must be placed at a minimum of one-quarter mile intervals
- c. All pipe installed in a ditch must be installed in a manner that minimizes the introduction of secondary stresses and the possibility of damage to the pipe.
- d. Any pipe installed underground must have at least twelve (12) inches of clearance between the outside of the pipe and the extremity of any other underground structure, except that for drainage tile the minimum clearance may be less than twelve (12) inches but not less than two (2) inches. Where twelve (12) inches of clearance is impracticable, the Director may approve a request by the operator to reduce the minimum clearance if adequate provisions are made for corrosion control.
- e. To minimize negative impacts to channels, banks and riparian areas, when crossing streams, rivers or irrigation ditches, operators must use boring technology or alternative, Director-approved performance techniques and standards.

2. Records. A complete record that shows the following must be maintained by the operator for the life of each pipeline subject to Article 12 special review and a copy provided to the Director in electronic format compatible with the County's geographic information system for reference in case of emergency:

- a. The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.
- b. The amount, location, and cover of each size of pipe installed.
- c. The location of each crossing of another pipeline.
- d. The location of each buried utility crossing.
- e. The location of each overhead crossing.
- f. The location of each valve and corrosion test station.
- g. Copies of all monitoring results and pipeline integrity and pressure test results for the past five years.

3. Inspection, Monitoring, Testing and Maintenance

- a. All gathering lines within Applicant's area of operations must use a supervisory control and data acquisition (SCADA-type) monitoring system for leak detection unless, upon Applicant's request, the Director determines that an equivalent or better, and commercially available technology appropriate to the line and the site may be used instead. Flow meters on the SCADA system must be accurate to within one percent. If a leak is detected, the operator must report the leak to the Director immediately, at a minimum within twenty-four (24) hours. The operator must notify the director of any pipeline taken out of service due to a test failure immediately, at a minimum within twenty-four (24) hours.
- b. Flow lines within Applicant's area of operations and operating at 15 psig or higher must be pressure tested at least once each calendar year unless risk factors suggest more frequent testing is warranted; or unless the operation uses a continuous monitoring program including SCADA-type monitoring as described above.
- c. All pipelines must include a leak detection system that includes pressure flow meters, flow balancing, and a computer alarm and communication system in the event of a suspected leak, unless, upon Applicant's request, the Director determines

Commented [A87]: This is unduly burdensome and may not, in some instances, be provided because of its confidential nature.

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Commented [A88]: Boulder County cannot dictate what type of monitoring system is used and this provision is preempted. There is no COGCC or other requirement for SCADA systems. COGA appreciates that the SCADA reference states "-type" but the language continues to reference SCADA and is misleading.

that an equivalent or better, commercially available technology appropriate to the line and the site may be used instead. The leak detection system for gas pipelines must include pressure sensor equipments. The accuracy of the system must be defined once the system is established and tested in a manner approved by the Director. The Director may approve changes in these requirements to address specific system operating requirements.

d. Pipe clamps, wooden plugs, or screw-in plugs must not be used for any permanent repair.

e. Operators must visually inspect all aboveground pipelines for leaks and corrosion on a monthly basis.

4. Abandonment. If an operator plans to abandon any gathering line subject to this Article 12, the operator must submit proposed pipeline abandonment procedures to the Director for review and approval. Flow lines will be abandoned consistent with COGCC Rule 1103 as amended.

Commented [A89]: Again, unduly burdensome and preempted by being extensively regulated by the COGCC, as well as by potentially making operations economically infeasible.

R.S. Reclamation Plan. Any special review approval must include any COGCC required interim and final reclamation procedures.

Commented [A90]: Preempted by the COGCC requirement.

S.T. Removal of Debris. ~~Oil and gas operation~~Oil and gas locations must comply with COGCC rules concerning removal of debris. Burning of trash must not occur in association with an ~~oil and gas operation~~oil and gas location per C.R.S. 25-7-128(5).

T.U. Removal of Equipment. ~~All equipment used for drilling, re-drilling and maintenance of the facility must be removed from the site within thirty (30) days after completion of the work, unless otherwise agreed to by the surface owner and the Director.~~ Permanent storage of equipment on well pad sites is not ~~allowed~~.

Commented [A91]: Regulated by COGCC Rule 603.f.

U.V. Representations. The approved special review application is subject to all commitments of record, including verbal representations made by the Applicant at any public hearing and written commitments in the application file, and without limitation must encompass compliance with all approved mitigation plans.

V-W. Spills and Leaks. Chemical spills and releases, including spills of produced water, oil, condensate, natural gas liquids, all spills outside of secondary containment, and E & P waste, must be reported and cleaned up according to applicable state and federal laws, including the Oil and Pollution Act and the Clean Water Act, as applicable. Operators must report spills and hydrocarbon emissions leaks to the Director immediately and no later than twenty-four (24) hours of the time the leak or spill is discovered.

Commented [A92]: This COA is governed by COGCC, CDPHE and federal agency regulations.

W-X. Stormwater Control. A stormwater control plan that establishes that all operations shall use most effective performance techniques and best management practices to minimize impacts to surface waters from erosion, sediment, and other sources of pollution such as chemicals. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this stormwater control plan provision. Prior to commencement of operations, the Applicant must also provide the Director with a letter from the Water Quality Control Division of the Colorado Department of Public Health and Environment showing that the project is covered under the Colorado Discharge Permit System (CDPS) general permit for *Stormwater Discharges Associated with Construction Activities* (state stormwater discharge permit), when applicable.

X-Y. Temporary Access Roads. Property subject to temporary access roads associated with ~~oil and gas operation~~oil and gas locations shall be reclaimed and re-vegetated to its original state ~~within sixty (60) days~~as soon as practicable after discontinued use of the temporary access roads.

~~Y-Z.~~ Transportation Fees. All applicable transportation fees shall be paid prior to issuance of a special review construction permit, including without limitation:

1. access permit fees;
2. oversize/overweight permit fees;
3. right of way construction permit fees; and
4. fees to mitigate the cumulative impacts of heavy truck traffic on the county transportation system.

Commented [A93]: Fees should be reviewed on a well-pad basis.

~~Z-AA.~~ Transportation Infrastructure. Any costs to improve county transportation system infrastructure necessitated by the proposed ~~oil and gas operation~~ oil and gas location shall be the responsibility of the Applicant. All transportation system infrastructure improvements and associated costs shall be determined by the County Transportation Department after consultation with the Applicant. The County shall perform the work or arrange for it to be performed. If the Applicant disagrees with the infrastructure improvements or associated costs as assessed by County Transportation, it may request that County Transportation approve a different route for its proposed ~~oil and gas operation~~ oil and gas location that avoids the need for such improvements. Alternatively, the Applicant may engage a licensed civil engineering firm to perform a study to independently evaluate county transportation system infrastructure improvements necessitated by the proposed ~~oil and gas operation~~ oil and gas location. The County Transportation Department shall consider the results of such a study in making a final determination on infrastructure improvements.

Commented [A94]: The operator should not have to pay 100% costs to upgrade infrastructure. There is nothing to prevent the county from attributing the need to improvements solely to oil and gas locations. The County must present substantial evidence supporting its claim that the location in question will cause significant effects. Industry recognizes effects occur on County roads, and are open to reviewing and analyzing the effects, but the County Transportation Department cannot make a costs determination without early input and discussion with the Applicant.

~~AA-BB.~~ Transportation Permits. Applicant shall obtain all applicable transportation permits as specified in the County's Multimodal Transportation Standards, including but not limited to County access, driveway, utility construction, and oversize and overweight permits, as well as all appropriate Colorado Department of Transportation (CDOT) access permits pursuant to the CDOT State Highway Access Code. Access roads on the site and access points to public roads as identified in the application materials shall be reviewed by the County Transportation Department and shall be built and maintained in accordance with the engineering specifications and access road standards defined in the Multimodal Transportation Standards.

~~BB-CC.~~ Vegetation. An analysis of the existing vegetation on the site establishing a baseline for re-vegetation upon temporary or final reclamation or abandonment of the operation.

~~CC-DD.~~ Vehicle Tracking Control Practices. Vehicle tracking control practices must be used to control potential sediment discharges from operational roads, well pads, and other unpaved surfaces. Practices could include road and pad design and maintenance to minimize rutting and tracking, controlling site access, street sweeping or scraping, tracking pads, wash racks, education, or other sediment controls. Traction chains from heavy equipment shall be removed before entering a County road.

~~DD-EE.~~ Water Quality. A water quality control plan that establishes that all operations shall use ~~most effective performance techniques and~~ best management practices to minimize impacts to water quality, including plans for water quality testing, prevention of illicit or inadvertent discharges, and containment of pollutants as required by state and federal agencies.

~~EE-FF.~~ Weed Control. ~~Oil and gas operation~~ Oil and gas locations must keep wells and surface production facilities free of noxious weeds. The Applicant is also responsible for ongoing weed control along access roads during construction and operation, until abandonment and final reclamation is completed per County or other applicable agency regulations. For access roads, the appropriate weed control methods and species to be controlled ~~must may~~ be determined through review and recommendation by the County Weed Coordinator by reference to the Boulder County

Noxious Weed Management Plan and, where appropriate, in coordination with the requirements of the surface owner.

FF.GG. Well Abandonment or Decommissioning. The Applicant must comply with any COGCC rules regarding well abandonment, decommission, or reclamation. Upon plugging and reclaiming a well, the Applicant must provide the County with surveyed coordinates of the decommissioned or reclaimed well. Unless otherwise requested by the surface owner, the Applicant must leave onsite a permanent physical marker of the well location.

Commented [A95]: Please provide guidance on what will constitute an acceptable permanent physical marker.

12-701 Potential Site Specific Mitigation Measures

Application of these potential mitigation measures will be site-specific and based on the land use impacts of the particular oil and gas operation oil and gas location, the environmental impacts of the particular oil and gas operation oil and gas location, the Applicant's ability to undertake particular mitigation measures given the current state of economically reasonable technology, and consideration of any associated standards or rules adopted by the COGCC, the Air Quality Control Commission, or the EPA.

A. Air Quality.

1. **Minimization of Hydrocarbon Emissions.** To protect air quality, hydrocarbon emissions control measures may be required, including, but not limited to, one or more of the following:

- Where technically and economically feasible or practicable, eElectrification from the power grid or from renewable sources of all permanent operation equipment with engines or motors that can be electrified.
- Pipelines for water delivery to the site.
- Pipelines for transportation of oil and gas away from the site.
- Limitations on truck traffic to and from the site.
- Implementation of "tankless" production techniques.
- Environmentally sensitive and efficient production techniques, such as using natural gas onsite rather than flaring.
- For well pads that are not electrically operated, use of quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent.
- Use of acoustically insulated housing or covers to enclose the motor or engine.
- Manufacture test or other data demonstrating hydrocarbon destruction or control efficiency that complies with a design destruction efficiency of 98% or better.
- Bleed and vent restrictions on continuous bleed pneumatic devices, intermittent vent pneumatic devices, compressor engines, heater treaters, dehydrator reboilers, process heaters-pilot flames.
- Proof that any flare, auto ignition system, recorder, vapor recovery device or other equipment used to meet the hydrocarbon destruction or control efficiency requirement is installed, calibrated, operated, and maintained in accordance with the manufacturer's recommendations, instructions, and operating manuals.
- Emissions controls of 90% or better for glycol dehydrators.
- Zero-emission desiccant dehydrators.
- Hydrocarbon control of 95% or better for crude oil, condensate, and produced water tanks with uncontrolled actual emissions of VOCs greater than five (5) TPY.

Commented [A96]: These potential mitigation measures are governed by COGCC and CDPHE regulations.

Commented [A97]: Please refer to comments throughout regarding pipelines.

Commented [A98]: Burdensome pipeline permitting requirements under this code would limit feasibility of timely pipeline installation.

- o. Year-round application of odor requirements as set forth in 5 C.C.R. 1001-9, § XII (as amended).
- p. Electronic surveillance monitors to detect when pilot lights on control devices are extinguished.
- q. Drilling, completion and operation of wells using closed loop pitless systems for containment and/or recycling of all drilling, completion, flowback and produced fluids.
- r. Emission controls of hydrocarbon emissions of 95% or better for centrifugal compressors and reciprocating compressors.
- s. Dry seals on centrifugal compressors.
- t. Routing of emissions from rod-packing and other components on reciprocating compressors to vapor collection systems.
- u. Reduction or elimination of emissions of associated gas from hybrid gas-oil wells (i.e. gas that is co-produced from a well that primarily produces oil), including prohibition of uncontrolled venting.
- v. Emission control of 90% or better during liquids unloading (i.e. maintenance activities to remove liquids from existing wells that are inhibiting production), including the installation of an automated plunger lift.
- w. Reduction or elimination of emissions from oil and gas pipeline maintenance activities such as pigging, including routing emissions to a vapor collection system.
- x. Proof of compliance with State-required dust control measures and imposition of an opacity requirement as tested using EPA Method 9.
- y. Odor reduction or elimination outside a specified distance from the well site.
- z. Use of an automated tank gauging system.

2. **Hydrocarbon Emissions Leak Detection and Repair and Air Quality Monitoring.** The Applicant may be required to develop and maintain an acceptable leak detection and repair program using modern leak detection technologies such as infra-red cameras for equipment used on the well site. Operators may be required to repair leaks on a schedule approved by the Director. Continuous ambient air quality monitoring to measure hydrocarbon emissions and meteorological data may be required.

Commented [A99]: These potential mitigation measures are governed by COGCC and CDPHE regulations.

B. Water Quality

1. **Chemicals Dangerous to Human Health. To prevent harm to human health, limitations or prohibitions on orally toxic chemicals in hydraulic fracturing fluids.**

Commented [A100]: These potential mitigation measures are governed by COGCC, CDPHE and Department of Water Resources regulations.

- 3.2. **Monitoring and Well Testing.** To protect local water quality, the Board may require the Applicant to implement a water quality monitoring and well testing plan. Water quality testing and control measures may be required, including, but not limited to, one or more of the following:

Commented [A101]: The County cannot limit the components of fracking fluid and this ignores the studies and results of such studies. This is squarely preempted under the COGCC's fracking rules and regulations.

- a. ~~Notice to Well Owners. Sixty (60) days prior to completing or hydraulic fracturing a well, the Applicant must identify and provide notice to all water well owners with wells located within one quarter (1/4) mile of the projected track of the borehole of a proposed well and within one-half mile of the proposed well and those who have requested notice under 12-400(H)(3)(a). The notice must contain the following provision: "Boulder County informs owners of water wells near the (name of well) that in order to establish base line water well data, it would be prudent to conduct a water well test, in conformance with Boulder County Land Use Code Section 12-700, prior to the anticipated (completion) / (hydraulic fracturing) on (date)."~~

Commented [A102]: These potential mitigation measures are governed by COGCC and CDPHE regulations.

- b.a. **Decommissioned Oil and Gas Well Assessment.** Assessment and monitoring of plugged and decommissioned or removed from use and dry and

removed from use oil and gas wells (abandoned wells) within one-quarter (¼) mile of the projected track of the borehole of a proposed well. This may include:

1. Based upon examination of COGCC and other publicly available records, identification of all abandoned wells located within one-quarter (¼) mile of the projected track of the borehole of a proposed well.
2. Risk assessment of leaking gas or water to the ground surface or into subsurface water resources, taking into account plugging and cementing procedures described in any recompletion or plugged and abandoned (P&A) report filed with the COGCC.
3. Notification of the Director and COGCC of the results of the assessment of the plugging and cementing procedures.
4. Permission from each surface owner who has an abandoned well on the surface owner's property to access the property in order to test the abandoned well. If a surface owner has not provided permission to access after thirty (30) days from receiving notice, the Applicant shall not be required to test the abandoned well.
5. For each abandoned well for which access is granted, a soil gas survey of the abandoned well prior to production from the proposed well and again one (1) year and then every three (3) years after production has commenced.
6. Notification of the results of the soil gas survey to the Director and the COGCC within three (3) months of conducting the survey or advise the Director that access to the abandoned wells could not be obtained from the surface owner.

e.b. **Water Well-Source Sampling and Testing.** ~~Based upon~~ Using records of the Colorado Division of Water Resources, the Applicant may be required to identify and offer to sample all available water ~~wells-sources~~ located within one-quarter-half (¼)-(1/2) mile of the projected track of the borehole of a proposed well and within one-half (1/2) mile of the radius of the proposed well or multi-well site. Sampling requirements may include:

1. Initial baseline samples and subsequent monitoring samples shall be collected from all available water sources within (1/2) mile of the projected track of the borehole of a proposed well and one-half (1/2) mile radius of the well site or multi-well site.
2. Initial collection and testing of baseline samples from available water sources shall occur within 12 months prior to the commencement of drilling a well, or within 12 months prior to the re-stimulation of an existing well for which no samples were collected and tested during the previous 12 months.
3. Post-stimulation samples of available water sources shall be collected and tested pursuant to the following time frame:
 - a. One sample between 6 and 12 months after completion; and
 - b. One sample between 60 and 72 months after completion.
 - c. For multi-well pads, collection shall occur annually during active drilling and completion
4. Operators shall collect a sample from at least one up-gradient and two down-gradient water sources within a one-half (1/2) mile radius of the well site or multi-well site. If no such water sources are available, operator shall collect samples from additional water sources within a radius of up to one (1) mile from the well site or multi-well site until samples from a total of at least one up-gradient and two down-gradient water sources are collected. Operators should give priority to the selection of water sources closest to the well site or multi-well site.

Commented [A103]: This section does not track and is preempted by COGCC Rules 609 and 318A.

~~Sampling wells on either side of the borehole track and in different aquifers, where applicable.~~

~~4.5. An operator may rely on existing groundwater sampling data collected from any water source within the radii described above, provided the data was collected within the 12 months preceding the commencement of drilling the well, the data includes measurement of all of the constituents measured in Table 1 and there has been no significant oil and gas activity within a one-mile radius in the time period between the original sampling and the commencement of drilling the well.~~

~~2.6. For each water well sampled, at~~ The Operator shall make reasonable efforts to obtain the consent of the owner of the water source. If the operator is unable to locate and obtain permission from the surface owner of the water source, the operator must ~~least a thirty (30) day notice to respective surface owners and opportunity to respond to the notice regarding sampling the water well or advise the Director that the~~ Applicant could not obtain access to the ~~abandoned well's~~ water source from the surface owner.

~~3. Testing prior to setting of the conductor casing.~~

~~7. Testing for the analytes listed in Table 1, and subsequent testing as necessary or appropriate~~

~~4.8. Operators must follow standard industry procedures in collecting samples, consistent with the COGCC model Sampling and Analysis Plan.~~

~~5.9. Reporting the location of the water well-source using a GPS with sub-meter resolution.~~

~~d.c.~~ **Field observations.** Reporting on damaged or unsanitary well conditions, adjacent potential pollution sources, odor, water color, sediment, bubbles, and effervescence.

~~e. Post Completion Testing.~~ Within one (1) year after completion of the proposed well, post completion testing using the same analytical parameters as above and repeated two (2) and six (6) years after the completion of the well. Additional post completion tests if changes in water quality are identified during follow up testing or in response to complaints from water well owners.

~~f.d.~~ **Test results.** Provide copies of all test results described above to the Director, the COGCC, and the water well-source owners within three (3) months after collecting the samples.

~~g.e.~~ **Resolution and mitigation** **Subsequent sampling.** If sampling shows water contamination, additional measures may be required including the following: ~~mitigation of the contamination may be required. Mitigation measures may include the following:~~

1. If free gas or a dissolved methane concentration level greater than one (1) milligram per liter (mg/l) is detected in a water well-source, determination of the gas type using gas compositional analysis and stable isotope analysis of the methane (carbon and hydrogen).
2. If the test results indicate thermogenic or a mixture of thermogenic and biogenic gas, an action plan to determine the source of the gas.
3. Immediate notification to the Director, the COGCC, and the owner of the water well-source if the methane concentration increases by more than five (5) mg/l between sampling periods, or increases to more than ten (10) mg/l.
4. Immediate notification to the Director, the COGCC and the owner of the water well-source if BTEX and/or TPH are detected as a result of testing. Such detections may result in required subsequent sampling for additional analytes.

Commented [A104]: Any water quality monitoring and well testing regulation and/or mitigation measure should be in compliance with COGCC Rule 609 or Rule 318A, as applicable.

~~Reasonable good faith efforts to conduct initial baseline testing of the identified water wells prior to the setting of the conductor casing at the site. Post completion tests for the same analytical parameters listed above.~~

5. Further water well-source sampling in response to complaints from water well-source owners.
6. Timely production and distribution of test results, well location, and analytical data in electronic deliverable format to the Director, the COGCC and the water well-source owners.

~~h.f.~~ **Qualified Independent Professional Consultant.** All abandoned well assessments and water well-source testing must be conducted by the Applicant or, if requested by a surface owner, by a qualified independent professional consultant approved by the Director.

Commented [A105]: Any water quality monitoring and well testing regulation and/or mitigation measure should be in compliance with COGCC Rule 609 or Rule 318A, as applicable.

Table 1. Water Quality <u>Analytes</u>	
GENERAL WATER QUALITY	Alkalinity
	Conductivity & TDS
	pH
	Dissolved Organic Carbon (or Total Organic Carbon)
	Bacteria
	Hydrogen Sulphide
MAJOR IONS	Calcium Bromide
	Chloride
	Fluoride
	Magnesium
	Potassium
	Sodium
	Sulfate
	Nitrate + Nitrite <u>as N</u> (total)
METALS	Arsenic
	Barium
	Boron
	Chromium
	Copper
	Iron
	Lead
	Manganese
	Selenium
	Strontium
<u>DISSOLVED GASES and VOLATILE</u>	Methane <u>Ethane</u> <u>Propane</u> BTEX <u>as compounds</u>

Commented [A106]: This chart includes analytes that extend beyond COGCC required testing; preempted.

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ORGANIC COMPOUNDS	(Benzene, Toluene, Ethylbenzene, Xylenes)
	Total Petroleum Hydrocarbons (TPH)
OTHER	Water Level Stable isotopes of water (Oxygen, Hydrogen, Carbon) Phosphorus

B.C. Land Disturbance and Compatibility. Conditions of approval that will reduce impacts to the site, natural resources, environmental resources, agricultural resources, floodways and floodplains, wetlands, and recreational activities, and will enhance compatibility with the surrounding area or scenic and rural character may be required, including, but not limited to, one or more of the following:

1. **Location.** A change of the proposed location of the well pad that allows for extraction of the resource and mitigates the land use impacts.
2. **Reduction.** A reduction of the number of wells on a single pad.
3. **Disruption.** ~~If surrounding occupants of residential structures within one mile of a well or production facility site are significantly adversely affected by drilling and completion activities, reasonable disruption payments to those occupants. The presumptive amount of disruption payments shall may be calculated as provided for in appendix 1, using market data prepared by a qualified independent professional consultant, with reference to the expected time period from initiation of well construction through well completion and giving consideration given to existing surface use agreements with such occupants. The presumptive disruption payments may be subject to changes based on special circumstances, such as the presence of~~ Consideration shall be given to the effect of disruption of health, sleep patterns, lifestyle, or the cost of replacement housing, home or land-based occupations, accommodations for occupants with special needs, loss of business income, moving costs, transportation costs, and other factors affecting residents. ~~Any required disruption payments must be made at least sixty (60) days before commencement of well construction.~~
4. **Pad dimensions.** Adjustment of pad dimensions to the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
5. **Structures and surface equipment.** Adjustment of structures and surface equipment to the minimal size necessary to satisfy operational needs.
6. **Shared infrastructure.** Use of shared existing infrastructure by ~~oil and gas operation~~ oil and gas location, minimizing the installation of new facilities and avoiding additional disturbance to lands in a manner that reduces the introduction of significant new land use impacts to the environment, landowners and natural resources.
7. **Landscaping and irrigation.**
 - a. Landscaping plans including drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area.
 - b. An irrigation plan may be required where buffering is accomplished with vegetation.
8. **Buffering of Visual Impacts.** Landscaping, berming, or other types of screening materials along the perimeter of the site between the surface equipment and surrounding areas.
9. **Vegetation.** Maximization of the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation as a

Commented [A107]: Boulder County stated that this section will be used to enhance the "compatibility" of an oil and gas operations plan. There is significant concern about using the term "compatibility" as an attempt to trump COGCC rules and regulations, which have primary authority over oil and gas siting and operations in Colorado. Further, all of these standards can be used to deny oil and gas operations as "inherently incompatible," as suggested in 12-100.A.

Also, to the extent that adjustment of pad dimensions and structures, etc., interfere with COGCC's exclusive siting authority, they are preempted.

Commented [A108]: Siting of an oil and gas location is not within the authority of Boulder County. The siting of an oil and gas location rests within the primary jurisdiction of the COGCC.

Commented [A109]: Boulder County does not have legal authority to require a private operator to pay a private surface owner or "surrounding occupants" for the use and development of its real property rights. This section is unreasonable and should be deleted. An Applicant will have already informed the people attending the neighborhood meeting, which would include "surrounding" occupants. There should be no attempted extortion of an Applicant to make monetary payments to "surrounding occupants" for the use and development of its real property rights and the real property rights of the mineral interest owners. There are numerous mitigation measures that will be placed on any special review permit approved under this Article 12. Those mitigation measures are intended to reduce the disruption to "surrounding occupants." A potential requirement to pay monetary amounts if drilling and completion lasts more than 60 days is unreasonable and unnecessary. Finally, "within one mile" goes well beyond the 500 foot setback for building units required by the COGCC.

background, the construction of the operation near screening stands of vegetation, or placement in valleys allowing topographic screening. Construction of the operation in a manner that minimizes the removal of and damage to existing trees and vegetation. If the operation requires clearing trees or vegetation, feathering and thinning of the edges of the cleared vegetation and mowing or brush-hogging of the vegetation while leaving root structure intact, instead of scraping the surface.

10.9. Equipment. Use of buried or low profile tanks and less intrusive equipment. Use of “quiet” drilling and completion equipment, such as the Quiet Fleet design provided by Liberty Oilfield Services.

11.10. Remote monitoring and control. Use of Supervisory Control and Data Acquisition or other remote monitoring of wells, including remote telemetry units, onsite control valves, onsite data acquisition devices, and radio network/modems. The ability to trigger an automatic shut-down of a facility for any reason at any time.

12.11. Soils. Testing of soil samples to determine the extent of contamination from any spill or release, as well as to determine the adequacy of any remediation efforts, impacts to soil quality, which may include baseline testing.

13.12. Spills and leaks. A leak detection plan to monitor for fluid leaks.

13. Pipelines. A risk-based engineering study for proposed pipelines and modified construction, operation, or spacing standards that may exceed the minimum requirements in 12-700(R) for pipelines based on the outcome of the study.

Commented [A110]: This is subject to COGCC regulations and the County cannot mandate the use of “quiet” drilling and completion equipment. Much like the County cannot prohibit certain development techniques, such as fracking, neither can it mandate that specific equipment be used.

Commented [A111]: Specific mitigations limit innovation and technological advances operators need discretion to continue to develop innovative solutions.

C.D. Transportation. Conditions of approval that will ensure public safety for all modes of travel along travel routes to and from the site and maintain quality of life for other users of the county transportation system, adjacent residents, and affected property owners, including a requirement that the Applicant use a particular route for some or all of the pad construction, drilling, and completion phases of the ~~oil and gas operation~~ oil and gas location; maintenance practices on the proposed route during pad construction, drilling, and completion designed and implement to adequately minimize impacts; and compliance with Boulder County’s Multimodal Transportation Standards.

12-800 Judicial Review

A final decision by the Board of County Commissioners on a special review application is subject to judicial review in a court of competent jurisdiction under C.R.C.P. 106(a)(4).

12-900 Procedures Following Approval of a Special Review Application

A. Right to Enter. Any site under an approved special review may be inspected by the County at any time to ensure compliance with the requirements of the approved special review, provided that four (4) hours prior notice is given to the contact person at the telephone number supplied by the Applicant. The Applicant shall provide the telephone number of a contact person who may be reached twenty-four (24) hours a day for purposes of being notified of any proposed County inspection under this Section. Each approved special review shall contain the following statement: “Applicant consents to allow the County the right of inspection of this approved operation provided the County contacts the Applicant with four (4) hours prior notice of such inspection.” County inspections shall be coordinated with the Applicant to ensure Applicant presence onsite and to ensure the site visit is conducted in accordance with all applicable Applicant safety requirements.

B. Effect of the Approved Special Review. After approval of a special review application and following compliance with any applicable conditions of approval, the County Land Use Department shall issue a construction permit for the proposed ~~oil and gas operation~~ oil and gas location within five (5) days of approval. Following receipt of the permit, the Applicant ~~must obtain~~ shall have immediate approval of any necessary building, grading, access, floodplain, or other County permits and, following the receipt of these additional permits, is authorized to otherwise proceed with the proposed ~~oil and gas operation~~ oil and gas location. The approval of the special review application under this Article does not result in the vesting of development rights, nor does it authorize the violation of any County or state regulations or preclude the County from refusing to issue any other permit or authorization if the plans and specifications do not comply with applicable County regulations.

C. Duration of the Approved Special Review. An approved special review application shall remain effective for a period of three (3) calendar years following the date of the Board's ~~approval~~ resolution. If the operation is not commenced within three (3) calendar years the permit shall expire and the Applicant will have to reapply for a new permit prior to undertaking operations.

D. Amendments and Modifications. Prior to changing ~~or~~ modifying a special use approved under this Article or any other existing ~~oil and gas operation~~ oil and gas location, the Applicant ~~an Operator shall must~~ submit a written request for modification as specified under Article 4-603. Upon submission of such a request, the Director shall proceed as specified in Article 4-603 except that the Director shall consider the additional criteria specified in this subsection. Unless approved in the original special review permit, the addition of ~~one or more~~ more than five (5) new wells on an existing pad ~~shall may~~ be considered a substantial modification to the entire pad and the entire pad ~~shall may~~ be required to come into compliance with this Article, to the extent practical. Other changes shall be considered substantial if they significantly alter the nature, character, or extent of the land use impacts, considering past usage prior to of the special review approval, by more than 50% or will result in an increase in hydrocarbon emissions. Refracking of an existing well shall be considered a substantial modification. A modification may ~~shall not~~ be considered a substantial modification if it results in a net decrease in hydrocarbon emissions or other net mitigation of existing or potential environmental impacts. A substantial modification shall not include any modification that is made to enhance best management practices or mitigate environmental impacts with new or innovative technology.

E. Maintenance and Repair. If an Operator anticipates undertaking routine maintenance that is not routine or making a substantial repair to any oil and gas operation ~~oil and gas location~~, the Operator must provide written notice to the Director as soon in advance of the maintenance or repair as practicable. For emergency repairs, the Operator must provide notice to the Director within twenty-four (24) hours of commencement of the repair. The notice must include a detailed description of the maintenance or repair. In response to the notice, the Director may approve the repair or maintenance, conditionally approve the repair or maintenance, or require that the Operator apply for a substantial modification determination. The Director ~~may will~~ maintain a list of maintenance and repair activities that ~~the Director does not consider substantial modifications but rather maintenance and repair. Activities on the list an Operator may be undertaken~~ without County review or approval.

Commented [A112]: An Applicant should be able to have applied, and have ready in the "queue," all of the permits referenced in this Section. If not, this adds additional unnecessary delay to the overall permitting process in Boulder County. If an operator cannot apply for the permits listed in this section at the same time the special review permit passes completeness, or before, the operator is forced to start a new permit process for each of the other permits listed herein. Again, this unnecessary and unreasonable delay on the allowance of oil and gas operations in Boulder County could be viewed as a de facto ban on oil and gas development due to the never-ending permitting process.

Commented [A113]: There is no definition of "substantial modification," inviting confusion and uneven application. For clarity and consistency, there should be a non-discretionary definition for an operator to understand. Incorporating a specific percentage into the review of "substantial modification" assists the County as well as the operator in understanding what qualifies.

Commented [A114]: As explained above, many of the requirements under this special review process cannot be enforced by the County.

12-1000 Enforcement

If the County determines at any time that there is a violation of an approved special review application, the Director shall be entitled to commence one or more of the following enforcement measures and remedies.

A. Written Order Suspending the Approval. The Director may issue a written order to the Applicant (or owner, Applicant, or agent, as applicable) identifying the alleged violation, ~~and suspending the approved special use and all activity otherwise allowed by the special use approval. If the violation presents an immediate threat to the health, safety or welfare of the public, the Director may immediately issue the written order to the Applicant in writing and, upon receipt, the Applicant must cease all activities and operations immediately until the violation is remedied. In all other instances, prior~~ Prior to issuing a written order, the Director shall provide written notice to the Applicant describing the alleged violation, and stating a reasonable time within which the violation must be corrected. If, within that time period, the Applicant has not either corrected the violation or filed a written appeal with the Board of County Commissioners, the written order shall be delivered to the Applicant in writing ~~and, upon receipt, the Applicant must cease all activities and operations immediately until the violation is remedied.~~ Any appeal to the Board of County Commissioners of the threatened or actual issuance of the written order shall be acted upon pursuant to Section 12-1300(B) below.

Commented [A115]: Boulder County cannot require an operator to cease its operations as part of its enforcement authority under this Article. The operator will have authority to conduct its operations under the approved COGCC permit. Boulder County may, however, immediately contacting the COGCC and request a cease and desist order under the proper COGCC procedures.

B. Appeal Hearing Before Board of County Commissioners. If the Applicant files a timely appeal with the Board of County Commissioners of the Director's determination to issue a written order suspending the special use, the Board shall schedule a hearing on the appeal at the soonest possible time of which the Applicant shall receive reasonable prior notice. If the Board confirms at the hearing that the violation has occurred and has not been corrected, the Board in its discretion may confirm issuance of a written order ~~suspending the special use or the determination to draw upon the financial guarantee finding a violation of the special review permit or the determination to request the COGCC to draw on the Applicant's COGCC required financial assurance.~~ The Board, in its discretion, may also give the Applicant additional time to correct the violation, or may specify the time at which the Director may take appropriate action to have the violation corrected.

C. ~~Suit to Enjoin COGCC Rule Violation.~~ ~~If the Director discovers a violation or threatened violation of Title 34, Article 60 of the Colorado Revised Statutes or any rule, regulation, or order made under that Article, the Director shall notify the COGCC in writing. If the COGCC fails to bring suit to enjoin any actual or threatened violation, then the County Attorney may file an action on behalf of the Board seeking injunctive relief.~~

Commented [A116]: No reason to codify these provisions.

D. ~~Falsification.~~ ~~If the Director, in the course of administering this Article, learns that any person, has made a false entry, omitted an entry, or altered an entry in violation of CRS § 34-60-121, the Director may report such information to the District Attorney for criminal prosecution.~~

E.C. Other Enforcement Remedies. In addition to the foregoing enforcement measures, Boulder County has the right to any and all other enforcement measures and remedies provided by law, including but not limited to seeking relief through the courts to enforce an approved special review, ~~or to stop or abate any oil and gas operations oil and gas locations occurring or about to occur without the requisite special use or other county approvals.~~

12-1400 Definitions

Commented [A117]: Each definition should match the definition in COGCC 100 Series rules.

Terms used in this Article 12 are defined below. Any terms not specifically defined for purposes of Article 12 may be defined in Article 18.

Abandonment. The permanent abandonment of a well, which shall be determined at the time of the Applicant's filing of the appropriate abandonment form with the COGCC.

Adequate Water Supply. A water supply that will be sufficient for build-out of the proposed development in terms of quality, quantity, dependability, and availability to provide a supply of water for the type of development proposed, and may include reasonable conservation measures and water demand management measures to account for hydrologic variability.

Agent. One authorized to make binding representations on behalf of the Applicant.

Adversely Affected or Adverse Impact. The impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful, including social, economic, physical, health, aesthetic, historical and/or biological impacts, ~~including but not limited to, effects on natural resources, the structure or function of affected ecosystems, or persons, structures or communities.~~

Applicant. Person, corporation or other legal entity possessing the legal right to develop the mineral resource who has applied for a special review permit for an ~~oil and gas operation~~ oil and gas location.

BTEX and/or TPH. Benzene, Toluene, Ethylbenzene, Xylene and Total Petroleum Hydrocarbons.

Chemical(s). Any element, chemical compound or mixture of elements and/or compounds.

Closed Loop Drilling Process or System. A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage, and the use of solids removal equipment, which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused in the continued drilling of the well bore. The solids are placed in containment provided on the site. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be reused. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.

COGCC. The Colorado Oil and Gas Conservation Commission.

Combustion device. Any ignition device, installed horizontally or vertically, used in exploration and production operations to combust otherwise vented emissions from completions.

Corridor. Tracts of land within which a water, wastewater, or oil and gas pipeline right-of-way is located.

County. Boulder County, Colorado, and its officers, staff, employees and agents.

Degradation. Lowering in grade or desirability; lessening in quality.

Department. Boulder County Land Use Department.

Drilling Operation. Any work or actual operation undertaken for the purposes of carrying out any of the rights, privileges or duties of a lessee for drilling of an oil well, gas well, or cathodic protection well.

Equipment. Machinery or structures located on well pads, rights-of-way, or other land uses in the ~~oil and gas operation~~ oil and gas location, including, but not limited to, wellheads, separators, dehydration units, heaters, meters, storage tanks, compressors, pumping units, internal combustion engines, and electric motors.

Flow Line. Those segments of pipe from the wellhead ~~downstream~~ downstream through the production facilities ending at: (a) in the case of gas lines, the gas metering equipment; (b) in the case of oil lines, the

oil loading point or lease automated custody transfer unit; or (c) in the case of water line, the water loading point, the point of discharge to a pit, or the permitted surface water discharge point. Flow lines are defined and regulated by the COGCC.

Gas Well. A well, the principal production of which at the mouth of the well is gas, as defined by the Oil and Gas Conservation Act.

Gathering Line. A pipeline and equipment described below that transports gas from a production facility (ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter) to a natural gas processing plant or transmission line or main. The term “gathering line” includes valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmissions lines, or main lines. Gathering lines Flow lines are defined and regulated by the Colorado Public Utilities Commission and CDPHE.

Grading Plan. Plan view and cross-section of existing and proposed land contours, cuts and fills, topsoil storage location and stabilization methods, and maximum slopes.

Ground Water. Subsurface waters in a zone of saturation.

Heavy Equipment. Drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding five tons.

Improvement. Any new construction activity, grading or land development, or addition of equipment or materials to a site.

Mitigation. One or more of the following actions which are prioritized in order of preference:

Avoiding Impacts. Avoiding an impact by not taking a certain action or parts of an action; or

Minimizing Impacts. Limiting the degree or magnitude of the action or its implementation, or by changing its location; or

Rectifying or Remediating Impacts. Repairing, rehabilitating, or restoring the impact area, facility or service; or

Reducing or Eliminating Impacts. Decreasing or removing the impact over time by preservation and maintenance operations; and

Other Provisions for Addressing Impacts. Using alternative means not contemplated by this Article to provide equivalent biological, social, environmental and/or physical mitigation effects.

~~**Most Effective Performance Techniques and Practices.** The application of proven and emerging techniques, technologies or other Best Management Practices used in conducting oil and gas exploration and development which avoid, neutralize, exclude, eliminate, mitigate or minimize adverse on and off-site impacts to public health and the environment, landowners, and natural resources, and which may reduce conflicts between potentially impacted landowners and the oil and gas industry.~~

Occupied Structure. Any building or structure that requires a certificate of occupancy or building or structure intended for human occupancy.

Oil and Gas Facilities.

Commented [A118]: This definition does not appreciate that some technologies, particularly emerging technologies, are not economically reasonable or truly technologically feasible in all instances.

The site and associated equipment used for the production, transportation, treatment, and/or storage of oil and gas and waste products; or

An individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production; or

An individual well pad with one or more wells for exploration of oil and gas; or

Flow lines, Gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes; or

Temporary storage and construction staging yards in place for less than six months; or

Oil and Gas Operations. ~~Exploratory drilling; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil and gas well or pipeline; construction, substantial modification, or decommissioning of oil and gas facilities; and construction, site preparation, reclamation associated with the development of oil and gas resources. With respect to any submittal or review requirements under this Section, "oil and gas operations" shall refer to the particular oil and gas operations for which the Applicant is seeking County approval. Exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking, or abandonment of an oil and gas well, underground injection well, or gas storage well; production operations related to any such well including the installation of flowlines and gathering systems; the generation, transportation, storage, treatment, or disposal of exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations.~~

Oil and Gas Location. Definable area where an operator has disturbed or intends to disturb the land surface in order to locate an oil and gas facility.

Oil Well. A well, the principal production of which at the mouth of the well is oil, as defined by the Oil and Gas Conservation Act.

Operation. ~~Oil and Gas Operation~~Oil and gas locations~~Oil and Gas Operations.~~

Operator. Any person who exercises the right to control the conduct of ~~oil and gas operation~~oil and gas locations.

Owner or Applicant. Person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced either for such owner or others, including owners of a well capable of producing oil, gas, or both.

Permanent Equipment. Equipment located onsite for a duration greater than one (1) year effective one (1) year after the date of first production of a well.

Person. Any individual, partnership, corporation, association, company, or other public or corporate entity, including but not limited to the State or Federal governments, and any of their political subdivisions, agencies, or instrumentalities.

Commented [A119]: Though this is the definition of the COGCC, the County does not have the authority to regulate "Oil and Gas Operations" as the term must be defined under the doctrine of operational preemption.

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Pit. Any natural or man-made depression in the ground used for oil or gas exploration or production purposes excluding steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.

Practicable. Realistically and feasibly able to be done or put in practice successfully.

Regulation(s). Article 12 of the Boulder County Land Use Code.

Referral Agency. An agency, organization, or technical consultant deemed appropriate and necessary, by the County, to review an application and provide professional analysis and recommendations, including without limitation other County offices and departments, municipal, state, or federal agencies having an interest in or authority over all or part of the application or permit, and professional or legal consultants.

Right-Of-Way. The legal right to pass through grounds or property owned by another, or land, property or interest therein, usually in a strip, acquired for or devoted to transportation or conveyance purposes.

Site. The areas that are disturbed during the drilling and subsequent operation of, or affected by production facilities associated with, any oil well or gas well and its associated well pad.

Surface Owner. The owner of the surface property on which the oil and gas operation oil and gas location will be located or constructed.

Surrounding. Within one-half mile of a proposed 1,000 feet of a proposed oil and gas operation oil and gas location.

Temporary Use Area. Disturbed lands immediately adjacent to the well pad or right of way used by an Applicant during the construction or maintenance of a well, pipeline or other facility that will be reclaimed for permanent operations.

TPY. Tons per year.

Transmission Line. Pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

VOC. Volatile organic compounds.

Water or Water Body. Any surface waters which are contained in or flow in or through Boulder County, excluding ephemeral streams, roadway ditches, water in sewage systems, water in treatment works of disposal systems, water in potable water distribution systems, stock ponds or irrigation ditches not discharging to live streams, and all water withdrawn for use until use and treatment have been completed.

Water Source. Water source shall mean water wells that are registered with Colorado Division of Water Resources, including household, domestic, livestock, irrigation, municipal/public and commercial wells, permitted or adjudicated springs, and monitoring wells other than monitoring wells that are drilled for the purpose of monitoring water quality changes that are not associated with oil and gas activities.

Water Supply Entity. A municipality, county, special district, water conservancy district, water conservation district, water authority, or other public or private water supply company that supplies, distributes, or otherwise provides water at retail.

Well or Wellhead. An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

Well Blowdown. Maintenance activity designed to remove unwanted fluids from mature wells during which time gas is often vented to the atmosphere.

Well Completion. An oil well shall be considered completed when the first new oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after the production string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production string has been run. A dry hole shall be considered completed ninety (90) days after reaching total depth. If approved by the Director of the COGCC, a well that requires extensive testing shall be considered completed when the drilling rig is released or six months after reaching total depth, whichever is later.

Well Pad. Area in which permanent operations for the well take place including, at a minimum, that portion of the pad area occupied by permanent production equipment. Well pads may contain one or more wellheads and associated equipment.

EXHIBIT A.2

Amendment to Article 2

Amend section 2-800(C)(1) as follows:

C. Duties and Responsibilities

1. The Board of Adjustment holds regular meetings to hear appeals of any order, requirement, decision, or determination made by the Land Use Director or County Engineer in administering or enforcing Article 4 related provisions (i.e., definitions in Article 18) of this Code, to hear appeals of the Director specified provisions of Article 12, and to consider certain variances from the requirements of Article 4 of this Code.

Amend section 2-800(c)(2) by adding the additional section:

g. from any provision of Article 12.

Amendment to Article 3

~~3-300 Application Submittals and Processing~~

~~A. The Director may create a waitlist for accepting applications. When the Director establishes a waitlist, Land Use shall inform prospective applicants regarding the waitlist and notify Applicants when they have reached the front of the waitlist so that their applications may be accepted and processed. Prospective applicants shall generally be placed on the waitlist on a first come, first served basis. However, the Director may prioritize items basis on special circumstances, such as reconstruction related permit applications submitted after a natural disaster.~~

~~— When the Director establishes a waitlist, no time limit for processing applications shall apply until the application is removed from the waitlist and accepted for processing.~~

Commented [A120]: There is no standard included for when or why the Director may create a waitlist. In generally, it is difficult to see why a waitlist should apply to a special review permit for oil and gas operations. The process is multi-faceted and processing in some area could proceed even if there is a slight lag in another area. Too, with no time limit, this could cause an infinite delay in the ultimate development of private property mineral rights and the valuable hydrocarbon resources necessary for Colorado and the U.S. more broadly. This waitlist, on its face, could be viewed as a ban or other illegal "lengthy" moratorium on oil and gas development, which is illegal under Colorado law.

Amendments to Article 4-500 (use definitions)

~~2. Amend Article 4-506(D) to exclude injection wells as a permitted use in the General Industrial District.~~

~~— D. Major Oil and Gas Operation Oil and gas locations~~

~~— 1. Definition: Water injection wells and facilities, Centralized water transfer stations, centralized water pump stations, storage yards and construction staging yards in place for~~

Commented [A121]: COGCC regulates the use and placement of injection wells.

~~longer than six months, and any other oil and gas operation~~~~oil and gas location the location of which is not dependent upon development of the mineral resource or subject to Article 12.~~

~~Districts Permitted: By Special Review in G1~~

~~Parking Requirements: None~~

~~Loading Requirements: None~~

~~Additional Provisions: Water injection wells and facilities are prohibited in all districts.~~

~~Disposal of produced waters, water-based bentonitic drilling fluids, or flowback fluids by roads~~~~spreading on public or private roads is prohibited in all districts.~~

1. Amend Article 4-508 Mining Uses by deleting current Sections 4-508(B) and 4-508(C) and replacing with new Section 4-508(B):

B. ~~Oil and Gas Operation~~Oil and gas locations

1. Definition: See Article 12-1400
2. Districts Permitted: By special ~~development plan~~ review for ~~oil and gas operation~~oil and gas locations in all districts (Article 12)
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions: None

Re-order remaining items and update cross-references as needed.

2. Amend Article 4-514 Utility and Public Service Uses:

Amend the definition of the use entitled "Gas and/or Hazardous Liquid Pipelines" so that it reads as follows:

- E. Gas and/or Hazardous Liquid Pipelines
1. Definition: Pipelines for the collection and transmission of crude oil, natural gas or other hazardous liquids, including:
 - a. flow lines: segments of pipe from the wellhead downstream through the production facilities ending at: (i) in the case of gas lines, the gas metering equipment, or (ii) in the case of oil lines, the oil loading point or lease automated custody transfer unit;
 - b. gathering lines: pipelines and equipment that transports gas from a production facility, ordinarily commencing downstream of the final production separator at the inlet flange of the custody transfer meter, to a natural gas processing plant or transmission line or main, including valves, metering equipment, communication equipment, cathodic protection facilities, and pig launchers and receivers, but does not include dehydrators, treaters, tanks, separators, or compressors located downstream of the final production facilities and upstream of the natural gas processing plants, transmissions lines, or main lines); and
 - c. transmission lines: pipelines transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended;
 2. Districts Permitted: In all districts by Special Review under Article 4, or review under Article 8 (areas and activities of state interest), or Article 12as applicable. Gathering lines and flow lines that are part of new oil and gas development and are located on the same parcel as ~~the~~a well head, pumping units, tanks and treaters will be subject to Special Review under Article 12 of this Code. Gathering lines and transmission lines that are not associated with new oil and gas development or are not located on the same parcel as a well head, pumping units, tanks and treaters and are not subject to Article 8

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Commented [A122]: This section is unnecessary and the terms differ from the COGCC definitions.

Boulder county should not require a special review permit for gathering lines, flowlines or pipelines as other state and federal agencies govern the permitting of such lines. It is recognized that certain locations of pipelines fall under the land use authority of Boulder County, but not to the extent of requiring the special review permit process to apply.

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are subject to special review under this Article 4 and approval shall be conditioned on approval of the special review under Article 12 of the oil and gas operation oil and gas locations with which such lines are associated, and vice versa.

3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
 - a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.
 - b. The Applicant must provide written notice of the application to all property owners within 500 feet of the centerline of the proposed pipeline.
 - b. The Applicant must submit copies of all necessary surface use agreements and proof of legal access to the site prior to the commencement of any construction activities.
 - c. Siting.
 - i. Such Pipelines subject to Article 4 review shall, to the maximum extent practicable, be sited to avoid areas containing residential, commercial, ~~and or~~ industrial buildings; places of public assembly; ~~and the high mark of any surface water bodies body; and sensitive environmental features.~~
 - ii. Such lines shall, to the maximum extent practicable, be sited to avoid areas that will impact county open space or ~~impede~~ road rights-of-way. Surface impacts and habitat fragmentation and disturbance must be minimized where such pipelines are permitted.
 - iii. To the maximum extent practicable, Applicants shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts.
 - iv. Setbacks from residential, commercial, or industrial buildings, places of public assembly and the high-water mark of any surface water body will be determined on a case-by-case basis in consideration of the size and type of the proposed line and features of the proposed site, but in no instance may a Gas and/or Hazardous Liquid Pipeline subject to Article 4 special review must not be located closer than one hundred and fifty (150) feet from a residential, commercial, or industrial buildings; a place of public assembly; or a the high-water mark of any surface water body except in extraordinary circumstances. ~~This All setback distances shall be measured from the nearest edge of the pipeline. Pipelines and gathering lines that pass within 150 feet of general residential, commercial, and industrial buildings or the high water mark of any surface water body shall incorporate leak detection and repair, secondary containment, or other mitigation monitoring and response technology, as appropriate.~~
 - v. To minimize negative impacts to the channel, bank, and riparian areas, ~~when~~ crossing streams, rivers or irrigation ditches, operators must use boring technology or alternative Director-approved most effective performance techniques and practices.
 - d. Construction.
 - i. Flow lines, gathering lines, and transmission lines shall be buried below the level of cultivation, and must be installed so that the cover between the top of the pipe and the ground level, road bed, river bottom, or underwater natural bottom is at least ~~four (4)~~ three (3) feet deep.
 - ii. The Department may require an Applicant for a pipeline to provide a risk-based engineering study for all or part of its proposed pipeline right of way that may require the implementation of more stringent construction or operation standards or space between the pipeline and other structures.

Commented [A123]: SUAs are often confidential.

Commented [A124]: No authority to create this setback requirement.

- iii. During pipeline construction for trenches that are left open for more than five (5) days and are greater than five feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of one-quarter mile intervals where the trench parallels well-defined game trails.
 - iv. All pipe installed in a ditch must be installed in a manner that minimizes the introduction of secondary stresses and the possibility of damage to the pipe.
 - v. Any pipe installed underground must have at least twelve (12) inches of clearance between the outside of the pipe and the extremity of any other underground structure, except that for drainage tile the minimum clearance may be less than 12 inches but not less than two (2) inches. Where twelve (12) inches of clearance is impracticable, the Director may approve a request by the operator to reduce the minimum clearance if adequate provisions are made for corrosion control.
- e. Records. A complete record that shows the following must be maintained by the operator for the life of each pipeline facility and provided to the ~~County~~ Director in electronic format compatible with the County's geographic information system for reference in case of emergency:
 - i. The total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.
 - ii. The amount, location, and cover of each size of pipe installed.
 - iii. The location of each crossing of another pipeline.
 - iv. The location of each buried utility crossing.
 - v. The location of each overhead crossing.
 - vi. The location of each valve and corrosion test station.
 - vii. Copies of all monitoring results and pipeline integrity test results for the past five years.
- f. Inspection, Monitoring, Testing and Maintenance.
 - i. All pipelines gathering and transmission lines must use a supervisory control and data acquisition (SCADA-type) monitoring system for leak detection unless, upon Applicant's request, the Director determines that an equivalent or better, and commercially available technology appropriate to the line and the site may be used instead. Flow meters on the SCADA system must be accurate to within one percent. If a leak is detected, the operator must report the leak to the Director immediately, at a minimum within twenty-four (24) hours. The operator must notify the director of any pipeline taken out of service due to a test failure immediately, at a minimum within twenty-four (24) hours. Flow lines subject to Article 4 special review and operating at 15 psig or higher must either be pressure tested at least each calendar year unless risk factors suggest more frequent testing, or use a continuous monitoring program including SCADA-type monitoring as described above.
 - ii. All pipelines must include a leak detection system that includes pressure flow meters, flow balancing, and a computer alarm and communication system in the event of a suspected leak, unless, upon Applicant's request, the Director determines that an equivalent or better, commercially available technology appropriate to the line and the site may be used instead. The leak detection system for gas pipelines must include pressure sensor equipments. The accuracy of the system must be defined once the system is established and tested in a manner approved by the Director. The Director may approve change in these requirements to address specific system operating requirements.
 - iii. Pipe clamps, wooden plugs, or screw-in plugs must not be used for any permanent repair.

Commented [A125]: COGCC Rule 205 covers record keeping. Boulder County does not have authority to regulated in this space. *Bd. of County Comm'rs*, 159 P.3d 773, 779-780 (Colo. App. 2006).

Commented [A126]: Boulder County cannot dictate what type of monitoring system is used and this provision is preempted. No COGCC or other requirement for SCADA systems. COGA appreciates that the SCADA reference states "-type" but the language continues to reference SCADA and is misleading.

- iv. Operators must visually inspect all aboveground pipelines for leaks and corrosion on a monthly basis.
- g. Abandonment. If an operator plans to abandon a pipeline gathering line or transmission line, the operator must submit proposed pipeline abandonment procedures to the Director for review and approval. Flow lines must be abandoned consistent with COGCC Rule 1103 as amended.
- f.h. Where appropriate given the context of the application, in reviewing an application or formulating a condition of approval the Director may consult the pipeline guidelines published by the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration for acceptable separation distances between residential, institutional, recreational, commercial, or industrial uses and hazardous operations, available at 24 C.F.R. Part 51.

Amend existing use definition in 4-514(K) as follows:

Sewage, Wastewater, or Water Transmission Lines

1. Definition: Pipelines used for the transport of water, wastewater, or sewage.
2. Districts Permitted: By review under the regulation of areas and activities of state interest or location and extent review in all districts, unless the line is serving an oil and gas facility, in which case special review in all districts.
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
 - a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

Add a new Temporary Use as 4-517(J):

Temporary Water or Wastewater Transmission Line

1. Definition: Temporary above-ground pipelines used for the transport of water or wastewater to or from an oil and gas facility or location.
2. Districts Permitted: By limited impact special review in all districts
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
 - a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

EXHIBIT A.3

Amendment to Board of Adjustment provisions

Modify section 4-1201(D) as follows:

D. ~~No Appeals to the Board of Adjustment or requests for variances before the Board of Adjustment are permitted for related to any matters under Article 12, Development Plan Special Review for Oil and Gas Operation~~ Oil and gas locations, must be specifically permitted under Article 12.

Add new section 4-1204 as follows:

4-1204 Appeal

A. Any party to a proceeding before the Board of Adjustment may appeal the Board of Adjustment's final decision under C.R.C.P. 106(a)(4).

EXHIBIT A.4

Development Standards

Modify section 7-904(D)(4) as follows:

4. A Development Plan Review ("DPR") Special Review permit authorizing ~~oil and gas operation~~oil and gas locations subject to a stormwater control plan approved under Article 12-800 700 or 701 of this Code ~~(conditions of approval applicable to all county oil and gas operation~~oil and gas locations DPR permits), shall be considered the equivalent of a County Engineer stormwater quality under this Article 7-904; and a separate permit application under this Article 7-904 for such operations shall not be required.

EXHIBIT A.5

Amendment to zoning regulation enforcement provisions

Modify section 17-300(E) as follows:

E. Inspection and Administrative Action against Violations

1. The Director, Building Official, County Engineer, Director of Public Health, or their authorized representatives are empowered, in conformity with the requirements of this subsection (E), to inspect and examine any building, other structure, or parcel or other area of land (collectively, 'premises'), concerning which they have reasonable cause to believe that a use exists, or a violation of a condition of approval as occurred, or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this code. If the Director, Building Official, County Engineer or their authorized representatives discover a violation of this Code, the Building Code or a violation of a condition of approval, the Director, in the Director's discretion, may charge the violator for the actual cost to the County of any follow-up inspections and testing to determine if the violation has been remedied. When the Director, Building Official, or authorized representative (collectively, 'the enforcing official') has reasonable cause to believe that a violation of this code is likely to exist on a premises, and that entry onto the premises is necessary to verify the violation, the enforcing official shall first make a reasonable effort to locate the owner or other person having charge or control of the premises, or portion thereof desired to be inspected, and request consent to enter and inspect the premises. If the owner or other person in charge or control of the premises cannot be located or if entry is refused, the enforcing official may seek entry by submitting a sworn affidavit to the proper court of jurisdiction, setting forth facts sufficient to support a reasonable belief that the violation is likely to exist, and that further investigation of the premises is warranted. Any subsequent entry and inspection shall be conducted in accordance with an administrative search warrant issued by the court.

2. Consent to enter or an administrative search warrant shall not be required in the following circumstances:

- a. To conduct inspections during regular county business hours under an applied for or issued building permit, for work authorized under that permit prior to the issuance of a final Certificate of Occupancy;
 - b. To conduct inspections within the scope of another official document, such as a duly executed zoning compliance affidavit, which grants express or clearly implied consent to enter and inspect;
 - c. To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy;
 - d. To make observations of the premises from private property when the owner of the private property gives consent to do so; or
 - e. In emergency situations in which the enforcing official has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.
- 2.3. If a violation is found to exist, the enforcing official shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable provisions of this code; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in this Article 17; and provided further that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this code in any court action instituted seeking full compliance therewith.
4. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property on which a violation of this

Commented [A127]: Boulder may burden an operator under this section whenever it pleases. This contradicts COGCC inspection and enforcement authority.

Formatted: Highlight

Commented [A128]: This is an inspection fee contrary to Colorado law.

Formatted: Highlight

Code has been determined to exist. The Director or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any applicant who has failed to pay a required fee.

EXHIBIT A.5

Clerical changes necessary to conform rest of Land Use Code to DC-16-~~0004~~

1. Delete references to "Development Plan review for ~~Oil and Gas Operation~~Oil and gas locations" and replace with "Special Review for ~~Oil and Gas Operation~~Oil and gas locations"
2. Delete references to "Development Plan Review" and "DPR" and replace with "Special Review."
3. Update Table of Contents and associated cross-references in Code as necessary.
4. Update use tables as necessary.
5. All other clerical amendments necessary to conform entire Land Use Code to primary text amendments approved in this DC-16-~~0004~~.

From: andrew oconnor
To: [Fred Smith](#); senatormattjones@gmail.com; kkreeger@broomfieldcitycouncil.org; [Boulder County Oil and Gas Comment](#)
Subject: Fw: Review and Comment Hearing: Initiative 2017-18 #13
Date: Friday, March 10, 2017 9:25:20 PM

From: Julia Jackson <Julia.Jackson@state.co.us>
Sent: Friday, March 10, 2017 5:58 PM
To: mary.henry@gmail.com
Cc: oconnorandrew@hotmail.com
Subject: Re: Review and Comment Hearing: Initiative 2017-18 #13

I'm so sorry; I sent the wrong time and location. Here is the correct hearing information.

Friday, March 24 at 1:30 p.m. in House Committee Room 107

Julia Jackson

Policy and Research Section
Colorado Legislative Council
303-866-4788
julia.jackson@state.co.us

[Senate State, Veterans, and Military Affairs Committee](#)
[Capitol Building Advisory Committee](#)

From: Julia Jackson/CLICS
To: mary.henry@gmail.com, oconnorandrew@hotmail.com
Date: 03/10/2017 05:55 PM
Subject: Review and Comment Hearing: Initiative 2017-18 #13

Hello,

We have received your proposed initiative, "State Severance Taxes on Oil and Natural Gas," and scheduled a review and comment hearing for Friday, March 24 at 10:00 a.m. in Senate Committee Room 352. Below is the Colorado Revised Statute regarding attendance of proponents at the review and

comment hearings.

At least two days prior to the hearing we will send you a copy of the review and comment memo.

Please feel free to contact our office at 303-866-3521 with any questions.

Julia Jackson

Policy and Research Section
Colorado Legislative Council
303-866-4788
julia.jackson@state.co.us

[Senate State, Veterans, and Military Affairs Committee](#)
[Capitol Building Advisory Committee](#)

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1-40-105 (1.5), C.R.S. Both designated representatives of the proponents must appear at all review and comment meetings. If either designated representative fails to attend a meeting, the measure is considered withdrawn by the proponents. If one of the two designated representatives fails to attend the review and comment meeting, the petition is deemed to be automatically resubmitted to the directors of the legislative council and the office of legislative legal services for review and comment, unless the designated representative present objects to the automatic resubmission. No later than five business days after the resubmission, the directors shall conduct a review and comment meeting in accordance with the requirements of this section. If both designated representatives fail to attend the review and comment meeting or if the designated representative present objects to the automatic resubmission, the proponents may thereafter resubmit the initiative petition in accordance with subsection (1) of this section.

From: Marianne Van Pelt
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Friday, March 10, 2017 9:42:32 PM

I urge my county commissioners to maintain the moratorium on fracking. You have my full support . We do not need more exploration and should give our attention and financial resources to invest in sustainable energy.
M. Van Pelt

From: Tricia Olson
To: [Boulder County Oil and Gas Comment](#)
Subject: Written Commentary for 3/14 meeting
Date: Saturday, March 11, 2017 5:47:28 AM
Attachments: [OandGRegulationComments-Olson-170311.docx](#)

Attached is my commentary regarding the proposed oil and gas regulations. Recognizing that there may not be time to address new points, I urge the staff and Commissioners to make changes and amendments as necessary - even after 3/23.

Tricia Olson

March 11, 2017

Dear Boulder County Commissioners,

As you consider revised oil and gas regulations for Boulder County, please keep in mind the myriad of negative impacts that come with industrial oil and gas development and fracking, all of them.¹ It's a long list, and real men, women, children and wildlife will be impacted by your decisions. That, of course, means doing whatever you can and *as much as you can* to protect this precious county.

The best alternative for the health and safety of Boulder County is to continue the moratorium or altogether ban industrial oil and gas development within the county.

I understand, however, that you feel it necessary to have the strongest possible regulations in place at this time. With that in mind, I suggest that you not consider these regulations as complete or finished. Instead, consider revisiting and revising them frequently as necessary to make them ever stronger, ever more protective, even if that means revisions in two weeks or next month or the month after.

The staff has done a good job incorporating the valuable direction you gave in November. However, I still have specific comments about individual sections in the proposed regulations:

- Re 12-400(B)(4)(a), Operator Registration, demonstration that operators have the capability to fulfill obligations:

Prior violations and performance are important background, but not at all sufficient to determine the financial health of a company, especially under what may be different financial conditions. The County should still require an annual financial statement.

As you know, the oil and gas industry is volatile; many companies are quite leveraged; and assets are frequently sold. There is nothing stable about this industry, and financial viability simply cannot be determined from a mere non-compliance record over a 10-year period or the payment of small fees. For many companies, there will not even be a 10-year record of performance or even a five-year record. As an example, Extraction Oil & Gas Inc was founded in 2012.

- Re 12-400(B)(4)(b), Operator Registration, demonstration that operators have the capability to fulfill obligations:

The county is further relying on certified copies of the "financial assurance" in COGCC rules 703, 706 and 707. These monetary figures neither cover the cost if there is a problem nor do they illustrate financial viability.

- The "financial assurance" for surface owner protection provided in COGCC Rule 703 is monetary: "...two thousand dollars (\$2,000) per well for non-irrigated land, or five thousand dollars (\$5,000) per well for irrigated land. In lieu of such individual amounts, operators may submit statewide, blanket financial assurance

¹ Among the negative impacts: health risks, air pollution, contamination of the ground and water, the potential for fires and explosions, increased radioactivity, odors, noise, light pollution, a long-term threat to regional economies and, of course, the impact of methane on the climate.

in the amount of twenty-five thousand dollars (\$25,000).” Nothing here assures financial viability and, obviously, may not cover the cost of clean-up.

- COGCC Rule 706 provides for “financial assurance” for soil protection, plugging and abandonment in the form of a specific monetary amount, ranging from \$10,000 per well to “\$100,000 for the drilling and operation of one hundred (100) or more wells.” The latter figure comes to only \$1,000 per well for soil protection and plugging and abandonment. This is a ridiculous figure. Although there is apparently a wide variation in plugging costs, these figures are ridiculously low.^{2 3}
- Re 12-400(D)(2), Operator Registration, Pre-Application Conference: The identification of potential site-specific concerns should not be limited to wells and a well pad location. Operations can include gas storage wells, flowlines and gathering systems, storage tanks, etc.
- Re 12-400(H)(1), Operation Registration, Notice: 12-400(H)(2)(d) uses “Water source owners...” “Water well owners” in (1) should be changed to “water source owners” to be consistent.
- Re 12-400(H)(1): Please add the word “secure” before “methods” in “using methods other than mail.” Paper notices on a porch aren’t good enough.
- Re 12-400(H)(2): Notification should also be made to all business owners within one-half mile. There may be several leasees within a single parcel of land.
- Re 12-500, first paragraph on Application Submittal Requirements:

Submission requirements may be waived or modified “if the usefulness of the information is substantially outweighed by the hardship placed on the Applicant in providing the information.” I would remove this. The protection of the public outweighs all else, and if the Applicant cannot provide needed information, then the project should not go forward.
- Re 12-500(I), Proximity of Other Wells and Other Oil and Gas Operations: Plans to shut in orphaned wells with one mile of the site should be included.
- Re 12-500(M)(2), Emergency Preparedness Plan: In the next to the last line, it says “...must be submitted with thirty (30) days of removal...” Did you mean “with” to be “within?”
- Re 12-500(M)(7), Emergency Preparedness Plan: Does Boulder County have identified hydrogen sulfide zones? Apparently, Colorado lacks a hydrogen sulfide standard. Windsor residents claim they can smell it near oil and gas operations, and it has been documented on the Western Slope and in Weld County. Perhaps Boulder County should set a standard.
- Re 12-500(M)(11), Emergency Preparedness Plan and educational provision: The plan is supposed to have a “provision establishing a process by which the Applicant engages with the surrounding neighbors to educate them on the risks and benefits...” It is essential that neighbors understand risks. However, a requirement that the Applicant educate regarding benefits is essentially requiring a commercial for their operations. It is to the Applicant’s advantage but should not be required by the County.

² <http://insideenergy.org/2015/10/01/the-rising-cost-of-cleaning-up-after-oil-and-gas/>

³ <http://www.rrc.state.tx.us/oil-gas/compliance-enforcement/hb2259hb3134-inactive-well-requirements/cost-calculation/>

- Re 12-500(O), Application Submittal Requirements, add section after (N) Land Disturbance Mitigation Plan:

Fracking and oil and gas development is now associated with radioactivity waste. These regulations should require baseline testing, appropriate monitoring to determine the radioactivity of the waste material from the well and surrounding soils, and plans for disposal, including a timeline for the disposal of radioactive waste.

- Re 12-500(R), Offsite Transport Plan: Risks should be identified for both options (1) and (2).
- Re 12-500(R)(2): Did you mean to use “used” instead of “uses?”
- Re 12-600(K)(6), Pipeline setback distance: This section indicates that pipeline setbacks “will be determined on a case-by-case basis in consideration of the size and type of pipeline proposed and features of the proposed site.” I suggest adding health and safety language.
- Between 12-700(I) and 12-700(J), add conditions for financial solvency.
- Re 12-700(K), Conditions of Approval, Flares: It is criminal that flaring is allowed at all and should be minimized. Flaring is, after all, “waste of the resource” and C.R.S. 34-60-102(1)(a)(II) says that it is in the public interest to “protect the public and private interests against waste in the production and utilization of oil and gas;”
- Re 12-700(L), Conditions of Approval, Hydrocarbon Emissions Leak and Detection and Repair:

Instead of “infra-red cameras,” which might just detect heat, you might specify “such as FLIR infrared cameras.” FLIR cameras can detect emissions and leaks.

- Re 12-700(L), Conditions of Approval, Hydrocarbon Emissions Leak and Detection and Repair: Requiring an explanation as to why 48 hours is required to repair a leak is weak with no enforcement.
- Re 12-700(P), Noise: Many Erie residents complain about noise. Does the county have equipment to measure noise?
- Re 12-700(R), Conditions of Approval, Performance Guarantee:

A letter of credit is not good enough for commitments that may take years to play out under volatile situations. Indications of financial stability and health should be required as mentioned under 12-400(B)(4)(a).

Bankruptcies and abandonment of wells are a real risk with companies in this debt-ridden industry, and these operations are frequently sold or traded. There should be some guarantee that new owners also meet performance requirements.

- Re 12-700(AA), Conditions of Approval, Transportation Fees: Are fees based on the projected usage? They should be.
- Re 12-700(GG), Conditions of Approval, Weed Control: For our bees and organic farming, the County should require that all control methods, not just for access roads, be determined by the County Weed Coordinator.

- Re 12-700(HH), Conditions of Approval, Well Abandonment: I assume that the County understands that wells are often abandoned without being plugged.⁴
- Re 12-701(C)(3), Potential Site Specific Mitigation Measures, Disruption: Add water source contamination, especially for residents reliant on well water.
- Re 12-701(C)(12), Potential Site Specific Mitigation Measures, Soils: Soil testing should include radioactive contamination.
- General, setbacks:

COGCC setbacks from occupied structures, schools and hospitals are clearly not large enough to protect health and safety.⁵ Wherever possible, insist on siting that maximizes distances from occupied structures, schools, hospitals, and water sources.

- General, county open space:

The voters of Boulder County have repeatedly voted to acquire open space in a trust as an “essential piece of Boulder County’s character and quality of life.” As responsible stewards and trustees, you have an obligation to act solely for the benefit of the trust’s beneficiaries, the residents of Boulder County. Our open space land was set aside to conserve natural, cultural and agricultural resources and provide public uses that reflect community values, clearly not for heavy industrial oil and gas development. Please remember your obligation as trustees of our open space.

Thank you for the opportunity to provide comment.

Sincerely,

Tricia Olson
7446 Park Pl
Boulder, CO 80301
olynmawr@msn.com

⁴ <http://www.wsj.com/articles/how-orphan-wells-leave-states-holding-the-cleanup-bag-1424921403>

⁵ 50% of experts agreed that 1-1¼ mile is a minimum setback distance - <http://www.environmentalhealthproject.org/>. Setbacks are also mentioned in a study on the respiratory health of children and infants - "We recommend that at a minimum, one-mile setbacks should be established between drilling facilities and occupied dwellings where infants and children might spend a substantial amount of time." http://ecowatch.com/wp-content/uploads/2016/05/fracking_study.pdf (p 12)

From: Event from Evensi
To: [Boulder County Oil and Gas Comment](#)
Subject: Rally to Uphold Boulder's Fracking Moratorium has been published on Evensi!
Date: Saturday, March 11, 2017 12:33:15 PM



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From: andrew oconnor
To: [Jim Tatten](#); [Fred Smith](#); mike.foote.house@state.co.us; stephen.fenberg.senate@state.co.us; senatormattjones@gmail.com; [Mary O'Connor](#); [Kevin Hennelly](#); kkreeger@broomfieldcitycouncil.org; [Boulder County Oil and Gas Comment](#); christine.berg@cityoflafayette.com; BoulderCountyProtectors@gmail.com; hootonfourhd10@gmail.com; jputterman@msn.com; singerforcolorado@gmail.com; [Yoav Benari](#); [Tom Morrissey](#); newsroom@dailycamera.com; karafrust@hotmail.com; jdye@boulderweekly.com
Subject: Review and Comment Hearing: Initiative 2017-18 #13
Date: Saturday, March 11, 2017 5:48:48 PM
Attachments: [Colorado Oil and Natural Gas Severance Tax Initiative.docx](#)

Please find attached for your review Initiative 2017-18 #13 which involves collecting a 10% severance tax on fracking, abolishing both the ad valorem tax deduction and stripper well exemption. I believe that oil and gas needs to pay their fair share to Colorado and stop getting a free ride.

A review and comment hearing is scheduled for March 24 at 1:30pm in HC Room 107. I would greatly appreciate any letters of support and would like for anyone to attend said hearing. Letters of support should reference Initiative 2017-18 #13 and can be sent or emailed to:

Mike Mauer, Director
Colorado Legislative Council Staff
Room 029
State Capitol Building
Denver, CO 80203
lcs.ga@state.co.us

Thank you.

Andrew J. O'Connor
(303) 499-4585

From: Julia Jackson <Julia.Jackson@state.co.us>
Sent: Friday, March 10, 2017 5:55 PM
To: mary.henry@gmail.com; oconnorandrew@hotmail.com
Subject: Review and Comment Hearing: Initiative 2017-18 #13

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Please feel free to contact our office at 303-866-3521 with any questions.

Julia Jackson

Policy and Research Section

Colorado Legislative Council

303-866-4788

julia.jackson@state.co.us

[Senate State, Veterans, and Military Affairs Committee](#)

[Capitol Building Advisory Committee](#)

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1-40-105 (1.5), C.R.S. Both designated representatives of the proponents must appear at all review and comment meetings. If either designated representative fails to attend a meeting, the measure is considered withdrawn by the proponents. If one of the two designated representatives fails to attend the review and comment meeting, the petition is deemed to be automatically resubmitted to the directors of the legislative council and the office of legislative legal services for review and comment, unless the designated representative present objects to the automatic resubmission. No later than five business days after the resubmission, the directors shall conduct a review and comment meeting in accordance with the requirements of this section. If both designated representatives fail to attend the review and comment meeting or if the designated representative present objects to the automatic resubmission, the proponents may thereafter resubmit the initiative petition in accordance with subsection (1) of this section.

COLORADO SEVERANCE TAX ON THE OIL AND NATURAL GAS INDUSTRY
INITIATIVE

“SHALL STATE TAX REVENUE BE INCREASED ANNUALLY BY AN AMENDMENT TO COLORADO REVISED STATUTES CONCERNING SEVERANCE TAX ON OIL AND GAS EXTRACTED IN THE STATE AND IN CONNECTION THEREWITH FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2018, CHANGING THE TAX TO 10% OF TOTAL GROSS INCOME FROM THE SALE OF OIL AND GAS EXTRACTED IN THE STATE WHEN THE AMOUNT OF ANNUAL GROSS INCOME IS AT LEAST \$200,000.00; ELIMINATING THE CREDIT AGAINST THE SEVERANCE TAX FOR PROPERTY TAXES PAID BY THE OIL AND GAS INDUSTRY AND INTEREST OWNERS, ELIMINATING THE AD VALORUM TAX DEDUCTION AND STRIPPER WELL EXEMPTION THAT QUALIFIES WELLS FOR AN EXEMPTION FROM THE TAX; EXEMPTING REVENUES FROM THE TAX AND RELATED INVESTMENT INCOME FROM STATE AND LOCAL GOVERNMENT SPENDING LIMITS; AND REQUIRING THE TAX REVENUES TO BE CREDITED AS FOLLOWS: (A) 22% TO THE SEVERANCE TAX TRUST FUND, (B) 22% TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND, AND (C) 56% TO A NEW SEVERANCE TAX STABILIZATION TRUST FUND OF WHICH 30% IS USED TO FUND SCHOLARSHIPS FOR COLORADO RESIDENTS ATTENDING STATE COLLEGES AND UNIVERSITIES, 30% IS USED TO FUND KINDERGARTEN AND ELEMENTARY SCHOOL EDUCATION, 15% TO FUND MONITORING OF AIR POLLUTION IN COUNTIES AND MUNICIPALITIES BEARING THE BRUNT OF FRACKING-RELATED POLLUTION, 10% TO FUND RENEWABLE ENERGY; 15% TO FUND MEDICAL TREATMENT OF RESIDENTS SUFFERING FROM THE NEGATIVE HEALTH IMPACTS OF OIL AND GAS OPERATIONS?”

From: Brandy Ray
To: [Boulder County Oil and Gas Comment](#)
Subject: Comments for Tuesday's Oil and Gas Hearing
Date: Sunday, March 12, 2017 4:36:07 PM

Hello,

Thank you for taking my comments for Tuesday's hearing since I will be teaching at that time.

I would like to oppose any and all oil and gas development in Boulder County to the extent that we are unable to do so under the law. At the very least, I would like oil and gas development to be limited in any way possible. Oil and gas development and the fossil fuel industry do not represent the values of Boulder County voters. The industry is one of the greatest polluters of our environment and our community is poised to benefit greatly from the innovation and entrepreneurship connected with renewable energy.

Furthermore, I disagree with the Colorado Supreme Court's decision that oil and gas moratoriums are illegal. If that is what the voting public wants, then that is what our democracy should support. I don't know what steps can be taken to protest this ruling or other pieces of legislation which favors corporations over citizens, but I encourage Boulder County to challenge any legislation that may negate the voice or rights of voters.

Regards,

Brandy Ray
3000 Broadway Apt. 5
Boulder, CO 80304

--

brandy@ollomedia.com

From: Sterling Meier
To: [Boulder County Oil and Gas Comment](#)
Date: Sunday, March 12, 2017 8:55:22 PM

It's obvious to me that none of you own any land in Boulder Co.
Sent from my iPad

From: Devin Arloski
To: [Boulder County Oil and Gas Comment](#)
Subject: Oppose fracking
Date: Sunday, March 12, 2017 9:29:32 PM

Hello, I am a resident of Longmont Colorado and wish to express my opposition to fracking being allowed in Boulder County. Not only the health hazard but also the site and lighting from Wells is something I feel our county can do without. I'm trying to raise my two young children with safe drinking water and open spaces void of fossil fuel industry. Thank you

Sent from my iPhone

From: Devin Arloski
To: [Boulder County Oil and Gas Comment](#)
Subject: Opposition
Date: Sunday, March 12, 2017 9:31:04 PM

COMMISSIONERS, I ENCOURAGE BOULDER COUNTY MUNICIPALITIES TO NOT SELL THEIR WATER TO FRACKERS. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

Sent from my iPhone

From: Ken Bonetti
To: [Boulder County Board of Commissioners](#)
Subject: Re: Tuesday Meeting--Regulate Gathering Lines
Date: Sunday, March 12, 2017 9:45:43 PM

Dear County Commissioners,

I recently saw a presentation by Josh Joswick from Earthworks regarding a regulatory hole that he claims to exist with respect to "gathering" lines that run between drilling pads and processing facilities or transmission lines. I understand Mr. Joswick presented to you as well. Mr. Joswick's presentation suggests to me that there is strong leverage you can exert on County fracking operations, through the close regulation of these gathering lines. It appears you are empowered to protect the public and public investments such as open space from damage that may be caused by line failures. Why not create a comprehensive regulatory and inspection regimen for these lines such that the operators have to site them and maintain them to County specifications most of your constituents would agree should be quite stringent?

I fully subscribe to the principle that you as Commissioners have a constitutional responsibility to protect County residents, their property, their communities and publicly owned County property from potential harm that may be caused by heavy industrial activities like oil and gas extraction and associated product transmission. I interpret the principle to imply that you should establish the strongest possible regulatory framework for oil and gas extraction and transmission as you can, including the close regulation of gathering lines. If it takes time to design appropriate regulations and a fee structure on oil and gas operations to pay for it, better to get it right than go too fast.

Meanwhile, no o&g operations should be permitted unless the issue of gathering lines is adequately addressed.

Sincerely,
Ken Bonetti
1170 Monroe Dr. Unit B
Boulder, CO 80303

From: Annette Hartman
To: [Boulder County Oil and Gas Comment](#)
Subject: Please Please Keep the Fracking Moratorium!
Date: Sunday, March 12, 2017 10:53:48 PM

Lafayette and Longmont citizens have repeatedly taken stands and voted against Fracking... and yet have been betrayed in the name of money. That lawsuits by big money simply nullify people's rights is something I have sadly learned with fracking.

If Boulder County doesn't stand up for us and defend our rights, then who will?

Please, please be strong and uphold the rights of your citizens! Some things are worth fighting for! My health, my drinking water, the air I breathe.

Regards,
Annette Hartman

(Boulder County resident for 25 years)

From: Dunlap, Kate
To: [Boulder County Oil and Gas Comment](#)
Subject: Final date for comments?
Date: Monday, March 13, 2017 8:50:57 AM

To Whom it May Concern:

When is the final date we can send in written comments on the revised land use code pertaining to oil and gas development in the County? Thank you very much,

Kate

Kate Dunlap
Source Water Quality Program Coordinator

PublicWorks_lockup_COBLogo



O: 303-413-7402

C: 303-503-7209

dunlapk@bouldercolorado.gov

Water Quality and Environmental Services

5605 N. 63rd St. | Boulder, CO 80301

Bouldercolorado.gov

From: John D Wiener
To: [Boulder County Oil and Gas Comment](#)
Subject: DC-16-0004 -- Stay With Moratorium
Date: Monday, March 13, 2017 8:51:57 AM

Dear Commissioners:

Please continue with the moratorium! If the Pruitt et al. appointees mangle the methane rule, the impacts of oil and gas production will be even less regulated and likely considerably worse due to even fewer inspections.

This creates even more uncertainty over issues such as health, and distances needed to avoid worsened air pollution plumes affecting livestock and crops as well as unmanaged parts of the environment.

Thank you for taking fundamental steps for the health, safety and welfare of our citizens.

John Wiener -- not representing any institution in this comment.

www.colorado.edu/ibs/eb/wiener

303-492-6746 at U. of Colorado

From: david hardy
To: [Boulder County Oil and Gas Comment](#)
Subject: Spam: Fracking moratorium
Date: Monday, March 13, 2017 9:46:12 AM

Commissioners:

I encourage you to vote in favor of extending the moratorium on fracking.

David Hardy
120 lakeview place
Nederland 80466

--

David Hardy
Planetmind Internetworks
Nedernet, Inc

From: Jerry Johnson
To: [Boulder County Oil and Gas Comment](#)
Subject: Taxation
Date: Monday, March 13, 2017 10:03:22 AM

Dear Board of County Commissioners,

Could you please explain to the community why it is fair to collect taxes on mineral rights when you do not allow extraction or use of these resources?

Thank you, Jerry Johnson

From: Marthaddick
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Monday, March 13, 2017 11:43:46 PM

There is no need for more studying the issue. Fracking is dangerous to people, communities and the earth. All efforts to stop it should be supported.

Martha Dick

From: Tammy Bowen
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil & Gas Meeting March 14 Tuesday - Comments
Date: Monday, March 13, 2017 10:29:33 PM

Dear County Commissioners,

Thank you for producing regulations that will reduce the impacts of fracking within the framework of present state law.

Thank you for defending the county against an industry/state attempt to end the present moratorium prematurely. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

I ask you please, to add a prohibition of deep well waste water injection within county borders. Disposal of this sort elsewhere (e.g. Oklahoma, and even in Colorado in the past) has resulted in earthquakes.

Please make sure that sufficient funds are budgeted for the increased air, water and soil monitoring required in the regulations.

Please discourage Boulder County Municipalities from selling their water to frackers. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

Thanks again!

Sincerely,

Tammy Bowen
Zip - 80304

From: Jane Enterline
To: [Boulder County Oil and Gas Comment](#)
Subject: Opposed to Fracking
Date: Monday, March 13, 2017 10:21:12 PM

Dear County Commissioners,

I am emailing to voice my strong opposition to all fracking, for the health and well being of all creatures and plants on his earth. I am urging you to enforce the strictest regulations possible under the law and to postpone fracking in boulder County for as long as possible. 100% renewable energy is the only sensible way forward. Please set an example and help the state reverse the irresponsible and damaging law that promotes fracking.

For the health of our air, water and bodies,

Jane Enterline
Boulder, CO

From: Regina Bock
To: [Boulder County Oil and Gas Comment](#)
Subject: no fracking in Boulder
Date: Monday, March 13, 2017 9:47:21 PM

Dear County Commissioners,

I hope to make it to the public hearing tomorrow but I am fighting a cold so if I don't make it I want you to know that:

I am thankful that you have produced regulations that will reduce the impacts of fracking within the framework of present state law.

I thank you for defending the county against an industry/state attempt to end the present moratorium.

I encourage you to add a prohibition of deep well wastewater injection within county borders.

I encourage you to make sure that sufficient funds are budgeted for the increase monitoring required in the regulations

And please encourage Boulder county municipalities to NOT sell their water to frackers.

Thank you,

Regina Bock
3351 19th street
Boulder CO 80304
(303)442-8018

From: Susan Jones
To: [Boulder County Oil and Gas Comment](#)
Subject: Moratorium
Date: Monday, March 13, 2017 9:40:25 PM

BDear Commissioners,

I plan on attending the meeting tomorrow, but wanted to make sure my comments are considered as I may not have a chance to speak (I must leave at 3:15). First of all, thank you for imposing the moratorium, defending it against efforts to terminate it prematurely, and working hard to develop protections for our personal and environmental health. Please continue to push back against efforts to undermine protections, and please strengthen those protections by adding a prohibition against deep well water injection. I would also ask you to encourage local cities and towns to refuse to sell clean water to fracking operations. Thank you for your consideration.

Susan Jones

Sent from my iPhone

From: Françoise Poinsatte
To: [Boulder County Oil and Gas Comment](#)
Subject: Please consider these regulations for fracking
Date: Monday, March 13, 2017 9:38:46 PM

Dear Commissioners,

Thank you so much for your courage in confronting the negative effects of fracking in our communities here in Boulder County. I understand you are truly in a difficult situation in needing to comply with state law when so many of your constituents want an outright ban on fracking, as I do as well. I really admire your standing up to the Colorado Attorney General Coffman's demand that you end the present fracking moratorium before our County has had time to consider and adopt regulations that will protect our citizens. To this end, I urge you to adopt the strongest regulations possible to protect our air from potent greenhouse gas methane leaks and protect our water and soil from contaminants associated with the fracking process.

I realize the state of Colorado, in alliance with oil and gas producers, are pushing you before you are prepared to tackle the large numbers of permit applications that are coming. Please resist the state.

Specifically, we need to prohibit deep well wastewater injection, as this has produced earthquakes in parts of Colorado, and in Oklahoma. We will need adequate funding available for increased monitoring of air, water and soil, so please make sure we budget for it. Finally, please encourage municipalities in Boulder County to refuse to sell water to frackers as that enables more fracking and wastes/contaminates our precious water resources.

Thank you for your hard work on this issue.

Francoise Poinsatte

From: sarah myers
To: [Boulder County Oil and Gas Comment](#)
Subject: Regarding the fracking moratorium
Date: Monday, March 13, 2017 8:44:48 PM

To The Boulder County Commissioners:

I am so proud that you are holding fast to strong regulations on oil and gas extraction in Boulder County.

I want to see that fracking happens in the most prudent and careful manner possible, if at all.

- Please do not bow to the pressure of the state Attorney General in stopping your process before the May 1 deadline. We need this time to do further study.
- Please be sure to prohibit any deep injection wells and discourage the sale of water and water rights to fracking organizations.
- We will also need additional funds to carefully monitor the water quality in Boulder County.

Sincerely yours,

Sarah Myers
1011 Yale Rd
Boulder, CO 80305

From: Marcia Kohler
To: [Boulder County Oil and Gas Comment](#)
Cc: [Marcia](#)
Subject: Comments for March 14, 2017 Oil/Gas (Fracking) Hearing
Date: Monday, March 13, 2017 8:26:44 PM

Dear Commissioners:

My comments for the March 14, 2017 hearing concerning fracking and regulations governing fracking:

1. First, **sincere thanks for producing regulations that will reduce the impacts of fracking** within the framework of present state law. I know considerable pressure will come from the industry and the State to water down these regulations, so we all appreciate your efforts in considering the health, safety and well-being of Boulder citizens (and our children!).
2. Thank you also for defending the county against pressure and attempts by the industry/state's to end the moratorium early. However, as you know, the **full length of the moratorium is needed** to finalize regulations and make other preparations for the onslaught of permit applications.
3. PLEASE make sure that **sufficient funds are budgeted for the increased air, water and soil monitoring required** in the regulations.
4. PLEASE add a **prohibition of dip well wastewater injection within county borders**, to insure against the "man-made" earthquakes that have resulted in Oklahoma (and Colorado in the past). As you likely know, the state of Oklahoma had some 30 of these prior to Mr. Pruitt's taking office, and since, the number has increased to over 660.
5. PLEASE encourage Boulder County Municipalities to NOT SELL THEIR WATER TO FRACKERS.
6. PLEASE continue to research the possible effects on the health of citizens and particularly our children, i.e. the strong evidence pointing toward concentrated fields of natural gas as a cause of leukemia.
7. PLEASE continue to foster research concerning the effects on our ground—and thus drinking water (WHAT ARE WE DOING?!?!?!?)
8. Is it possible to include a provision(s) to cease and desist if ongoing research findings conclude the above health-related disasters and more?
9. What will this do to our real estate/property values, when incoming residents learn of this. Example: Yesterday, at Jared Polis's town hall in Broomfield, I sat beside a man who had just relocated with his family here, from the midwest. They had known nothing of the ongoing fracking "situation" here. He and his wife are extremely disappointed, having thought they were moving to a health and environmentally-oriented paradise, to learn instead that fracking is to begin in force in their residential neighborhood. They wish to return to the midwest, where they will not be introducing their family to this "horror".

Thank you so much again for doing all you could to hold this disaster off. Please let us know

what can we do to help.

Sincerely,
Marcia Kirsh Kohler
Boulder County resident of over forty years

From: Judith Blackburn
To: [Boulder County Oil and Gas Comment](#)
Subject: Praise for Moratorium & Commissioners
Date: Monday, March 13, 2017 8:20:24 PM

I wish to thank Deb, Elise, and Cindy for holding the line against Cynthia Coffman's threat over the fracking moratorium. The Attorney General has overstepped her authority in using taxpayer money to sue on behalf of oil and gas corporations. It has been heartwarming to see statements from Elise and Deb defending the county's right to protect their constituents against the health and safety dangers posed by extraction of fossil fuels at this dangerous time of climate change.

As part of Our Longmont's Board of Directors, I was part of the effort to secure bi-partisan support for the ban on fracking in Longmont back in 2012, since overturned on grounds of state pre-emption. I would certainly like to see the issue of exploitive extraction resolved on other grounds than state pre-emption, and perhaps you have lawyers working on other arguments already. Our position is to oppose fracking completely, since it cannot really be done safely in the long run--no matter how tough regulations may seem to be. But your position of solidifying the regulations, especially regarding contingency plans for emergencies and guarantees of mitigation, is the second-best solution. I thank all those staff people who have researched and drafted the new regulations,

I had hope to speak at the upcoming meeting on March 14, but can't seem to make the link to the online sign-up work (Perhaps you are being overwhelmed with speakers). Again, thank you for your courageous stand so far!

Judith Blackburn
3724 Oakwood Drive
Longmont, CO 80503-7511

From: Rebecca Dickson
To: [Boulder County Oil and Gas Comment](#)
Subject: fracking in Boulder County
Date: Monday, March 13, 2017 8:17:51 PM

Dear Boulder County Commissioners:

Thank you for all you have done to try to protect Boulder County from the ill effects of fracking.

It worries me that fracking might soon be happening on Boulder County public lands. I worry about earthquakes caused by shoving toxic water deep within wells. In the 1960s, the US Army injected toxic wastewater into the land at Rocky Mountain Arsenal. Earthquakes began happening in the Denver area soon after this and continued for some 7-8 years; the quakes continued even after the Army stopped injecting the wastewater. I remember some of those quakes. Oklahoma, Texas, and Ohio now have earthquakes that they never used to have before fracking wastewater was injected deep into the ground. Please do what you can to protect Boulder County and Colorado from the earthquakes that could result from fracking.

I also worry for children's health, especially given the recent studies that have linked leukemia in children to proximity to fracking sites. According to a study discussed in the Yale School of Public Health, fracking is simply not safe: "Fracking is now common in the United States, currently occurring in 30 states, and with millions of people living within one mile of a fracking site. The study suggests that the presence of carcinogens involved in or released by hydraulic fracturing operations has the potential to increase the risk of childhood leukemia" (October, 2016; <https://publichealth.yale.edu/news/article.aspx?id=13714>). Other studies have also found links between leukemia and fracking operations (<http://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0170423&type=printable>). It is unconscionable that children living near fracking sites should be exposed to these carcinogens.

Fracking is environmentally damaging, it undermines human health, and we shove more greenhouse gasses into the atmosphere when we burn it. Please continue to do what you can to keep it out of our county.

Sincerely,

Rebecca Dickson
1055 Waite Drive
Boulder, CO 80303
303/499-7261

From: Pat Hood
To: [Boulder County Oil and Gas Comment](#)
Subject: Keep the moratorium against fracking.
Date: Monday, March 13, 2017 8:16:13 PM

I appreciate that you have defended the county against the attempts of the State and oil industry to end the moratorium early. We need the time that has been granted to finalize regulations. I remember the earth quakes we had when waste from Rocky Flats was being dumped into the fault and we need to make sure deep well wastewater injection doesn't happen - at least in our county. I didn't know that frackers buy clean water at inflated costs from municipalities. That's outrageous - we're almost always on the brink of a drought! Please work to see that County cities resist that temptation. Thanks for standing up to the oil interests, and keep trying to keep the damage from fracking down.

Pat Hood
3015 Washington St
Boulder 80304

From: Ryan Guest
To: [Boulder County Oil and Gas Comment](#)
Subject: County Regulations on Fracking
Date: Monday, March 13, 2017 7:59:27 PM

Dear Commissioners,

First, thank you for producing regulations that will reduce the impacts of fracking within the framework of present state law. Our environment and future health/safety is critical. I would rather sacrifice any economic benefit to prevent any fracking, but I realize this is an unlikely option. Sadly, it will be virtually impossible to ensure that these corporations will assume the cost of 100% of the externalities caused by fracking.

Additionally, thank you for defending our County against the industry/state attempt to end the present moratorium prematurely. I wish we could extend the moratorium indefinitely.

In lieu of an indefinite extension, please 1) add a prohibition of deep well wastewater injection within the County borders (We already have floods and fires... we don't need earthquakes as well.); 2) make sure that sufficient funds are budgeted for the increased air, water, and soil monitoring required in the regulations; and 3) encourage Boulder County municipalities to NOT sell their water to frackers.

Sincerely,
Ryan Guest

From: Elaine
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking moratorium
Date: Monday, March 13, 2017 7:51:55 PM

Dear Commissioners,

My name is Elaine Clement and I am a resident of Boulder. I want to thank you for producing regulations that reduce the impacts of fracking in our county. They are vital to maintaining the safety of our county residents. Thank you also for defending our county against the assault on our health and our rights by the state and the oil and gas industry to end the moratorium prematurely - or at all.

It is critical that we add a deep well wastewater injection Prohibition in our county. This has been proven to cause significant numbers of earthquakes in areas like Oklahoma and even here in Colorado. We also need to ensure there are sufficient funds budgeted for the increased air, soil, and water monitoring that will be needed if fracking is allowed (which I hope it is banned entirely).

And please, please do not sell Boulder municipality water to frackers! Instead, we need to move off of reliance on oils and gas and rely on affordable green energy sources. Colorado has a great amount of both sun and wind - especially at my house! Let's harness it!

Thank you for reading.

Sincerely,
Elaine Clement

From: Julia Burton
To: [Boulder County Oil and Gas Comment](#)
Subject: thank you
Date: Monday, March 13, 2017 7:49:33 PM

Dear Boulder County Commissioners,

THANK YOU FOR PRODUCING REGULATIONS THAT WILL REDUCE THE IMPACTS OF FRACKING WITHIN THE FRAMEWORK OF PRESENT STATE LAW. They will come under considerable pressure from the industry and from the State to water down these regs, so we need to let them know that they are vital and appreciated as proposed.

THANK YOU FOR DEFENDING THE COUNTY AGAINST AN INDUSTRY/STATE ATTEMPT TO END THE PRESENT MORATORIUM PREMATURELY. The present moratorium ends on May 15th, but the State Attorney General, under undue influence from the oil and gas industry, has sued Boulder County to end the moratorium immediately. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

PLEASE ADD A PROHIBITION OF DEEP WELL WASTEWATER INJECTION WITHIN COUNTY BORDERS. Disposal of this sort elsewhere (e.g. Oklahoma, and even in Colorado in the past) has resulted in earthquakes.

PLEASE MAKE SURE THAT SUFFICIENT FUNDS ARE BUDGETED FOR THE INCREASED AIR, WATER AND SOIL MONITORING REQUIRED IN THE REGULATIONS.

PLEASE ENCOURAGE BOULDER COUNTY MUNICIPALITIES TO NOT SELL THEIR WATER TO FRACKERS. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

Thank you,

Julia Burton
Boulder County Resident
80302

From: Rich Andrews
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil and gas Boulder county rules hearing comments
Date: Monday, March 13, 2017 7:44:31 PM

Boulder County Commissioners:

I am a registered Colorado professional engineer, with advanced degrees in chemical and petroleum engineering, with more than 45 years practicing in the emphasis area of environmental engineering and water quality. I have worked with Mobil Oil and later with a company that is now called Exxon-Mobil as a natural gas processing engineer in south Texas, as well as the U.S. EPA-Denver where I specifically dealt with water pollution enforcement, including underground disposal wells and the petroleum industry overall, and also with Rocky Mountain Energy Co. (formerly of Broomfield, CO) in environmental and regulatory affairs managerial roles.

While hydraulic fracturing has been practiced for many decades, the current technology is dramatically different in methods and scope...and due to these differences has a greater potential for damage to the environment. It must be heavily regulated if allowed at all in urban and near urban populated areas, like virtually all of Boulder County.

In particular, ground water can be threatened in both quantity and quality. I live on an organic farm in rural Boulder County and **our only water supply is ground water**. If it were to be polluted by spills, improperly cased and cemented wells, or from injection well contamination it would destroy our ability to live there, and would destroy the value of our property. You must not let that happen. While we own the mineral rights under our farm, that is no security at all under state rules that provide for forced unitization of production fields, a practice that should clearly be declared patently illegal and unconstitutional.

>>>>>I urge you to confront and disallow any forced production field unitization with your rules and protect private mineral owners who do not consent to this “taking” of property.

>>>>>I urge Boulder County to pass very strict rules on this industry, which has thrown it political muscle and money into the politics of this state again and again. **The environment and public health must take precedence over money and extraction of oil and gas.**

>>>> I specifically call upon you to not allow any wastewater disposal wells from this industry anywhere in this county. Boulder County has numerous fault zones that are subject to lubrication and the creation of man-made earthquakes. This cannot be allowed to happen. It has been the cause of earthquakes elsewhere in Colorado already....and in several other states. I can recall the earthquakes from deep waste disposal wells that occurred at the Rocky Mountain arsenal in the 1960s and 1970s. It is even postulated that fracking in eastern Pennsylvania and the shales of that region to have been the cause of a major earthquake that damaged the Washington monument in Washington, DC. Oklahoma has been immensely plagued with hundreds of damaging earthquakes caused by fracking and injection wells.

Be brave. Do the right thing for Boulder county and its people and environment. Heavily regulate

this industry to the greatest extent you can get away. Make it so hard and expensive to operate here that the industry will leave.

Richard Andrews
6803 Jay Road
Boulder, CO 80301

From: Bonnie Bry Schwab
To: [Boulder County Oil and Gas Comment](#)
Subject: Boulder County Moratorium: protect us from fracking disaster, earthquakes, environmental degradation, and public health dangers!
Date: Monday, March 13, 2017 7:33:40 PM

To the Commissioners:

Thank you for current fracking regulation that helps keep our citizens safe! Thank you for your efforts to protect Boulder County from state and corporate predators that seek premature cancellation of our moratorium. The full length of the moratorium is needed to finalize regulations and make other preparations for the expected onslaught of permit applications.

I urge you to add a prohibition of deep well wastewater injection within county borders in order to protect us from earthquakes.

I urge you to appropriate adequate budgeting for increased environmental monitoring as required in the regulations. Our air, water, and soil are at stake!!!

I urge you to encourage county municipalities to not sell water to frackers! Drillers are willing to pay several times the going rate for clean frack water which could tempt Front Range communities that might need extra money. The City of Boulder has banned this practice, and others should do so as well.

Thank you for continued vision and progressive minded leadership that makes us extraordinarily fortunate to live in Boulder County now and for the future.

Bonnie Schwab
Lafayette, CO

From: susan nofziger
To: [Boulder County Oil and Gas Comment](#)
Subject: Protect our communities
Date: Monday, March 13, 2017 7:29:15 PM

Thank you for your efforts to protect our communities from fracking. Please prohibit deep well waste water injections in boulder county as this has resulted in earthquakes in ok. Please budget for monitoring air and water quality. Encourage municipalities to not sell water to fracking companies. We need to protect our precious water for human consumption and fire control. Please do all you can to protect our communities. Thank you!

Susan nofziger
80301

Sent from my iPhone

From: Connie Esch
To: [Boulder County Oil and Gas Comment](#)
Subject: DC-16-0004
Date: Monday, March 13, 2017 7:22:30 PM

Commissioners,

Please retain and defend our moratorium on fracking. It is entirely within the goals and values of Boulder County to maintain this reasonable set of regulations on oil and gas development.

Thank you for protecting us.

Connie and Joe Esch
2970 Juilliard St.
Boulder, CO 80305

From: STEWART GUTHRIE
To: [Boulder County Oil and Gas Comment](#)
Cc: [Nextdoor Heatherwood](#); heatherwood_CO@yahoogroups.com
Subject: Defend the Moratorium and County Regulations.
Date: Monday, March 13, 2017 7:20:17 PM

Dear Commissioners Domenico, Gardner and Jones,

This is to thank you and your staff for your work on regulations to mitigate the impact of fracking on us, within the context of Colorado law. Thanks also for opposing the state's, and the gas & oil companies', attempts to force a premature abandonment of the moratorium.

We also ask that you prohibit deep-well waste-water injection within county borders, and that you ensure that funds are budgeted for monitoring air, water and soil as your regulations stipulate.

Finally, we ask that you recommend to county municipalities that they not sell water for purposes of fracking.

Respectfully,
Stewart Guthrie
Phyllis Kaplan
Heatherwood, Boulder 80301

From: Donna Bonetti
To: [Boulder County Oil and Gas Comment](#)
Cc: [Ken Bonetti](#); [Kirk Cunningham](#)
Subject: Oil and Gas safety and regulation in Boulder County
Date: Monday, March 13, 2017 6:58:35 PM

First I would like to thank the County Commissioners for doing a great job in producing regulations to reduce the impacts of hydraulic fracking upon the citizens of Boulder County within the difficult framework of current state laws.

I am happy that you did the difficult but right action of defending our county against industry and state attempts to end the moratorium we all asked you to put into place. Good job!

Because I formerly lived in California I am very aware of earthquake danger. Disposal of oil and gas wastewater by injection wells has been shown to cause earthquakes in Oklahoma, Texas, Colorado and other places creating hazards to our homes and families. Should one rupture oil and gas pipelines it could cause severe and deadly explosion.

I have also been made aware that gathering pipelines are currently not regulated by the state or the PUC. This leaves them open to local regulation for safety. Pstrust.org has scientific guidelines that may help the county create safety regulations to ensure that gathering pipelines are not placed in such a way that gas explosions are likely to occur near homes, businesses, parks, open space or other areas that need to be protected.

Since I have asthma caused by air pollution I ask that sufficient funds are budgeted to increase air, water and soil monitoring near oil and gas developments and that monitoring is required at oil and gas sites.

I also ask that the county strongly encourages the local communities not to sell water to oil and gas operations. Boulder has banned these sales and it would be good if the surrounding communities joined in against this practice. The Front Range is an arid area and we do not have extra to be spent on an activity that pollutes the water permanently.

Thank you for your courage and your consideration.
Sincerely,

Donna Bonetti
1170 B Monroe Drive
Boulder, CO 80303

Sent from my iPad

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#323]
Date: Monday, March 13, 2017 6:56:19 PM

Name * alison rogers

Email * alirogers613@gmail.com

Phone Number (optional) (720) 328-2565

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Oil and Gas development

Comments, Question or Feedback * I am now convinced, given the scientific evidence that there is no way to conduct tracking close to peoples home, schools and businesses safely. Please do not allow fracking in Boulder County. Pubilic and environmental health requires No fracking.

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: A McCrory
To: [Boulder County Oil and Gas Comment](#)
Subject: County regulations to be discussed on March 14 by Boulder County Commissioners
Date: Monday, March 13, 2017 6:53:21 PM

Dear Commissioners,

I am a resident of Boulder City and would like to thank you for setting regulations that will reduce the impact of Fracking within the framework of present state law. I understand that the oil industry and the state will pressure you to reduce these regulations so it is vital that you know why I and the majority of Boulder residents feel so strongly about this. We thank you for defending the county against an industry's attempt to end the present moratorium prematurely which is May 15th. I understand clearly that the State Attorney General, under the undue influence of the oil and gas industry has taken steps to sue Boulder County to end the moratorium immediately and pitting government against government at tax dollar expense to add insult to insult. This full length moratorium is necessary to finalize the regulations and make other preparations for the expected onslaught of permit applications. I want to thank you for defending our county and encourage you to add a prohibition of deep well wastewater injection within the county borders. Disposal of this sort in other states such as Oklahoma has resulted in earthquakes.

I implore you to make sure sufficient funds are budgeted for the increased air, water, and soil monitoring required by regulation and ask take steps to encourage Boulder County Municipalities to NOT SELL THEIR WATER TO FRACKERS! Clean water is necessary for fracking and drillers are willing to pay several times the present rate for their frack water. This is a serious temptation for the front range communities who might be desperate for more money. The City of Boulder has banned this practice and others should follow their lead.

Thank you for doing this difficult job and thank you for doing what's right for our communities and setting the example that others will look back and one day see that positive impact you have had in making these important decisions.

Anne McCrory
Boulder, CO

From: Rae Miller
To: [Boulder County Oil and Gas Comment](#)
Cc: [Kate Glover](#)
Subject: Better regulations, against oil and gas development near communities
Date: Monday, March 13, 2017 6:36:55 PM

Dear Commissioners,

I continue to support not ending the fracking moratorium; and that the County take a stand in a legal battle.

In regards to the proposed oil and gas land use code changes, I have the following comments:

1. The code should include more specific criteria regarding proximity to communities and public facilities such as existing and long-standing neighborhoods, schools, and recreation areas. The State regulations have failed to protect these areas. Encroachment of oil and gas activities in already established community areas will certainly degrade these amenities, the long-term economic viability of the County, as well as the health and welfare of it's residents.
2. The requirements for sampling of groundwater and soil vapor are a great inclusion. Does the County have resources to monitor and regulate these requirements? Would the oil and gas developer be responsible for paying the county for such resources?
3. The code should be more specific regarding areas of geologic hazards. Much of eastern Boulder County has historically been mined for coal. Fracking should not be allowed in areas beneath old underground mines.

I fully support the County in any actions toward continuing the moratorium; and/or establishing more protections and restrictions for oil and gas development near existing communities and on open space.

Thank you,
Rachel Miller
1505 Sidon Cr
Lafayette, CO 80026

Sent from my Verizon Wireless 4G LTE Droid

From: Susan Donaldson
To: [Boulder County Oil and Gas Comment](#)
Subject: comments on fracking
Date: Monday, March 13, 2017 6:11:21 PM

To the Boulder County Commissioners,

I cannot attend your March 14 meeting, but I'd like to submit a few comments prior to it. First, I want to thank you on two accounts. First, for spending sufficient time to produce regulations that will reduce the impacts of fracking within the framework of present state law; please don't water down those well-thought-out regulations. Second, for defending the county against an industry/state attempt to end the present moratorium prematurely. It's sad when a state attorney general is so beholden to a party with money that she will exert her influence on that party's behalf in defiance of what's legal.

I have three requests in addition to my thanks. Please add to the regulations a prohibition of deep well wastewater injection within county borders. I don't want Boulder County to experience as many earthquakes as does Oklahoma! Please ensure that the budget has enough funds for the increased monitoring of air, water and soil as required in the regulations. And please encourage Boulder County municipalities to refuse to sell their water to frackers, even if they could realize hefty profits from such sales. The extra money is NOT WORTH IT in the long run. Thank you for considering these requests.

Sincerely,
Susan Donaldson
1417 Rembrandt Road
Boulder, CO 80302-9478

From: S & C
To: [Boulder County Oil and Gas Comment](#)
Subject: Thanks and Please Stay Tough To Protect Our Water and To Properly Regulate Fracking!
Date: Monday, March 13, 2017 5:57:02 PM

Dear County Commissioner:

Please accept my sincere thank for your work to reduce the impacts of fracking. I think that it is outrageous that these companies are pushing so hard. They are clearly incapable of justifying the risk, from their operations, to the precious commodity that water here in the West represents!

Also, specifically, thank you for not supporting the premature end to moratorium proposed by the State of Colorado in conjunction with industry. The full period of the moratorium is really need to finalize the rules.

I would like to encourage you to add a prohibition of deep well wastewater injection wishing county borders as this activity has yielded earthquakes and other undesirable effects in other places!

Finally, please encourage Boulder County municipalities not to sell water for use in fracking operations. Again water in the West is precious, needs to be managed judiciously and encouraging fracking is not a part of that.

Kind regards,

Steven Ignelzi
Boulder, CO

From: Jim D
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil and Gas
Date: Monday, March 13, 2017 5:52:46 PM

Boulder County Commissioners,

Thank you for helping to protect your constituents from out-of-state oil and gas interests by providing and extending the moratorium against Fracking. I certainly hope that if you ever are forced to end this moratorium, you will prohibit deep well injection of any Fracking liquids. The geologic strata in Boulder County are tilted in such a way that even deep injection may quickly come to the surface, appear in drinking water aquifers or cause a slip between two plates.

I would also hope that the taxes and fees charged to any oil and gas production company would include lots of money to help the County, cities and state monitor the environmental effects of this Fracking for up to 100 years and include a reparation bond for this period as well.

Jim D

From: Marcia Usow
To: [Boulder County Oil and Gas Comment](#)
Subject: fracking in Boulder County
Date: Monday, March 13, 2017 5:45:02 PM

Thank you for all you do to protect our community and our water from gas and oil fracking contamination. Please continue this resistance. Clean water is our right and must be respected.

Marcia Usow

From: Barbra Huntting
To: [Boulder County Oil and Gas Comment](#)
Subject: public hearing comments
Date: Monday, March 13, 2017 5:39:14 PM

Dear Commissioners,

First, thank you for regulations that will reduce the impacts of fracking and for defending Boulder county against an attempt to end this moratorium.

I am very concerned about deep well wastewater injection and would support municipalities that do NOT sell their water to fracking companies. I also ask that the commissioners make sure enough funds are budgeted for the increased air, water and soil monitoring required in the regulations.

Thank you.
Barbra Huntting
Boulder, CO

From: Pat Hobbs
To: [Boulder County Oil and Gas Comment](#)
Subject: No more fracking, period.
Date: Monday, March 13, 2017 5:16:46 PM

County Commissioners,

Thank you for the current regulations which aim at reducing fracking impacts to our environment. There is something wrong with AG Cynthia Coffman. I would hope that she had enough sense to see that there is no need for further drilling, especially in our beautiful state. The impacts are horrendous. Already, Oklahoma is incurring the results of waste water being injection in the form of earthquakes and pollution. These are facts. It seems to me she is in an alternative universe and can only think of herself and the almighty dollar. She is NOT a person who cares about the environment nor the people who inhabit the earth. I believe she is one of those who wants to use it all up before anyone else and make as much money in the process. Very disappointing.

The oil and gas industry is a very powerful entity and I commend you for keeping them at bay. We have other, more clean, alternatives and should keep oil and gas in the ground. Years ago, humans used whale oil for lamp light resulting in the near extinction of a magnificent species. We do not need whale oil nor do we need petroleum. Wind and solar are at our fingertips and it is the responsible way to move forward.

Please stand your ground and prohibit any more fracking wells and deep water injections. We do NOT have the technology to fix what is being broken but we DO have the ability to put our considerable intelligence and skills to more renewable resources.

Also, please put in place sufficient funds to monitor what fracking we have currently. We need to make certain our air, water and soil remains vibrant and clean. Without these basic components, health and ultimately life will wither and die.

Thank you for guarding our environment and our future in the name of what is right and not in the name of what makes the most money.

Sincerely,

Pat Hobbs
Boulder, CO

From: Samantha Weintraub
To: [Boulder County Oil and Gas Comment](#)
Subject: comment on fracking regulations
Date: Monday, March 13, 2017 5:13:16 PM

As a resident of Boulder County, I first want to thank you for creating strict regulations that will reduce the impacts of fracking on our air, water, soil, and human health. I am extremely concerned about fracking in our backyard and urge the county to remain steadfast in passing and enforcing strict regulations in the face of possible pressure from industry and the AG to water them down. Specifically, I urge you to -

- 1) Prevent deep wastewater injection - it can cause Earthquakes, as in OK and elsewhere
- 2) Discourage the selling of freshwater to oil and gas companies - water is too precious
- 3) Use all county-level authority to regulate methane emissions - congress is looking to roll back the federal methane rule, so let's pass something strong locally. Need this to mitigate climate change impacts as well as for air quality
- 4) Zoning - can we prohibit fracking in areas near schools?
- 5) Monitoring - increase the budget so we can make sure we can track the impacts.

Thank you, I regret that I cannot attend the meeting tomorrow but look forward to hearing about the discussion.

Cheers,

Samantha R. Weintraub, Ph.D.
2841 13th St, #4
Boulder, 80304

From: aj bright
To: [Boulder County Oil and Gas Comment](#)
Subject: March 14th meeting / Fracking
Date: Monday, March 13, 2017 5:07:43 PM

Dear Commissioners,

Thank you for creating regulations that will reduce the impact of fracking given the present state law. Also, I appreciate your defending Boulder County against industry and state attempts to prematurely end the current moratorium.

I encourage you to add a prohibition of deep well wastewater injection within county borders.

Please ensure that sufficient funds are budgeted for the increased monitoring of air, water and soil required in the regulations.

Please use your influence to dissuade Boulder County municipalities from selling water to frackers.

Thank you for representing me, and addressing my concerns.

Sincerely,

AJ Bright

From: Jennifer Melvin
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Monday, March 13, 2017 5:07:14 PM

Hello,

I want to thank the County Commissioners for producing regulations that will reduce the impacts of fracking within the framework of our current State law. These are vital and much appreciated.

I also want to thank Commissioners for defending the County against a State attempt to prematurely end the present moratorium. The full length of the moratorium is needed to finalize regulations and preparations for the incoming number of permit applications.

I want to encourage Commissioners to add a prohibition of deep well wastewater injection within County borders as disposals in places like OK and CO in the past have resulted in earthquakes.

Lastly I want to ask that you please make sure there are sufficient funds budgeted for the increased air, water, and soil monitoring required in the regulations and that you encourage Boulder County municipalities to not sell their water to frackers.

I'm sorry that this conversation is even on the table for Boulder County or anywhere for that matter. Please use your influence and position of power to do the right thing for the well being of our citizens and the future of our children.

Sincerely,

Jennifer Melvin

From: Lynn Israel
To: [Boulder County Oil and Gas Comment](#)
Subject: Deepest concerns about Fracking in Boulder and elsewhere!
Date: Monday, March 13, 2017 5:06:10 PM

Dear Commissioners,

I wanted to first thank the County Commissioners for coming up with regulations that will reduce the impacts of Fracking within the present state law. And, for defending the county against the oil and gas industry and state attempt to end the current Moratorium prematurely.

We now know that Fracking is DANGEROUS to the health and well-being of all of our citizens and that it causes numerous health problems as well as earthquakes and precious overconsumption of water.

I urge you to make sure that funds are budgeted for the increased air, water and soil monitoring required in the regulations.

I also ask you to encourage Boulder County municipalities to not sell their valuable water to the frackers.

We as a county can be the ones we are waiting for to take the MOST COMPREHENSIVE stand on this issue. We know what is right for our community. We are renegades and do NOT have to follow the status quo. The world is watching us as an example.

Thank You for your tireless work.

Warmly,

Lynn
Lynn Israel
Director of Community Engagement

[PassageWorks Institute](#)

303.247.0156(office) 303-819-0621(cell) | lisrael@passageworks.org

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From: Currie Barron
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking in Boulder County
Date: Monday, March 13, 2017 5:02:39 PM

Dear Boulder County Commissioners,

Thank you for producing regulations that will REDUCE the impacts of fracking in Boulder County within the framework of present state law! Your regulations are vitally IMPORTANT for maintaining the great quality of life that Boulder County provides its residents and MUCH appreciated!

Thank you for defending Boulder County against the oil & gas industry/State political attempt to end the present moratorium prematurely. It is wrong of the State Attorney General to sue Boulder County pressuring the immediate end of the moratorium. Absolutely wrong! The full length of the moratorium is very important for finalizing the regulations and making other preparations for the likely onslaught of permit applications.

Please make sure that sufficient funds are budgeted for the INCREASED AIR, WATER AND SOIL MONITORING required in the regulations.

Please encourage Boulder County municipalities to NOT SELL THEIR WATER TO FRACKERS! Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. THE CITY OF BOULDER HAS BANNED THIS PRACTICE and others should do so as well!

Sincerely,

Currie C. Barron

545 Pearl Street
Boulder, CO 80302

From: Kristen Demaree
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking moratorium
Date: Monday, March 13, 2017 4:54:16 PM

Dear County Commissioners,

Thank you for putting the environment first in Boulder County. From our example, Colorado, the United States, and the world will take note of how we can circumvent fracking in the world.

The most important issue in my humble opinion, is the use of precious clean water to obtain a non-renewable and temporary fix for our energy problems. The havoc this process leaves long term is not in anyway matched by the knee-jerk quick fix of obtaining a fossil fuel. Let this be a time where we stop this way of working in the world, and we must think long term for future generations' benefit.

Please secure as many roadblocks to discourage fracking in Boulder County.

1. Prohibit deep well wastewater injection within county borders, as the disposal of this has been known to create earthquakes in Oklahoma.
2. All Boulder County Municipalities should refuse selling water to frackers, no matter how tempting it might be to accept such desirable funds.

At all costs, fracking needs to stop here and throughout the world. Find as many ways to resist this happening here, and perhaps others will follow in our footsteps to stop this horrible atrocity from happening to our environment.

Thank you,
Kristen Demaree

--

Kristen Demaree

I would that my life remain a tear and a smile...a tear to unite me with those of broken heart; a smile to be a sign of my joy in existence. - Khalil Gibran

From: Michael Le Desma
To: [Boulder County Oil and Gas Comment](#)
Subject: Comment: Docket DC-16-0004: Amendments to Oil and Gas Development Regulations
Date: Monday, March 13, 2017 4:52:48 PM

Dear Boulder County Commissioners:

I am a resident of Boulder County, and I write in support of the proposed amendments to oil and gas development regulations that relate to fracking in Boulder County. I understand that private industry and the state government is likely to pressure you to weaken these regulations so that they are less protective of the interests of County residents; I encourage you to finalize the regulations with the amendments proposed and to resist efforts to weaken the protections they would afford. I also encourage you to keep the current moratorium in place as long as is reasonably necessary to finalize these regulations, with one modification. I recommend that the County include a provision that prohibits deep well injection of any kind until the County has had ample opportunity to evaluate the apparent connection between this practice and earthquakes.

I also encourage the Commissions to prohibit the sale of water by County municipalities for fracking. And encourage the County to collect such fees from the oil and gas industry as are necessary to provide for the monitoring required by the proposed regulations.

While industry proponents claim that fracking can be one in a way that is safe for communities, the County assumes huge risks of aquifer contamination and, even, increased earthquake damage arising from this activity. Given the potential consequences for County communities and the relatively modest benefits of gas extraction through fracking, I believe the County must proceed with the greatest of caution. These proposed regulatory revisions are a step in the right direction.

Sincerely,

Michael Le Desma

From: Megan Wilder
To: [Boulder County Oil and Gas Comment](#)
Subject: Comments and requests for March 14 Oil/Gas meeting
Date: Monday, March 13, 2017 4:46:51 PM

Please add to the regulations that you're drafting: a prohibition of deep well wastewater injection within county borders.

Please ensure that sufficient funds are paid up front by all the oil and gas companies which are applying for permits to pay for frequent and rigorous air, water and soil monitoring. The county needs to own it's own monitoring equipment and pay for enough full time county employees to monitor all active and inactive well sites in Boulder County. We need to fine companies immediately and frequently when ANY spill or violation occurs. Make doing business in Boulder County VERY VERY onerous and expensive for oil and gas companies.

Please ensure that oil and gas companies are required to pay into a fund (up front, before any future drilling occurs) to pay for the inevitable spills, leaks, road deterioration and pipeline land disruption that will happen here with more wells.

Please ensure that other cities in Boulder County are not allowed to sell their water to oil and gas companies who will use it for fracking.

From: Jeanette Zawacki
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking Regulations
Date: Monday, March 13, 2017 4:37:06 PM

Dear County Commissioners,

Thank you for producing regulations that will reduce the impacts of fracking within the framework of present state law. I ask you not to succumb to pressure from the oil and gas industry to water down these regulations.

I thank you for defending the county against an industry/state attempt to end the present moratorium prematurely. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

Please add a prohibition of deep well wastewater injection within county borders since disposal of this sort elsewhere has resulted in earthquakes.

In addition please make sure that sufficient funds are budgeted for the increased air, water and soil monitoring required in the regulations.

Lastly, I encourage Boulder County municipalities to not sell their water to frackers. This is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

Sincerely,

Jeanette Zawacki

From: Carolyn Maezes
To: [Boulder County Oil and Gas Comment](#)
Subject: County regulations on fracking
Date: Monday, March 13, 2017 4:26:20 PM

Dear Commissioners,

First, thank you for producing regulations that will reduce the impacts of fracking within the framework of present state law. Our environment and future health/safety is critical. I would rather sacrifice any economic benefit to prevent any fracking, but I realize this is an unlikely option. Sadly, it will be virtually impossible to ensure that these corporations will assume the cost of 100% of the externalities caused by fracking.

Additionally, thank you for defending our County against the industry/state attempt to end the present moratorium prematurely. I wish we could extend the moratorium indefinitely.

In lieu of indefinitely extension, please 1) add a prohibition of deep well wastewater injection within the County borders (We already have floods and fires... we don't need earthquakes as well.); 2) make sure that sufficient funds are budgeted for the increased air, water, and soil monitoring required in the regulations; and 3) encourage Boulder County municipalities to NOT sell their water to frackers.

Sincerely,
Carolyn Maezes

From: Ginger Riversong
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking is destructive.
Date: Monday, March 13, 2017 4:11:55 PM

Dear Commissioners:

I will be standing outside the hearing room tomorrow, supporting you and all of us citizens who want to bar fracking from our County. My thanks to you for listening and for doing this balancing act against the State.

My sentiments are aligned with this text put forth by Sierra Club Rocky Mountain Chapter:

I THANK YOU, COUNTY COMMISSIONERS ,FOR PRODUCING REGULATIONS THAT WILL REDUCE THE IMPACTS OF FRACKING WITHIN THE FRAMEWORK OF PRESENT STATE LAW. I know you are under considerable pressure from the industry and from the State to water down these regs, and I want you to know that they are vital and appreciated as proposed.

I THANK YOU FOR DEFENDING THE COUNTY AGAINST AN INDUSTRY/STATE ATTEMPT TO END THE PRESENT MORATORIUM PREMATURELY. The present moratorium ends on May 15th, but the State Attorney General, under undue influence from the oil and gas industry, has sued Boulder County to end the moratorium immediately. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

I ENCOURAGE YOU TO ADD A PROHIBITION OF DEEP WELL WASTEWATER INJECTION WITHIN COUNTY BORDERS. Disposal of this sort elsewhere (e.g. Oklahoma, and even in Colorado in the past) has resulted in earthquakes - and has poisoned aquifers and groundwater.

I ASK THAT YOU MAKE SURE THAT SUFFICIENT FUNDS ARE BUDGETED FOR THE INCREASED AIR, WATER AND SOIL MONITORING REQUIRED IN THE REGULATIONS.

I ASK YOU TO ENCOURAGE BOULDER COUNTY MUNICIPALITIES TO NOT SELL THEIR WATER TO FRACKERS. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

There should be some way to provide for the drop in property values, as well; the wear and tear on roads (from the last hearing I attended, I think the latter has been addressed).

Thank you for your hard work. If we can hold on until 2018 elections, perhaps we can change the government. People in Greeley/Weld County are beginning to learn that fracking is a BAD thing, and they're beginning to speak out.

Kind regards,

--

Ginger Ikeda
3320 15th St
Boulder 80304

SHARE THE ROAD :)

Riders: Be Bright and Be Seen; Rules of the Road

Drivers: Put down the @%\$ cell phone and Save a Life; 3 Feet Between; Pass <15 mph above bike's speed. THANKS!

"Unless someone like you cares a whole awful lot, nothing is going to get better. It's not!"
-Dr. Seuss

"It takes courage to grow up and become who you really are."
-ee cummings

From: lauracsteele@comcast.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking Moratorium
Date: Monday, March 13, 2017 4:06:58 PM

Dear Commissioners

I am a 27 year resident of Boulder, and am also a Sierra Club supporter and member. I support the statements/requests as listed below and thank you for your time and efforts to keep Boulder free of fracking, and its environmental impacts.

Sincerely,
Laura Steele
4756 McKinley Dr
Boulder 80303

1. THANK THE COUNTY COMMISSIONERS FOR PRODUCING REGULATIONS THAT WILL REDUCE THE IMPACTS OF FRACKING WITHIN THE FRAMEWORK OF PRESENT STATE LAW. They will come under considerable pressure from the industry and from the State to water down these regs, so we need to let them know that they are vital and appreciated as proposed.

2. THANK THE COUNTY COMMISSIONERS FOR DEFENDING THE COUNTY AGAINST AN INDUSTRY/STATE ATTEMPT TO END THE PRESENT MORATORIUM PREMATURELY. The present moratorium ends on May 15th, but the State Attorney General, under undue influence from the oil and gas industry, has sued Boulder County to end the moratorium immediately. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

3. ENCOURAGE THE COMMISSIONERS TO ADD A PROHIBITION OF DEEP WELL WASTEWATER INJECTION WITHIN COUNTY BORDERS. Disposal of this sort elsewhere (e.g. Oklahoma, and even in Colorado in the past) has resulted in earthquakes.

4. ASK THE COMMISSIONERS TO MAKE SURE THAT SUFFICIENT FUNDS ARE BUDGETED FOR THE INCREASED AIR, WATER AND SOIL MONITORING REQUIRED IN THE REGULATIONS.

5. ASK THE COMMISSIONERS TO ENCOURAGE BOULDER COUNTY MUNICIPALITIES TO NOT SELL THEIR WATER TO FRACKERS. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

From: Neesha Regmi Schnepf
To: [Boulder County Oil and Gas Comment](#)
Subject: Boulder County fracking moratorium
Date: Monday, March 13, 2017 4:01:25 PM

Dear county commissioners,

I am geophysics PhD student at CU-Boulder and I live in a South Boulder home my spouse and I purchased last year.

I would like to sincerely thank you for producing strong regulations that limit fracking in Boulder County. I urge you to continue this stewardship. Please also prohibit deep well wastewater injection within Boulder County and do all you can to ensure that our air, water and soil is thoroughly monitored.

Fracking has serious health and environmental consequences, and I know firsthand from my experience in geophysics that private industry often butts heads with public research institutes over issues like fracking. That is why I so appreciate the Boulder county commissioners for maintaining a strong backbone on this. Stewardship of our land and the health of our communities is the most important thing-- not short term boom-bust profiteering.

Thank you and kind regards,
Neesha

Neesha R. Schnepf

PhD student

Dept. of Geological Sciences

University of Colorado, Boulder

e | Neesha.Schnepf@colorado.edu

c | 703-945-8696

h | [website](#)

From: Jamie Jost
To: [Boulder County Oil and Gas Comment](#)
Cc: [Sanchez, Kimberly](#); [Pearlman, Ben](#)
Subject: Docket No. DC-16-0004 - Crestone Peak Resources Comments
Date: Monday, March 13, 2017 3:49:00 PM
Attachments: [e-signature\[40\].png](#)
[FINAL - Crestone Peak Resources Letter to Boulder BOCC .pdf](#)

Please find attached to this email Crestone Peak Resources, LLC's comments to Docket DC-16-0004. Thank you.

Jamie



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March 13, 2017

VIA EMAIL – NO ORIGINAL TO FOLLOW

Board of County Commissioners
2045 13th Street, Suite 200
Boulder, Colorado 80302
oilgascomment@bouldercounty.org

RE: Crestone Peak Resources, LLC – Comments to Docket DC-16-0004;
Amendments to Oil and Gas Development Regulations

Dear Board of County Commissioners,

Crestone Peak Resources, LLC (“Crestone Peak”) respectfully submits this letter to the Boulder County Board of County Commissioners (“BOCC”) for consideration prior to the March 14, 2017 hearing on Docket DC-16-0004: Proposed Amendments to Oil and Gas Development Regulations (“Proposed Regulations”).

Crestone Peak appreciates the outreach and individual meetings with the Boulder County Planning Staff and Boulder County Attorneys to discuss the Proposed Regulations and their impact and effect on future oil and gas development in Boulder County, from an operator perspective. Crestone Peak, however, still has significant concerns about the Proposed Regulations and, by this reference, incorporates and adopts the Colorado Oil and Gas Association’s (“COGA”) comments and positions set forth in its March 10, 2017 letter to the BOCC as well as the attached March 10, 2017 redline of the Proposed Regulations and the COGA White Paper.

Further, Crestone Peak also appreciates the discussion and involvement of the County Planning Staff and Attorneys in Crestone Peak’s Colorado Oil and Gas Conservation Commission Rule 216 Comprehensive Drilling Plan (“CDP”) Application to develop approximately 7,500 acres in eastern Boulder County in a comprehensive fashion. The purpose of the CDP is: (1) to identify foreseeable oil and gas activities in a defined geographic area (twelve governmental sections in eastern Boulder County, specifically Sections 1, 2, 3, 10, 11 and 12, Township 1 North, Range 69 West and Sections 25, 26, 27, 34, 35 and 36, Township 2 North, Range 69 West (“CDP Area”)), (2) to facilitate discussions about potential impacts, and (3) to identify measures to minimize adverse impacts to public health, safety, welfare, and the environment, including wildlife resources, from such oil and gas activities. Boulder County’s input into the CDP is valuable and Crestone Peak looks forward to working with the County Staff and Attorneys as the CDP planning process progresses with the State.

Crestone Peak's CDP Application was mailed to over 724 surface owners within the CDP Area, Boulder County, numerous state agencies and applicable local government designees. Crestone Peak has been in contact with several surface owners who have questions about the CDP Application and anticipates having additional, consistent contact with those surface owners whose property may be located near a proposed Oil and Gas Location. At this point in time, however, Crestone Peak has not determined the appropriate siting for any Oil and Gas Locations within the CDP Area as such sites will be determined primarily through the CDP evaluation process. If any surface owner receiving notice of the CDP Application would like to have a conversation, Crestone Peak will gladly speak and correspond with them. Crestone Peak can be reached at 720-410-8537 or communityrelations@crestonepr.com. Crestone Peak believes that, in the current environment, a CDP is the appropriate way to ensure responsible and transparent oil and gas development within Boulder County.

Crestone Peak respectfully requests that the BOCC take time to address the reasonable and practical concerns set forth in COGA's letter, White Paper and proposed redline as well as the other items set forth herein. Thank you for your consideration of Crestone Peak's comments.

Sincerely,



Jason C. Oates
Crestone Peak Resources, LLC

cc: Jamie Jost – Jost Energy Law, P.C.
Kim Sanchez – Boulder County Planning Department, Chief Planner
Ben Pearlman – Boulder County Attorney

From: Mark Steele
To: [Boulder County Oil and Gas Comment](#)
Subject: I support keeping oil and gas extraction out of Boulder
Date: Monday, March 13, 2017 3:31:16 PM

Hi,

In reference to DC-16-0004, I can't make it to the public meeting on Tuesday, but want you to know that I support the commissioners doing everything in their power to keep fossil fuel extraction out of Boulder County.

I see the fracking boom as a bailout of the oil and gas industry. The only way this antiquated, dirty industry can be profitable is thru subsidies, both direct and indirect thru tax breaks and exemptions from the laws that every other business must obey. We are paying its profits with our health and wellbeing, as well as our home values. I never voted to approve of this subsidization. I think Boulder County Commissioners have the duty to protect us and I feel that the Colorado Oil and Gas Conservation Commission is inherently unconstitutional. Our community must have power over this bogus entity.

Thanks

-Mark Steele
2275 Forest Ave.
Boulder, CO 80304

From: Marti and Bob Hopper
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking in Boulder County
Date: Monday, March 13, 2017 3:25:57 PM

Commissioners:

We urge you to do EVERYTHING possible to prevent fracking in our county, including bans and moratoria. New information is coming out on a regular basis indicating the deleterious effects on health and safety of these operations as well as the fact that this information has been suppressed and distorted by the industry. Please keep our county safe. And thank you for standing up to Attorney General Cynthia Coffman and not being intimidated by her law suit. The people of Boulder are behind you! Thank you very much.

Robert & Martha Hopper
550 Ithaca Drive
Boulder, CO 80305



Virus-free. www.avast.com

From: Megan Wilder
To: [Boulder County Oil and Gas Comment](#)
Subject: Comments on DC-16-0004
Date: Monday, March 13, 2017 3:14:21 PM

Boulder County Commissioners- thank you for all your hard work attempting to make the oil and gas regulations as stringent and effective as possible. Most of your constituents understand that you do not want further drilling in our county. Your constituents also know that you are well very aware of all the scientific evidence showing how destructive fracking is to the environment, wildlife and human health. It is not useful at this point to re-hash all of that with you. The point I wish to make is that Boulder County has your back- we support you and want you to be creative with making the permitting regulations onerous and we want you to be aggressive in your dealings with COGA. Boulder needs to make a stand so that other front range cities and counties can join our efforts. We should not back down and should allow ourselves to be bullied.

I'm sorry that my personal efforts to get the two anti-fracking ballot measures from last summer passed did not work- I think that if these measures had passed we'd be in a much better situation than we now find ourselves. Please know that those of us who are paying attention to this issue are very engaged and support your efforts on our behalf. Please push the envelope and be as aggressive as possible with the new regulations.

Thanks, Megan Wilder
Boulder, Colorado

From: Sally Blaser
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil and gas exploration in Boulder County
Date: Monday, March 13, 2017 1:55:36 PM

I'm Sally Blaser and live at 1515 Sidon Circle, Lafayette, CO 80026.

I am opposed to any oil and gas exploration or extraction in Boulder County. All of us, as citizens of Boulder County, have the right to clean air and clean water. We owe our children and our children's children an environment in which they can grow up healthy and thrive. Oil and gas extraction, fracking, is extremely detrimental to our health. Study after study has confirmed the deleterious effects of fracking on the land and the people. The oil and gas industry does not have the right to destroy our air and water. The negative effects of the process itself are enough to make a ban on this sort of activity a no-brainer. The process uses huge amounts of water. This water, once used and mixed with cancer-producing chemicals and forced into the ground, is toxic and cannot be safely used for anything afterwards. We in Colorado, a semi-arid State, which is undergoing extreme changes in our climate anyway, cannot afford to waste water on fracking. Our roads would suffer in a fracking environment. Untold numbers of semi trucks, heavily laden, wreak havoc on our roads. There is no way the oil and gas industry would compensate our communities for the damage done to our roads.

It is our right, as citizens, to ban fracking from Boulder County. The Climate Bill of Rights defines our right to clean air and clean water. We will oppose, for as long as it takes, any action of the oil and gas industry which would place their right above ours. We live here. It is our lives, the lives of our children and our children's children. The faceless machine of the oil and gas industry does not have the best interests of humans in mind. We, the real humans of this land and of this county demand our right to choose a healthy county, free of oil and gas extraction that would threaten our air, water and health.

Thank you, Sally Blaser

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#322]
Date: Monday, March 13, 2017 1:37:31 PM

Name *	Undine Ehrman
Email *	uehrman@gmail.com
Phone Number (optional)	(720) 565-3415
My Question or Feedback most closely relates to the following subject: (fill in the blank) *	Fracking
Comments, Question or Feedback *	<p>Please stand firm on the moratorium against Fracking in Boulder County.</p> <p>In fact, I oppose any Fracking in the entire county – forever.</p> <p>Thank you.</p>
Please check box below *	<ul style="list-style-type: none">• I acknowledge receipt of the Open Records Notification

From: Ariana Saraha
To: [Boulder County Oil and Gas Comment](#)
Subject: Protect our lands from the dangers of fracking
Date: Tuesday, March 14, 2017 1:48:41 AM

I'll keep this brief, but I wanted to thank you for the regulations you've implemented historically to protect our region from the impacts of fracking, and to urge you to maintain these regulations and allocate the proper funding to implement them.

Your concerned citizen,

Ariana S Marks
Boulder, CO

From: barbswritestuff@aol.com
To: [Boulder County Oil and Gas Comment](#)
Subject: NO FRACKING IN BOULDER COUNTY! 2pm meeting March 14, 2017
Date: Tuesday, March 14, 2017 6:47:04 AM

Good morning,

I am writing to you this morning regarding the meeting at 2PM today in Boulder County about oil & gas & fracking in Boulder County.

Please stand up to the bullies in the Oil & Gas industries and vote for NO FRACKING in BOULDER COUNTY!

I am a 24 year resident of Boulder County and 21 year homeowner and taxpaxer of Boulder County, who has served my community on the Louisville Cultural Council in the past, served as a Girl Scout leader for girls in the community, among other service contributions.

I have 2 young adult children who attend(ed) C.U. Boulder and are voting, contributing members of the City of Boulder, as well.

It makes no sense to have beautiful, open space for us all to enjoy, when the air and water will be comprised by allowing fracking within Boulder County. Parents and students will not want to live or attend C.U. Boulder if this is allowed, as well, as their heath will be impacted.

The citizens of Boulder County DO NOT want to allow fracking within Boulder County limits; please vote along with their desires, and for the protection of our land, water, land, property values, and health and livelihoods.

I cannot attend the 2PM meeting today as I work full-time during that time.

Thank you for your consideration.

Sincerely,

Barbara LeBlanc
Louisville, CO
720-363-5133

From: Jim D
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Tuesday, March 14, 2017 7:22:16 AM

The citizens in Broomfield are asking some very intelligent questions (see below). We should get the answers to their questions before we even THINK of lifting our moratorium.

"When important and relevant health, safety, and environmental questions can't be answered, the industry is now just labelling them as "asinine" and "bizarre." Kent Gorham, Principal at Gorham Energy Consultants in Broomfield, did just that for the questions that we had asked Extraction Oil and Gas, Broomfield City Council, and Colorado legislators around air toxicity, spills, leaks, and the subsurface migration of injected chemicals (see also our Feb 21 post and repeated below).

To Extraction: If you are incentivizing people to comment on our posts, at least find people who are able to intelligently engage in the conversation.

1. Which toxins and at what level (ug/m³) will citizens be exposed to at various distances from each of the well pads (500 ft, 1,000 ft., 2,500 ft., 5,000 ft.) during different stages of the process including drilling, hydraulic fracturing, flow-back, and production?
2. What is the failure rate over time of the well casing technology being proposed for the 139 wells that will pass through the aquifer and groundwater sources?
3. Given that Extraction has had 22 spills/releases since Apr 2014 (some of which have went outside the berm or secondary containment area), how can the citizens be assured that spills/releases will not impact surface water or groundwater? In 2010 and 2012, for these 2 years alone, there were 188 groundwater impact spills in CO for all operators.
4. Approximately 20,000 gallons of chemicals Per Well (based on 4 million gallons of water per well and using the 0.5% of chemicals to fluid injections) will be injected under our homes, schools, and parks (a total of 2.78 million gallons of chemicals given that there are 139 wells). How far have these chemicals migrated towards the surface over 10 yrs, 20 yrs, 30 yrs, and 40 yrs? Have they migrated upwards a total of 100 ft., 1,000 ft., 2,000 ft., etc.?
5. Specifically which chemicals will be injected?
6. As a continuance to #4, we know that induced earthquakes of magnitude 3 or higher are not limited to injection wells and can also be triggered by productions wells (although at a much lower probability). If an earthquake were to occur, how does that affect the answer to #4?

We still have not received answers to the above, nor have we received the supporting data. We would request that Extraction try again. It is asinine and bizarre that the proposed 139 horizontal fracking well plan continues to move forward without the above health and safety questions being answered first.

Broomfield Clean Air and Water. Pro Energy. Pro Health, Safety, and Environment."

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#324]
Date: Tuesday, March 14, 2017 7:44:42 AM

Name * Amanda Smith

Email * amanda.smith@2scientists.net

My Question or Feedback most closely relates to the following subject: (fill in the blank) * fracking

Comments, Question or Feedback * Please, no fracking in Boulder County! Please do all you can to preserve the beauty and safety of life in Boulder. We have such a wonderful opportunity to use solar power here. Thank you.

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: Tricia Stahr
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking opinions
Date: Tuesday, March 14, 2017 8:07:02 AM

Hello,

I am saddened about the prospect of having fracking in our county. It is unbelievable to me that we would allow such an activity in this beautiful land that we have worked so hard to protect. This activity is really making me question whether this area is where I want to live.

That said, I know that this fight has certainly not been easy for you and that legally, you only have so many options. I do sincerely appreciate your efforts. Specifically I'd like to thank you for...

- producing regulations that will reduce the impact of fracking within your ability to do so. I know it has not been easy. Your efforts are truly appreciated.
- defending the county against the attempt to end the present moratorium prematurely despite all the resistance you have gotten.

A few requests:

- I would like to encourage you to add a prohibition of deep well wastewater injection given that it has resulted in earth quakes elsewhere.
 - please encourage boulder county municipalities to not sell their water to frackers.
- Thank you for doing this for the city.

I can't imagine the pressure you all are under. I do appreciate your work.

Best,

Tricia Stahr

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#325]
Date: Tuesday, March 14, 2017 8:39:49 AM

Name * Kate Paradis

Email * paradaly@yahoo.com

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Fracking moratorium

Comments, Question or Feedback * Dear Commissioners,

I hope you are aware that the executive committee of the Boulder County Dems voted in support of extending the fracking moratorium last week. Our county platform also requires that you factor in externalized costs of oil and gas development, one of the most important of which are methane leaks. We all know that methane is a dangerous greenhouse gas, so please do your jobs and stay in alignment with our party's values.

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: kim cameron-webb
To: [Boulder County Oil and Gas Comment](#)
Subject: Please DO NOT allow fracking in Boulder County
Date: Tuesday, March 14, 2017 8:43:04 AM

I'm very concerned about the effects of this activity on wildlife and on groundwater, as well as the potential for earthquakes. We need to switch to solar and wind! Please do not allow this activity. Thank you.

Kim Cameron-Webb
Ponderosa Drive
Boulder

From: Ree O'Winds Mitchell
To: [Boulder County Oil and Gas Comment](#)
Subject: FRACKING
Date: Tuesday, March 14, 2017 9:10:46 AM

WAKE UP BEFORE IT'S TOO LATE

!!!!!!!!!!!!!!!!!!!!!!

If we as CITIZENS have NO ABILITY, or RIGHTS to keep our AIR, WATER, and SOIL SAFE, and our PROPERTY VALUES from being DEVALUED, then WHAT RIGHTS DO WE HAVE !!!!

WE OWE PROTECTION TO OUR CHILDREN and THE GENERATIONS TO COME! WE BEG YOU TO NOT LET FEAR OR TEMPORARY MONETARY GAIN BLIND YOU!

IT IS OUR SACRED DUTY to BE GOOD STEWARDS of THIS PRECIOUS EARTH and NOT LET the GREED and SHORT SIGHTEDNESS of the GAS AND OIL INDUSTRY DESTROY OUR HOME !!!

WE PLEA FOR YOU TO BE STRONG, BRAVE, CARING, and DARING to HAVE THE COURAGE TO STAND UP AND **FIGHT THIS DANGEROUS AND DESTRUCTIVE FRACKING FORCE FOR THE SAKE OF ALL LIFE !!!!!!!!!!!!!!!!!!!!!!!**

From: Ree O'Winds Mitchell
To: [Boulder County Oil and Gas Comment](#)
Subject: Fwd: FRACKING
Date: Tuesday, March 14, 2017 9:12:09 AM

Begin forwarded message:

From: Ree O'Winds Mitchell <reeowinds@gmail.com>
Date: March 14, 2017 9:10:39 AM MDT
To: oilgascomment@bouldercounty.org
Subject: FRACKING

**WAKE UP BEFORE IT'S TOO LATE
!!!!!!!!!!!!!!!!!!!!**

If we as CITIZENS have NO ABILITY, or RIGHTS
to keep our AIR, WATER, and SOIL SAFE, and
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SHORT SIGHTEDNESS of the GAS AND OIL**

INDUSTRY DESTROY OUR HOME !!!

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CARING, and DARING to HAVE THE COURAGE
TO STAND UP AND FIGHT THIS
DANGEROUS AND DESTRUCTIVE
FRACKING FORCE FOR THE SAKE
OF ALL LIFE !!!!!!!!!!!!!!!!!!!!!!!**

From: kelly emmanuella bartell
To: [Boulder County Oil and Gas Comment](#)
Subject: Extend Moratorium
Date: Tuesday, March 14, 2017 9:15:53 AM

Dear County Commissioners,

I strongly urge you to continue to uphold our moratorium against fracking. We must be a voice against the wholesale destruction of Colorado-now slated by big oil to become the next National Sacrifice Zone....Sincerely,

K R Bartell

563 West Cedar Place

Louisville, CO 80027

--

To be happy for an hour, get drunk;

To be happy for a year, fall in love;

To be happy for life, take up Gardening!

Kiss of the Deva : Permaculture Design and Maintenance

From: Kieuly Dang
To: [Boulder County Oil and Gas Comment](#)
Subject: Regarding Oil and Gas Moratorium 2017
Date: Tuesday, March 14, 2017 9:33:32 AM

Hello County Commissioners,

I'm sure you've heard a number of testimonies, facts, fiction, and queries. I will not bore you with anymore of what you have already heard. Rather, I ask you to contemplate the following three questions when casting your vote:

1. Will your decision matter 10 years from now?
2. Will you be able to live with the decision you make for the rest of your life?
3. If you were on your death bed, what decision would you make?

Thank you for carrying out the tough decisions you must make. I might not agree with some of your decisions but I respect you for taking on the responsibility of the community.

Best,
Kieuly Dang
4560 Arapahoe Ave, Unit A
Boulder, CO 80303
303-502-7979

From: Arthur Gabriel
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking Moritorium
Date: Tuesday, March 14, 2017 9:41:38 AM

Commissioners,

Stand up to the Colorado AG and the Oil and Gas industry that wants to pollute our air and water.

The USA currently has way more oil and gas production then we need for domestic use. The industry just wants to sell it abroad while we suffer the environmental damage.

Art Gabriel,
Boulder.

From: Mari Heart
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking regulations
Date: Tuesday, March 14, 2017 9:48:03 AM

Dear Commissioners,

Thank You for standing for the health and well-being of every citizen in Boulder County. We need the most stringent fracking regulations on this dangerous activity possible. We know drinking water is poisoned by this activity. We know that air-quality is diminished by this activity. We know this activity should not be located anywhere near residences, schools, farm animals, watersheds, or anywhere that could cause public harm. I support your actions in safeguarding the health of every person in Boulder County. We must consider the impact such activities might have now as well as into the future.

Sincerely,
Mari Heart

Sent from my iPhone

From: Toby Schunck
To: [Boulder County Oil and Gas Comment](#)
Subject: Reference DC-16-0004
Date: Tuesday, March 14, 2017 9:49:15 AM

Dear Boulder County Commissioners,

Please do everything in your power to prevent, delay, obstruct, inconvenience and discourage oil and gas development in beautiful Boulder County.

We must preserve our home. We must protect our environment. We must protect our children, animals and all living things from this horrible destruction.

Please sell your gasoline & diesel powered and buy an electric car.

Please encourage all your Longmont friends to contact the City Utility Office to subscribe to clean Wind Energy!!!!

Thank you for standing up for all of us.

Best wishes and many thanks,

Toby Schunck
Longmont, CO

From: Barb Grant
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking
Date: Tuesday, March 14, 2017 9:52:37 AM

I moved to Boulder from Wisconsin and know that fracking sand mined there leads to many local health concerns from blowing sand. Using less here will also be good for the Badgers!

Thank you for passing regulations that reduce the impacts of fracking within current laws and for defending Boulder County against ending the present moratorium prematurely. We won't have many chances to legally limit fracking and minimize its deleterious affects.

I ask that you make sure there are funds to monitor and enforce air, water, and soil monitoring regulations.

Last, I ask that you prohibit deep well wastewater injection within Boulder County's borders. Permanently messing with geology we do not fully understand is even worse than fracking's immediate impacts.

Thank you.
Barb Grant

From: Rachel Nypaver
To: [Boulder County Oil and Gas Comment](#)
Subject: Boulder County Oil and Gas
Date: Tuesday, March 14, 2017 10:04:21 AM

Dear County Commissioners,

First of all, I want to thank you for all the hard work you've put in to protect the the beautiful land in Boulder County. I know it may not be a popular position in our current economy and your strength to stay strong on the matter is greatly appreciated (and a blessing in my life).

With that, I ask that you continue to stay strong and protect the land by adding a prohibition on deep well water water injection and that sufficient funds are budgeted for air, water, and soil monitoring.

Thank you so much for taking the time to read this!

Smiles,

Ray

--

Rachel A. Nypaver

"(Wo)men cannot discover new oceans unless (s)he has the courage to lose sight of the shore." - Andre Gide

From: keng4java@netscape.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Updated Fracking Regulations
Date: Tuesday, March 14, 2017 10:11:41 AM

Thank you for taking the time to rewrite the oil and gas regulations to limit the impacts of fracking on our community. Maintaining a health environment is more important than fossil fuel company profits. In addition, please budget sufficient funds for air, water, and soil monitoring and to conduct independent studies of the environmental effects of fracking. Defend strong local regulations, including going to court if necessary.

To further protect our local environment, I respectfully ask you to ban fracking wastewater injection in Boulder county. This practice has been linked to an increase in earthquakes around the country and can also pollute the groundwater. Also, please encourage Boulder county municipalities to not sell their water to frackers. Make it clear to frackers that it won't be easy or inexpensive to poison the environment of Boulder county. Thank you.

Ken Gamauf

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#326]
Date: Tuesday, March 14, 2017 10:32:34 AM

Name * Kristin Creamer

Email * kristincreamergmail.com

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Support for Fracking Moratorium

Comments, Question or Feedback * Dear Commissioners,

I want to email you with my support of your attempts to protect the health and rights of your citizen constituents. Please continue to do so – even in the face of adversity. Many of us are grateful for your efforts to make thoughtful, intentional decisions that will provide long-term benefits to our county as opposed to short term financial gain.

Keep up the good fight in this and in other matters.

Good luck tonight!
Kristin

Please check box below * ☒ I acknowledge receipt of the Open Records Notification

From: [Wufoo](#)
To: [Boulder County Board of Commissioners](#)
Subject: County Commissioners Contact Us/Feedback Form. [#327]
Date: Tuesday, March 14, 2017 10:38:49 AM

Name * Leslie Brown

Email * leslie.brown@aggiemail.usu.edu

My Question or Feedback most closely relates to the following subject: (fill in the blank) * Oil and Gas Development

Comments, Question or Feedback *

Thank you for your work on behalf of Boulder County! I'm writing to urge you to implement the strictest possible regulations on oil and gas development in our county. I find it inconceivable that we are not able to ban this development at the local level as the majority of us would like, and I understand that puts you in a very difficult position with regards to protecting citizens while obeying state law. So I would like to add my voice to the chorus for doing absolutely everything we can to prevent the harm done to air, water, land, and people's health from oil and gas development. Please know that I also wrote to the state attorney general expressing my outrage over the lawsuit against Boulder County over the moratorium on behalf of the oil and gas industry. I told the AG that I was not happy that my tax dollars were being spent on this unnecessary lawsuit--that it was a waste of time and money at both the state and county levels. Again, thank you for all you are doing!

Please check box below *

- I acknowledge receipt of the Open Records Notification

From: Erica Ellis
To: [Boulder County Oil and Gas Comment](#)
Subject: No Fracking in Boulder County
Date: Tuesday, March 14, 2017 10:43:45 AM

Dear County Commissioners,

First of all, I would like to thank you for producing regulations that will reduce the impacts of fracking in the current state law and for defending the county against attempts to end the present moratorium prematurely. I know this work is not easy and you are under tremendous pressure, but I assure you that your efforts are appreciated more than you know and are vital to the safety of our communities.

I encourage you, the commissioners, to add a prohibition of deep well wastewater injection within our county borders. This type of disposal has resulted in earthquakes in several communities, including Colorado and Oklahoma. Please dispose of this waste elsewhere, in a manner that will not damage our homes, our community, our wild.

I also ask that you make sure there is sufficient funds to increase air, water and soil monitoring to make sure that there are not negative impacts to our resources.

Lastly, I ask you to encourage Boulder County Municipalities to NOT sell their water to frackers. Clean water is necessary for fracking and I know these drillers are willing to pay several times the going rate and that this is a very serious temptation, but fracking will cost the community so much more money in the long run. Lets not be shortsighted. The City of Boulder has banned this practice, lets encourage others to do so as well.

Thank you so much for your time and consideration.

Sincerely,

Erica Ellis
Boulder, CO 80305

From: Frankie Pratt
To: [Boulder County Oil and Gas Comment](#)
Subject: Oil and gas development of Boulder County
Date: Tuesday, March 14, 2017 10:47:46 AM

Please do everything in your power to prevent oil and gas development in Boulder County. I am a long time resident of Boulder County and feel proud to live in such a beautiful place, one that many others come to visit for vacation. The oil and gas wells are a threat to the environment and our wellbeing, not to mention that they contribute to global warming. We no longer have the luxury of waiting, the time for investment in alternative fuels is now.

Thank you for your time,

Frankie Pratt

--

--

Penny Francesca "Frankie" Pratt--

"Well behaved women rarely make history" ~ Laurel Thatcher Ulrich

From: Renee Hummel
To: [Boulder County Oil and Gas Comment](#)
Subject: Protect Us from Fracking!
Date: Tuesday, March 14, 2017 10:48:00 AM

DEAR COUNTY COMMISSIONERS:

THANK YOU FOR PRODUCING REGULATIONS THAT WILL REDUCE THE IMPACTS OF FRACKING WITHIN THE FRAMEWORK OF PRESENT STATE LAW.

THANK YOU FOR DEFENDING THE COUNTY AGAINST AN INDUSTRY/STATE ATTEMPT TO END THE PRESENT MORATORIUM PREMATURELY. The full length of the moratorium is needed to finalize the regulations and make other preparations for the expected onslaught of permit applications.

PLEASE, PLEASE, PLEASE ADD A PROHIBITION OF DEEP WELL WASTEWATER INJECTION WITHIN COUNTY BORDERS. Disposal of this sort elsewhere (e.g. Oklahoma, and even in Colorado in the past) has resulted in earthquakes.

PLEASE MAKE SURE THAT SUFFICIENT FUNDS ARE BUDGETED FOR THE INCREASED AIR, WATER AND SOIL MONITORING REQUIRED IN THE REGULATIONS.

PLEASE DO ALL THAT YOU CAN TO ENCOURAGE MUNICIPALITIES TO NOT SELL THEIR WATER TO FRACKERS. Clean water is necessary for fracking, and drillers are willing to pay several times the going rate for their frack water - this is a serious temptation for front range communities who might need extra money more than extra water. The City of Boulder has banned this practice, and others should do so as well.

Most sincerely,

Renée Hummel
5000 Butte St Lot 233
Boulder, CO 80301

From: Elisabeth Gick
To: [Boulder County Oil and Gas Comment](#)
Subject: stay strong and keep it in the ground!
Date: Tuesday, March 14, 2017 10:50:29 AM

Dear commissioners,

I want to thank you very much for having been strong, determined and brave. Please keep it up and keep fossil fuels in the ground. You know all the arguments, be assured that we have your backs.

I am full support of your resistance to fracking in Boulder County, of putting health and safety before the profits of a few.

In solidarity,
Elisabeth Gick
80304

--

be vocal, be visible, push back
350colorado.org - because there is no planet B

From: Cheryl
To: [Boulder County Oil and Gas Comment](#)
Subject: Comment
Date: Tuesday, March 14, 2017 11:25:15 AM

To Boulder County Commissioners:

I'm a property owner in Northeastern Boulder County and I'm once again writing to state my opinion on allowing oil and gas drilling in unincorporated Boulder County. I understand that citizens do not want a rig next to their home or school but in my case, I live on property that is not part of a neighborhood. For property owners like me, we should be allowed the opportunity to use our mineral rights. Of course I want it done safely; we already have tough laws on the books for this. I'm sure some of the citizens that are against energy development live in homes and drive vehicles that involves energy. We all depend on energy. Try going one day without electricity and no car and see how that goes.

The anti-fracking groups do not not speak for me. I'm tired of reading that they do. Not every citizen in Boulder County is against energy. Please follow the law and allow me to utilize my mineral rights.

Thank you

From: Mike Duffy
To: [Boulder County Oil and Gas Comment](#)
Subject: O&G modified regs comments.
Date: Tuesday, March 14, 2017 11:38:12 AM

Good morning,

It looks like a solid effort on the proposed modifications, particularly where pipelines are concerned.

I noticed two things in my readings:

1st, insurance minimums for operators seems low. As a contractor in this area, \$1 million is the standard for small contracting jobs. To be able to work in some of the more stringent places in the area, like Coors or Intel, \$5 million is the minimum for insurance coverage. That standard puts the onus on the contractor/operator to insure competent personnel are on site, and are capable of understanding and safely complying with all of operating procedures and regulations.

2nd, In attachment A article 12-700 S. 3)a) reference to operator notification of a leak "immediately" should be further defined as a MAXIMUM within 24 hours, rather than a minimum. Perhaps the same for an "out of service" notification due to test failure? Though that may be a less serious, it seems a maximum time duration should be defined, rather than allowing the operator to define "immediately"

Cheers,

Mike Duffy
mkduffy12@gmail.com
303.859.9851

From: andrew oconnor
To: [Boulder County Oil and Gas Comment](#)
Subject: 2017-18 #13 Colorado Severance Tax on Oil and Natural Gas Extraction
Date: Tuesday, March 14, 2017 11:44:04 AM
Attachments: [Colorado Oil and Natural Gas Severance Tax Initiative.docx](#)

Please find attached Initiative 2017-18 #13 Colorado Severance Tax on Oil and Natural Gas Extraction, which has a first hearing scheduled for March 24 at 1:30 pm before the Colorado House of Representatives. Please add this to the record. I would like the Boulder Board of County Commissioners to consider collecting a 10% severance tax on any oil or natural gas extraction in Boulder County.

Thank you.

Andrew J. O'Connor

**INITIATIVE 2017-18 #13 COLORADO SEVERANCE TAX ON OIL AND NATURAL
GAS EXTRACTION**

“SHALL STATE TAX REVENUE BE INCREASED ANNUALLY BY AN AMENDMENT TO COLORADO REVISED STATUTES CONCERNING SEVERANCE TAX ON OIL AND GAS EXTRACTED IN THE STATE AND IN CONNECTION THEREWITH FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2018, CHANGING THE TAX TO 10% OF TOTAL GROSS INCOME FROM THE SALE OF OIL AND GAS EXTRACTED IN THE STATE WHEN THE AMOUNT OF ANNUAL GROSS INCOME IS AT LEAST \$200,000.00; ELIMINATING THE CREDIT AGAINST THE SEVERANCE TAX FOR PROPERTY TAXES PAID BY THE OIL AND GAS INDUSTRY AND INTEREST OWNERS, ELIMINATING THE AD VALORUM TAX DEDUCTION AND STRIPPER WELL EXEMPTION THAT QUALIFIES WELLS FOR AN EXEMPTION FROM THE TAX; EXEMPTING REVENUES FROM THE TAX AND RELATED INVESTMENT INCOME FROM STATE AND LOCAL GOVERNMENT SPENDING LIMITS; AND REQUIRING THE TAX REVENUES TO BE CREDITED AS FOLLOWS: (A) 22% TO THE SEVERANCE TAX TRUST FUND, (B) 22% TO THE LOCAL GOVERNMENT SEVERANCE TAX FUND, AND (C) 56% TO A NEW SEVERANCE TAX STABILIZATION TRUST FUND OF WHICH 30% IS USED TO FUND SCHOLARSHIPS FOR COLORADO RESIDENTS ATTENDING STATE COLLEGES AND UNIVERSITIES, 30% IS USED TO FUND KINDERGARTEN AND ELEMENTARY SCHOOL EDUCATION, 15% TO FUND MONITORING OF AIR POLLUTION IN COUNTIES AND MUNICIPALITIES BEARING THE BRUNT OF FRACKING-RELATED POLLUTION, 10% TO FUND RENEWABLE ENERGY; 15% TO FUND MEDICAL TREATMENT OF RESIDENTS SUFFERING FROM THE NEGATIVE HEALTH IMPACTS OF OIL AND GAS OPERATIONS?”

From: leafbud@comcast.net
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking moratorium comments
Date: Tuesday, March 14, 2017 11:45:25 AM

Hello County Commissioners,

My name is Deborah Bernardoni and I live in Boulder, CO. I first want to thank you for producing regulations that will reduce the impacts of fracking within the framework of the present state law. These are vital to our health and the value of our county. I also want to thank you for defending our county against the attempt to end our present moratorium prematurely.

I want to encourage you to add a prohibition of deep well wastewater injection within our county borders. We know such activity has led to earthquakes in Oklahoma. I also ask you to make sure that sufficient funds are budgeted for the increased air, water and soil monitoring required in the regulations. And I ask that you encourage boulder country municipalities to avoid and deter any sales of water to frackers.

Clean water is needed for much more important causes - people, livestock, farming, the environment, etc. - than for fracking. Do not be tempted by the extra revenue from selling our precious water.

Thank you,
Deborah Bernardoni
80304

From: jan larsen
To: [Boulder County Oil and Gas Comment](#)
Subject: Fracking Moratorium
Date: Tuesday, March 14, 2017 11:51:01 AM

Commissioners,

Please oppose the Oil & Gas Industry efforts to profit from polluting our air & water. There is ample gas supply and these companies continue to be highly profitable while ignoring the rights of ordinary citizens of Colorado. Your job is to protect us!

Jan A Larson
Longmont , Co.

From: Gorman Fuller
To: [Boulder County Oil and Gas Comment](#)
Cc: [Mary Gorman](#)
Subject: oil and gas drilling regulations
Date: Tuesday, March 14, 2017 11:58:34 AM

To all members,

I am writing to urge Boulder County to pass regulations that will reduce the impacts of fracking within the framework of present state law. I know you will come under considerable pressure from the industry and the State to water down these regulations. Please stand strong for the health and wellbeing of us all, thank you.

Two ways of slowing down this take over by the industry/state would be to prohibit deep well wastewater injection within the county borders, and encourage Boulder County municipalities NOT to sell their water to the fracking industry.

Please allocate sufficient funds for the increased air, water, and soil monitoring.

Thank you and please stand strong against the dark force,

Paul Fuller

303-440-6374