

DISTRICT COURT, BOULDER COUNTY,
COLORADO

1777 Sixth Street
Boulder, CO 80302

Plaintiff: PEOPLE OF THE STATE OF
COLORADO *ex rel.* CYNTHIA H. COFFMAN, in
her official capacity as Colorado Attorney General;

Plaintiff: THE STATE OF COLORADO;

Plaintiff-Intervenor: COLORADO OIL AND
GAS ASSOCIATION;

Plaintiff-Intervenor: AMERICAN PETROLEUM
INSTITUTE

v.

Defendant: COUNTY OF BOULDER,
COLORADO;

Defendant: THE BOARD OF COUNTY
COMMISSIONERS OF BOULDER COUNTY.

▲ COURT USE ONLY ▲

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Case No. 2017CV030151

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Joint Partial Opposition to Boulder's Motion for Extension of Time

Plaintiffs and Plaintiff-Intervenors partially oppose Boulder's request for additional time to respond to the pending Motions for Summary Judgment. Plaintiffs and Plaintiff-Intervenors do not oppose a two-week extension to accommodate opposing counsel's travel plans. But Plaintiffs and Plaintiff-Intervenors oppose Boulder's request that its response to the pending Motions for Summary Judgment be postponed until after the Court rules on Boulder's Motions to Dismiss. Mot. for Extension ¶¶ 2–7. The Rules of Civil Procedure expressly contemplate motions for summary judgment within 21 days of the commencement of the action, which is necessarily prior to rulings on motions to dismiss. C.R.C.P. 56(a).

As will be explained in the forthcoming responses to the Motions to Dismiss, there is no merit to Boulder's argument that this Court lacks subject matter jurisdiction due to mootness. This case presents a live dispute, and Boulder's ongoing Moratorium continues to harm the state interests that the Colorado Supreme Court recognized as dispositive in *City of Longmont v. Colo. Oil & Gas Ass'n*, 369 P.3d 573 (Colo. 2016) and *City of Fort Collins v. Colo. Oil & Gas Ass'n*, 369 P.3d 586 (Colo. 2016).

Additionally, Boulder's Motions to Dismiss are premised on the assertion that the Moratorium must be viewed as two separate legislative acts. The Motions for Summary Judgment deal directly with that issue and show, based on the undisputed fact that Boulder has prohibited new oil and gas development for over five years, that the question is irrelevant. This case presents a straightforward legal dispute:

whether Boulder's continuous five-year prohibition on new applications for oil and gas development violates clearly established state law. The Motions for Summary Judgment, if granted, will fully resolve this case and consideration of the Motions for Summary Judgment will therefore inform and assist in the disposition of the Motions to Dismiss. The Court should allow briefing on both sets of Motions to proceed in parallel.

For these reasons, the Court should deny Boulder's request that its response to the Motions for Summary Judgment be postponed until after the Court rules on the Motions to Dismiss.

Dated March 24, 2017.

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/s/Frederick R. Yarger

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **Joint Partial Opposition to Boulder's Motion for Extension of Time** upon all parties herein by Colorado Courts E-Filing this 24th day of March, 2017 addressed as follows:

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