

**RESOLUTION 2014-56**

**AMENDING THE TEMPORARY MORATORIUM IMPOSED IN RESOLUTION 2012-16 AND CONTINUED IN 2012-46, 2013-18, 2013-50, AND 2013-55 PERTAINING TO BOULDER COUNTY'S PROCESSING OF OIL AND GAS DEVELOPMENT APPLICATIONS IN THE UNINCORPORATED COUNTY**

**WHEREAS**, according to the Colorado Oil and Gas Conservation Commission ("COGCC"), the September 2013 flooding caused 2,658 wells statewide to be shut-in in anticipation of flooding; COGCC received approximately 50 reports statewide documenting flood-caused spills greater than COGCC's reportable quantities, including 14 "notable" flood-caused spills of oil or condensate in amounts greater than 20 barrels; COGCC is tracking a total of 230 sites statewide (including the 50 reportable spill sites) where, according to some source of information available to COGCC, a spill potentially could have occurred; and as of April 2014 COGCC records indicate a statewide total of 1,149 barrels of oil or condensate spilled during the flooding and a total of 1,035 barrels of produced water also spilled; and

**WHEREAS**, Boulder County commissioned its own third party assessment of oil and gas facilities within the county impacted by the floods, which did not reveal any major spills or releases within Boulder County but did identify some damaged facilities requiring cleanup or abandonment; and

**WHEREAS**, oil and gas operators with existing facilities located in Boulder County have recently contacted the County to request permission to relocate certain of those facilities further away from flood-prone areas to reduce the risks to public health, safety, welfare and the environment when future severe weather events occur; and

**WHEREAS**, the proposed work is not allowed under the temporary moratorium currently in place per Boulder County Board Resolution 2013-55 because it involves more than a "minor modification to an existing permit"; and

**WHEREAS**, in certain other instances, oil and gas operators have proposed to plug and abandon facilities; although the current moratorium exemptions do not address such work, the moratorium on new oil and gas development was not intended to prevent plugging and abandonment of existing facilities; and county staff has recommended the Board amend the moratorium by adding an exemption that expressly allows plugging and abandonment and related work to occur; and

**WHEREAS**, at a public hearing on June 12, 2014, staff recommended that the Board of County Commissioners approve an amendment to the current temporary moratorium to allow work on existing facilities intended to best protect the public health, safety, and welfare and the environment, in the discretion of the Land Use Director; and

**WHEREAS**, at the same public hearing on June 12, 2014, staff recommended that the Board of County Commissioners add language to the moratorium resolution detailing a process for requesting an administrative exemption to the moratorium, to be approved by the Land Use Director, and the Board provided further guidance to staff on how that process should work and directed an amendment to the current temporary moratorium to allow work on existing facilities intended to best protect the public health, safety, and welfare and the environment, in the discretion of the Land Use Director.

**NOW THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Boulder County that the temporary moratorium imposed in Resolution 2012-16 and continued in 2012-46, 2013-18, 2013-50, and 2013-55 pertaining to Boulder County's processing of oil and gas development applications in the unincorporated county is amended as follows:

1. **Types of Work Exempted.** Section 5 of Boulder County Board Resolution 2013-55 is hereby amended to add a section (e) and a section (f), such that the entire list of activities exempt from the moratorium now reads:

“As before, the Temporary Moratorium does not apply to the following:

- a. Any complete application for oil or gas exploration, development, or production currently being processed by the Land Use Department, which may continue to be processed and reviewed as provided in the Land Use Code.
  - b. Any application for oil or gas exploration, development, or production already approved by the Land Use Department prior to the effective date of this Resolution where such approval is validly maintained thereafter.
  - c. Development that possesses either a statutory or common law vested right.
  - d. Minor modifications to existing permits.
  - e. Plugging and abandonment of existing facilities, with the exception that associated rerouting of flowlines, gathering lines, or other pipelines will be subject to section 4-514.E of the Land Use Code, unless the Director waives one or more of the requirements of that section as inapplicable in light of the nature and extent of the proposed work.
  - f. Work on existing oil and gas facilities which the Land Use Director in his sole discretion deems necessary to either (i) repair facilities impacted by acts of God such as, without limitation, the flooding and severe weather events of September 2013, or (ii) reconfigure or relocate facilities in a manner that better protects public health, safety, and welfare and the environment. For purposes of this Section, “oil and gas facilities” means 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 gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes; or any other oil and gas operation which may cause significant degradation. In no case may the Land Use Director approve repairs, reconfiguration, or relocation under this subsection where the work would involve drilling a new well or hydraulic fracturing.”
2. **Request for Exemption.** If an oil and gas operator believes certain activity is not subject to the temporary moratorium given the exceptions listed in Section 5 as amended by this Resolution, the operator must submit a request for exemption in writing to the Land Use Director. The request must include at a minimum:
    - a. a site plan showing the existing and planned location of the facilities;
    - b. a description of the desired work;

- c. the reason(s) why the work is not subject to the moratorium including any benefit to public health, safety, and welfare and the environment;
  - d. the time and dates when the work would occur;
  - e. the duration of the work;
  - f. any mitigating measures to reduce impacts to neighbors and other affected parties;
  - g. a list of all parties that will receive notice from the operator prior to commencement of work;
  - h. documentation that the operator can obtain and maintain all other required local, state, or federal permits, including without limitation county Floodplain Development Permits and any permits required by COGCC, CDPHE, and the U.S. Army Corps of Engineers.
3. **Process for Evaluating Exemption Request.** Work eligible for an administrative exemption from the moratorium may only proceed upon written approval of the Land Use Director.
- a. In evaluating a request for an exemption, the Director will use the Standard DPR Approval Standards in section 12-703 of the Boulder County Land Use Code as well as the pipeline regulations in 4-514.E as a guide. Where two or more of the standards in 12-703 or 4-514.E conflict when applied to the proposed work, the Director shall analyze the applicability and importance of each of the conflicting standards under the specific facts of the application and make a reasonable attempt to balance the conflicting standards in reaching a decision.
  - b. in considering an exemption request, the Director shall notify adjacent property owners. The Director shall not issue the approval for seven days following such notification and shall consider any comments received by the public. To the extent necessary, the Director may refer requests for administrative exemptions from the moratorium to other agencies.
  - c. Where appropriate given the nature and extent of the proposed work, the Director may impose reasonable conditions of approval to mitigate impacts, using sections 12-703, 12-800, and 4-514.E, as a guide.

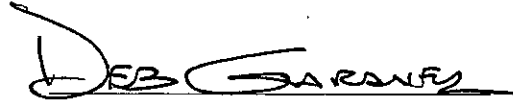
A motion to this effect was made at the 6/24/14 <sup>Business</sup> public meeting by Commissioner Jones, seconded by Commissioner Gardner, and passed by a 3-0 vote of the Board.

ADOPTED on this 24 day of June, 2014.

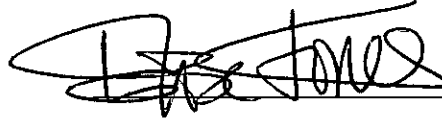
**BOARD OF COUNTY  
COMMISSIONERS OF BOULDER  
COUNTY:**



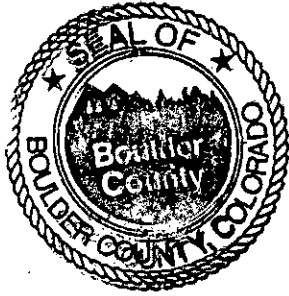
Cindy Domenico, Chair



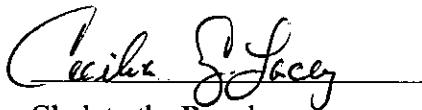
Deb Gardner, Vice Chair



Elise Jones, Commissioner



ATTEST:



Clerk to the Board