



Office of the County Attorney

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October 4, 2017

Jason Oates
Crestone Peak Resources, LLC
10188 E. I-25 Frontage Road
Firestone, CO 80504
jason.oates@crestonepr.com

VIA EMAIL ONLY

Re: Drones and landowner communications

Dear Mr. Oates:

Boulder County is concerned about the accuracy of communications from Crestone Peak around the CDP process and specifically around the recent drone flights in the CDP area. Several times Crestone has mischaracterized communications with the county or the county's role in Crestone's project, misleading our residents. In addition, we have not been fully informed of Crestone's plans to fly drones to collect aerial information in the CDP area and request proof of Crestone's legal right to do so. Please respond to the following.

First, in Crestone's September 22 Notice to Landowners, Crestone suggested that the county would hold public meetings during the CDP process. Specifically, the letter stated that Crestone was "committed to open, transparent communication . . . throughout *this process*," clearly referring to the CDP process with the COGCC described in the preceding paragraph. The letter went on to say that "this will include" – again referring clearly to the CDP process – "public meetings held by Boulder County and the COGCC." The CDP process requires Crestone – not Boulder County – to hold two public meetings. Therefore, the letter inappropriately creates landowner expectations that Boulder County will hold public meetings as part of the CDP process and suggests that the county is somehow partnering with Crestone in the CDP process. By emails of September 22 and 26, I requested that this misstatement be corrected and Crestone's lawyer responded by claiming that the misleading statement was a reference to public meetings that might be involved in the county's own permitting process. Because the County's Special Review Process was not mentioned in the letter and Crestone has yet to apply for any permit from the County, your lawyer's response, like other Crestone communications, was inaccurate and misleading. Therefore, we have publicized the fact of this misleading statement on our website and shared our concerns with the COGCC.

Second, on October 3, 2017, we learned from a county resident in the CDP area that Crestone put out recorded calls to all landowners in the CDP area regarding drone flights. That message stated that Ascent had "worked with Boulder County Parks and Open Space to obtain all required permits to conduct this activity." This is misleading in the extreme. Boulder County issued no permits to Ascent at any time to conduct drone flights. Moreover, the only communications regarding drone flights with the county related solely to the four county-owned properties on which Crestone has indicated initial interest in development and

made no reference to flying drones throughout the CDP area. Again, the misleading nature of the statement regarding permits gives CDP residents erroneous expectations of Crestone's activities and the county's role in the CDP process. We will be publicizing this misstatement on our website as well.

In the future, send all communications to landowners in the CDP area to myself and Kim Sanchez, the county's LGD, so that we can point out any additional misstatements and also prepare to answer resident questions when they arise.

Finally, we understand from the recorded voicemail to residents that Crestone will be overflying the entire CDP area with its drones. Prior to this notice from a resident, we understood Crestone to be flying only over the four county-owned properties previously mentioned. Without waiving any rights to contest this issue at a later date, it appears that the Oil and Gas Conservation Act may support Crestone's right to aerially "explore" the surface of parcels where Crestone owns the mineral rights. However, in its conceptual CDP submissions to the COGCC, Crestone stated that it owns an average of 38% of the mineral rights in the entire CDP area and therefore does not have the right to "explore" for possible development in 62% of that area. While the county does not control the air space or access to private lands, it has concerns about what representations may be made to the public regarding Crestone's rights to enter private lands and conduct its drone surveillance. Therefore, send proof of Crestone's mineral ownership throughout the CDP area to this office before further exploration takes place.

Sincerely,



Kate A. Burke
Assistant County Attorney

cc: Eric Lane
Janis Whisman
Dale Case
Kim Sanchez
Jamie Jost
Bob Bresnahan