

# Colorado Oil and Gas Task Force Final Report

Prepared by the Keystone Center

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## Background

The Colorado Oil and Gas Task Force was established by Executive Order B 2014-005 (Appendix A1) signed by Governor John W. Hickenlooper on September 8, 2014. The Executive Order established the following duties for the Task Force:

- Examine the many facets of the issues surrounding oil and gas operations and provide recommendations for policy or legislation on how best to achieve goals.
- Identify and strive to reach agreement on recommendations for policy or legislation to harmonize state and local regulatory structures as to activities associated with oil and gas operations, with particular focus on the following objectives:
  - The benefit of oil and gas development for the state's economy;
  - Protecting public health, water resources, the environment and wildlife;
  - Avoiding duplication and conflict between state and local regulations of oil and gas activities; and
  - Fostering a climate that encourages responsible oil and gas development.
- Issues the Task Force addresses shall include:
  - Distances between oil and gas wells and any occupied structure, or other restrictions on the location of an oil or gas well and its related production facilities, including but not limited to the requirement in COGCC Rule 604(c)(2)(E) regarding setting multiple well-pad facilities as far away as possible from occupied structures;
  - Adoption of law or regulations by a local jurisdiction that are more or less stringent than those adopted by the state government;
  - Adjustments to regulations that may reflect population density, geographic diversity and the unique conditions that may distinguish urban, suburban, and rural communities;
  - Interaction between surface owners and energy companies when planning and locating oil and gas facilities;
  - Floodplain restrictions;
  - Noise abatement;
  - Operational methods employed by oil and gas activities;
  - Air quality and dust management;
  - Traffic management and impacts; and
  - Fees, financial assurances, and inspection.
- The Task Force shall explore options that address the issues above, and that help clarify and/or better coordinate the regulatory jurisdiction over activities associated with oil and gas operations between state and local jurisdictions. Such options examined shall include, but are not limited to:
  - Memorandums of agreement, intergovernmental agreements, and letters of cooperation and consent between the state and local jurisdictions;
  - Changes to existing laws or regulations; and
  - Suggested new laws and regulations.

## Task Force Members

The Task Force was comprised of twenty-one members, including two co-chairs; all of whom were appointed by the Governor (see Appendix A2). Aside from the co-chairs, the nineteen additional Task Force members represented the following organizations or subject-matter areas, as follows: six members representing the oil and gas industry, the agricultural industry, and the home building industry; six members representing local government and the conservation community; and seven members representing a variety of interests. Approved alternates contributed in place of Task Force Members throughout the meetings; however, alternates were not able to provide a final vote on recommendations for their representative.

### Task Force Committee Members

- **Randy Cleveland** (co-chair), *President, XTO Energy*
- **Gwen Lachelt** (co-chair), *La Plata County Commissioner*
- **Sara Barwinski**, *Weld Air and Water*
- **Bernie Buescher**, *Former Secretary of State*
- **Peter Dea**, *President & CEO, Cirque Resources, LP*
- **Jim Fitzgerald**, *Rancher*
- **Russ George**, *President, Colorado Northwestern Community College*
- **Jon Goldin-Dubois**, *President, Western Resources Advocates*
- **Brad Holly**, *Vice President of Operations, Rocky Mountain Region, Anadarko Petroleum Corporation*
- **Dan Kelly**, *Vice President of Wattenberg Business Unit, Noble Energy, Inc.*
- **Rebecca Kourlis**, *Executive Director, Institute for the Advancement of the American Legal System*
- **Steve Moreno**, *Weld County Commissioner*
- **Perry Pearce**, *Manager, State Government Affairs, Rocky Mountain Region, Conoco Phillips*
- **Kent Peppler**, *President, Rocky Mountain Farmers Union*
- **Pat Quinn**, *Former Mayor of Broomfield, Colorado*
- **Bruce Rau**, *Vice Chairman & Treasurer, Colorado Association of Home Builders*
- **Jeff Robbins**, *Attorney, Goldman, Robbins, & Nicholson, P.C.*
- **Matt Sura**, *Attorney, Law Office of Matthew Sura LLC*
- **Will Toor**, *Director of Transportation Programs, Southwest Energy Efficiency Project*
- **Elbra Wedgeworth**, *Chief Government and Community Relations, Denver Health*
- **Scot Woodall**, *President & CEO, Bill Barrett Corporation*

### Task Force Alternates

**Tom Kourlis** (for Rebecca Kourlis); **Lem Smith** (for Peter Dea); **Lisa Winn** (for Randy Cleveland); **Ken Wonstolen** (for Scot Woodall); and **Duane Zavadil** (for Scot Woodall)

## Task Force Recommendations

The following nine recommendations have been approved by the Colorado Oil and Gas Task Force as its final recommendations to the Governor. Each recommendation included in the Task Force Recommendations exceeded the two-thirds voting threshold established by the Governor.

### RECOMMENDATION TO FACILITATE COLLABORATION OF LOCAL GOVERNMENTS, COLORADO OIL AND GAS CONSERVATION COMMISSION AND OPERATORS RELATIVE TO OIL AND GAS LOCATIONS AND URBAN PLANNING

(Recommendation #17)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency:** Colorado Oil and Gas Conservation Commission (COGCC)

**Recommendation:** *Recommend COGCC rulemaking to address Local Government collaboration with Operators concerning locations for “Large Scale Oil and Gas Facilities” in “Urban Mitigation Areas,” as defined in COGCC rules.* The COGCC should initiate a rules making that would address three related issues:

**First**, it would define and adopt a process for enhancing local government participation during the COGCC Application for Permit to Drill (“APD”) process concerning location(s) of Large Scale Oil and Gas Facilities in Urban Mitigation Areas, consistent with the proposal.

**Second**, the rulemaking would also define what constitutes “Large Scale Oil and Gas Facilities” taking into consideration scale, proximity, and intensity criteria.

**Third**, address the authority of, and procedures to be used by the Director of the COGCC to regulate the location when permitting Large Scale Oil and Gas Facilities for the purpose of reducing impacts to and conflicts with communities. This shall include siting tools to locate facilities away from residential areas when feasible. Where siting solutions are not possible, the Director would require mitigations to limit the intensity and scale of the operations, as well as other mitigations, to lessen the impacts on neighboring communities.

**Process:** This process is intended to provide interested local governments a defined and timely opportunity to participate in the siting of such large-scale multi-well oil and gas production facilities,

before an Operator finalizes such locations. This would also provide an opportunity to address location of right-of-way for pipelines, facility consolidation, access routes, and to otherwise mitigate impacts within the Urban Mitigation Area. The purpose of this new rule would be to create an incentive for early resolution of concerns about siting in urban areas, and could be done as part of an Operator's permitting process at the COGCC. Unless an agreement was already in place with an interested affected local government concerning locations within its boundaries, an Operator must obtain local government consultation during the Operator's COGCC APD approval process concerning such facilities in Urban Mitigation Areas. Other local governments may continue to use the current local government designee ("LGD") comment, permit condition and hearing process.

Nothing in this recommendation is intended to or shall be interpreted to alter any existing land use authority local government may have over oil and gas operations.

As set forth, this process would not apply in cases where the Operator and the local government have already negotiated an MOU, site plan review, comprehensive development plan or have otherwise agreed on the location of a multi-well production facility.

When an Operator intends to permit an oil and gas location that meets the criteria for the process, the following steps would be involved:

1. If a local government has in place a comprehensive plan or master plan that specifies locations for oil and gas operations, and if an application would be consistent with the terms of that plan, the COGCC shall include a provision in its rules that provides for expedited consideration of the application.
2. Prior to selecting an oil and gas location, the Operator must offer to meet with the LGD and a designated representative of the COGCC to seek location government consultation concerning locations for such large-scale facilities. Such consultation, based on the local government planning perspectives, would be designed to anticipate community concerns. Should the local government decide to use this process, the first meeting begins a collaboration by which the Operator and the local government, and recognizing the requests and concerns of the surface owner on whom such facilities may be located, can agree on site location and operational practices. These agreements can be documented in:
  - a. Memorandum of Understanding (MOU)
  - b. Best Management Practices (BMP's) on the COGCC permit
  - c. Comprehensive Drilling Plan (CDP)
  - d. Unconventional Resource Units
  - e. Local Government Land Use Permit
  - f. Or any other mechanism in which agreement is established
3. Operator and local government are required to work towards a compromise concerning locations, and the Operator is required to submit the agreement reflected in paragraph 1 upon submittal of an Oil and Gas Location Assessment ("OGLA"; Form 2A) to the COGCC, or otherwise indicate whether the local government has approved the location for the multi-well production facility.

The COGCC staff and local government liaison would be charged, if necessary, with convening meetings of the local government, Operator, and COGCC staff to consider alternative locations

for multi-well production facilities and to encourage locations that consider distances between building units and/or high occupancy units

4. A local government's request concerning location must be based on a set of established set of reasonable standards or criteria addressing land use and surface related issues resulting from the proposed oil and gas operation, balanced with consideration of responsible development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources, and include consideration of surface and mineral owner wished.
5. If a compromise cannot be reached concerning proposed locations within reasonable time frame (to be determined during rulemaking) after the first meeting, but before the OGLA is submitted, the Operate shall offer to engage in mediation with the local government. If the local government agrees to mediation, they shall jointly select a mediator or mediators and shall share in the cost of mediation. Upon selection of a mediator(s), the process shall conclude within 45 days unless the two parties jointly agree to an extension. The parties may request the assistance of COGCC staff, and if they do so the COGCC Director shall exert his or her best efforts to provide the requested technical assistance. If mediation does not occur, the Operator may submit its OGLA and APD for processing and approval.
6. If the parties reach agreement, they may memorialize that agreement in any of the forms outlined above.
7. If the parties are unable to reach agreement, on their own or with the mediation, and the timing process of mediation has lapsed, the Operator will finalize its OGLA with its settled location and then will be required to present its OGLA to the full COGCC at an expedited hearing. The COGCC will hear evidence from the local government, the Operator and the COGCC staff before the OGLA can be approved. In no case will the hearing on the OGLA be greater than 90 days from the first meeting with the local government.

In order to approve the OGLA, the COGCC must weigh the data and information presented from both parties as the proposed location(s), including the standards discussed in paragraph 4.

**Rationale:** The Task Force heard concerns from numerous parties about the location of large multi-well production facilities in close proximity to urbanized areas. The scale and intensity of multi-well production facilities that are in close proximity to neighborhoods has led to a need for local governments to represent their constituents to a greater degree than in the past. Local governments have expressed the need for more involvement earlier in the process of permitting oil and gas locations, in particular, to the siting of large-scale multi-oil and gas well production facilities in order to represent land use impacts and community concerns (such as those of nearby homeowners, schools, etc.). The above outlined process allows for local governments to get advance notice from Operators and begin discussions with Operators prior to locations being selected. It provides a mechanism for local governments to influence locations prior to permitting at the COGCC and establishes a mechanism for



collaboration among local governments, oil and gas Operators, and the COGCC. This recommendation is consistent with COGCC Director Matt Lepore's suggestion, and that of other Task Force members, including Matt Sura, that the Task Force considers scale, proximity, and intensity in addressing location of multi-well production facilities.

**RECOMMENDATION TO INCLUDE FUTURE OIL AND GAS DRILLING AND PRODUCTION FACILITIES IN  
EXISTING LOCAL COMPREHENSIVE PLANNING PROCESSES**  
(Recommendation #20)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency or General Assembly:** Colorado Oil & Gas Conservation Commission (COGCC)

**Description:** Proposal to require operator registration with certain Local Government Designees (“LGD”), and upon the request of a municipal LGD, submission of operational information for the purpose of incorporating potential oil and gas development into local comprehensive plans. Key elements of this recommendation include:

1. Beginning on January 1, 2016, all operators registered with the COGCC shall also register with the LGD of each municipality in which it has current or planned oil and gas operations. Upon the request of a municipal LGD, the operator shall provide the following information, with a copy to the COGCC Local Government Liaison (“LGL”):
  - a. Based on the current business plan of the operator, a good faith estimate of the number of wells (not including non-operated wells) that such operator intends to drill in the next five years in the municipal jurisdiction, corresponding to the operator’s internal analysis of reserves classified as “proved undeveloped” for SEC reporting purposes.
  - b. A map showing the location of the operator’s existing well sites and related production facilities; sites for which operator has, or has made application for, COGCC permits; and, sites identified for development on the operator’s current drilling schedule for which it has not yet made application for COGCC permits.

The plan provided to the LGD is acknowledged to be subject to change at the operator’s sole discretion, and shall be updated by the operator if materially altered.
2. The Planning Department of participating municipalities will prepare a comprehensive map of the potential future drilling and production sites within its jurisdiction, overlaid on the existing Comprehensive Plan Map.
3. Beginning on July 1, 2016, and upon material alteration, the municipality will provide the Comprehensive Plan Map, overlaid with future drilling and production sites to each of the registered operators and to the LGL. On such map, the municipality will identify sites that it considers compatible with the current and planned future uses of the area; sites where it anticipates minor

issues to be resolved by negotiation with the operator; and, sites where it anticipates significant conflicts with current and planned future uses as indicated in the Comprehensive Plan.

4. Disputes between local governments and operators will be resolved through mediation as more thoroughly described in Recommendation 13b.

**Rationale:** Local governments throughout the state have complicated and lengthy processes to develop Comprehensive Plans. The plan ultimately reflects the community's goals and aspirations in terms of land development and preservation. The plan guides public policy in terms of transportation, utilities, land use, open space, recreation and housing.

Oil and gas development is within the purview of the State of Colorado, and long-term planning to the extent it is performed, is often disjointed and not coordinated with local governments, most acutely in municipalities. Accordingly, when oil and gas development comes to a municipality, it can result in conflict with the existing, documented, community goals and aspirations. This proposal is to recommend the framework which will facilitate incorporation of drilling plans into municipal comprehensive planning.

**RECOMMENDATION TO ENHANCE THE LOCAL GOVERNMENT LIAISON AND LOCAL GOVERNMENT  
DESIGNEE ROLES AND FUNCTIONS**  
(Recommendation #25)

TOTALS:		Yes: 18		No: 3	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	N
Dea	Y	Lachelt	N	Sura	Y
Fitzgerald	N	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency:** Colorado Oil & Gas Conservation Commission (COGCC)

**Recommendation:** The COGCC should work to ensure that the Local Government Designee (LGD) and Local Government Liaison (LGL) functions are fully utilized and that they are adequately and properly resourced. Specifically, the COGCC should undertake a review that would include:

- Outreach to local governments that host oil and gas development to better understand barriers to greater utilization of the LGD/LGL functions.
- Enhancing education and outreach to local governments on how to engage the LGD/LGL process.
- Expanding the LGD comment period on APDs and appropriate Conditions of Approval (COA) to up to 60 days.
- Offering financial or other support to train LGDs
- Application of Energy and Mineral Impact Assistance Funds to assist local governments with the creation of LGD positions.

**Rationale:** The LGL/LGD program has proven successful as a conduit for communication between local government and the COGCC and as a mechanism for local communities to realize mitigation of site and community specific impacts arising from development. Also, COAs imposed by the COGCC through LGD input become enforceable by the COGCC thus alleviating the need for local governments to have dual or redundant jurisdiction and enforcement. Some local governments though, do not have adequate resources to develop an LGD position or cannot engage as effectively as they would like because the process does not offer adequate time for meaningful participation or is not as efficient or transparent as it could be.

**RECOMMENDATION TO INCREASE COGCC FULL TIME STAFF, INCLUDING INSPECTORS, FIELD OPERATIONS, ENFORCEMENT, AND PERMITTING STAFF**  
(Recommendation #27)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency or General Assembly:** General Assembly – spending authority

**Description:** The General Assembly should authorize COGCC to hire 12 additional full time employees (FTEs) to increase the current number of staff responsible to inspect oil and gas wells, conduct environmental investigations and response actions, conduct intake of and track citizen complaints, process permit applications, and perform data analysis to support data and information requests from the legislature, media, public, industry, and other stakeholders.

Based on information from COGCC, the FTE would be allocated to agency work units as follows:

- Field Inspectors: 3
- Environmental Unit (environmental protection specialists): 3
- Engineering Unit: 3
- Hearings Unit: 2 (1 complaint intake specialists; 1 hearings officer)
- Info Tech: 1 (junior data analyst)

**Rationale:** Increasing the number of inspectors will allow COGCC to inspect all active wells more frequently, and will allow COGCC to keep pace with the ever-increasing number of wells in the state. Colorado currently has almost 2,000 wells for every inspector at COGCC, which is a higher well-to-inspector ratio than many other states. In addition, COGCC faces a growing backlog of environmental projects; spill reporting thresholds were lowered recently, which has increased the number of response actions that COGCC must monitor. Similarly, recent amendments to setback and notification rules have increased the complexity of drilling and location permits, and the average time to process permit applications is increasing. COGCC does not currently have staff dedicated to processing citizen complaints, which is an important aspect of the agency's public engagement. COGCC should have 1 complaint intake specialist and 1 hearing officer dedicated to complaint intake and processing. Finally, COGCC receives an ever-increasing number of requests for data from a variety of stakeholders, including media, non-governmental organizations, legislators, industry, staff members, and the public. COGCC manages an enormous amount of data, and conducting the data processing to promptly and accurately respond to information request requires database management specialists. With only data specialist on staff currently, COGCC cannot meet the growing demand for information.

Increasing the COGCC staffing levels as discussed will enhance the public's confidence in the agency's ability to timely inspect wells, enforce violations of Commission rules, and respond to complaints and spills.

**RECOMMENDATION RELATED TO CDPHE STAFFING, A HEALTH COMPLAINT LINE, A HUMAN HEALTH RISK ASSESSMENT, AND A MOBILE AIR QUALITY MONITORING UNIT**  
(Recommendation #31b)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency:** Colorado Dept. of Public Health and Environment and appropriations

**Description:** There are four elements to this recommendation.

**First**, the Task Force is supportive of the Colorado Department of Public Health and Environment's (CDPHE) request to the General Assembly to convert five temporary FTEs to permanent status so that the Department can continue its air monitoring and leak detection activities. These employees have been trained in the use of infra-red cameras to detect potential leaks, an activity that will be increasingly important as operators and the agency phase in new air quality regulations adopted in February 2014.

**Second**, the Task Force supports CDPHE's recommendation to establish a health complaint and information line. The staff allocated to the complaint line would provide information on current oil and gas regulations, regulatory agency information, and links to public health studies. The data compiled by the complaint line staff would be used to compare the rate of occurrence of health complaints in particular areas and to determine if a higher level of response is warranted. could the Task forces recommends that processes should be developed for two tiers of response: Under Tier I, information would be collected from the complainant by trained staff. Under Tier II, CDPHE could initiate a study of ambient air quality at a particular site.

The Task Force encourages close cooperation between CDPHE and the OGCC in taking and responding to complaints, and encourages both agencies to promptly forward to operators information on specific complaints to enable a rapid evaluation by operators in the area from which a complaint arises.

**Third**, the Task Force encourages CDPHE to seek authorization and funding and urges the General Assembly to consider providing support for a mobile air quality monitoring unit and associated staffing. A mobile air monitoring unit could be used in responding to Tier II complaints and could be dispatched to defined locations to monitor ambient air quality and to help determine potential sources. The combination of a health complaint line and mobile air

quality monitoring would enable CDPHE to enhance its response to health complaints and reassure the public about health concerns related to oil and gas development.

**Fourth**, the Task Force encourages CDPHE to seek funding from the General Assembly and other sources to conduct a human health risk assessment. Such an assessment or assessments should be conducted or overseen by CDPHE and should use the latest and most accurate data, including the air quality monitoring data from emission and dispersion studies currently being conducted by Colorado State University in Garfield County and the North Front Range, and shall be conducted in a manner to comply with current scientific standards. In addition, the Task Force urges CDPHE to review the existing peer-reviewed scientific literature to compile a summary of findings that are generally supported by that literature and which may be useful to concerned citizens pending the completion of a human health risk assessment.

**Rationale:** The Task Force heard from many citizens who expressed concern and uncertainty about potential human health risks associated with exposure to emissions from oil and gas activities. The Task Force believes citizens deserve and need accurate, credible, peer-reviewed scientific information to help them evaluate risk. The Task Force also heard from citizens some concern that it is sometimes difficult to know where they can get information about oil and gas activity; they also expressed concern that even when they filed complaints, they were unsure of what action a state agency took. This recommendation is intended to support CDPHE Executive Director Wolk's resource recommendation as presented to the Task Force to provide a complaint line capable of responding to citizen complaints, acquire a mobile air monitoring units, ensure adequate staff to respond to air quality complaints, and to cause a human health risk assessment to be conducted.



## RECOMMENDATION TO CREATE AN OIL AND GAS INFORMATION CLEARINGHOUSE

(Recommendation #41)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency:** Office of the Governor (Colorado Energy Office)

**Recommendation:** Establish a clearinghouse to communicate information regarding Colorado's oil and gas industry. Facilitate the distribution of accurate, unbiased information to foster an improved understanding of oil and gas industry activities, practices and the federal, state and local regulatory regime, including information on opportunities for local government and general public participation in regulatory decision making processes.

*Placement and information consolidation.* The Colorado Energy Office shall dedicate necessary resources to establish, maintain and periodically update an information clearinghouse available to local governments, the general public, oil and gas operators and other interested persons. Such clearinghouse shall provide real time information and statistics regarding all aspects of oil and gas development in Colorado, including permit review and consultation, drilling and completion practices, testing and monitoring practices, regulatory enforcement, repository of memorandums of understanding, environmental, social and economic impacts studies and analyses. Emphasis shall be placed on providing trustworthy information and fostering an improved understanding of opportunities and processes which allow local governments and the general public to participate in regulatory decision making processes. The clearinghouse shall include development and operation of a user-friendly interactive website and dedicated staff accessible by telephone and email to provide information and direction to interested parties.

**Rationale:** In order to facilitate greater transparency regarding oil and gas development in the State, a clearinghouse that provides relevant, trustworthy information can be a tool to help local government and the public better understand and participate in permitting processes, including hearings, comment periods, and other opportunities.

**RECOMMENDATION TO REDUCE TRUCK TRAFFIC ON PUBLIC STREETS, ROADS, AND HIGHWAYS FOR  
OIL AND GAS ACTIVITIES**  
(Recommendation #37)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency or General Assembly:** No rule or statute change is foreseen at this time

**Description:** There is uniform agreement that one of the most serious impacts of oil and gas activity involves the use of large trucks and trailers. While this is often times unavoidable and is common practice in virtually all business and industry, it should be a high priority to do everything to reduce truck traffic significantly. The issue is serious enough as to merit special attention, study and action.

This proposal is for COGCC and CDOT together to take the lead to convene a working group to investigate as fully as possible any and all steps that can and should be taken by government and industry to reduce the use of large trucks and trailers in oil and gas activities. The group should have full representation of all stakeholders, public and private. It is expected that legal issues concerning easements and rights of way for alternatives, such as pipelines, would be studied. A full range of incentives should also be explored.

## RECOMMENDATION TO GENERAL ASSEMBLY REGARDING AIR QUALITY RULES

(Recommendation #49)

TOTALS:		Yes: 20		No: 1	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**RECOMMENDATION:** The General Assembly should approve SB15-100, the 2015 Rule Review Bill, endorsing all new rules not otherwise legally invalid.

In February 2014, the Air Quality Control Commission adopted a set of regulations that establish controls of hydrocarbon emissions, including methane, from oil and gas operations throughout the state. These controls will help protect both the environment and public health by reducing harmful emissions during oil and gas drilling and production operations at well sites. Significantly, the proposed regulations presented to the Air Quality Control Commission for its consideration were negotiated between three major oil and gas companies and a lead environmental group, and these regulations as adopted received wide support from the oil and gas industry, environmental organizations, local governments, community groups, CDPHE and the Hickenlooper Administration.

**Rationale:** The intent of this recommendation is that SB 15-100 has been introduced in the state legislature. This bill, known as the “rule review” bill, is a bill introduced annually to postpone the expiration of all new state regulations adopted during the previous year. As introduced, SB 15-100 would allow the February 2014 oil and gas methane rules to continue, without expiration. Because these rules provide significant protections to both public health and the environment, and because these rules received widespread support from the oil and gas industry, local governments, community groups and environmental organizations, these methane regulations must be extended, and must not be allowed to expire.

## RECOMMENDATION TO IMPLEMENT A COMPLIANCE ASSISTANCE PROGRAM

(Recommendation #52b)

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Agency or General Assembly:** Colorado Oil and Gas Conservation Commission (COGCC)

**Description:** The COGCC should implement and emphasize a compliance assistance program to help operators comply with complicated and ever-changing operating rules and policies, and to assure that inspectors are enforcing those rules and policies in a consistent manner.

**Original Rationale:** Since 2008, the COGCC has engaged in extensive rulemaking and has implemented significant changes including increases in fines and penalties. The result is a complex and potentially confusing regulatory construct for operators and inspectors alike.

The objective is to assure compliance – not to create an inadvertent ‘gotcha’ climate. Operator compliance with rules is critical to the protection of public health, safety and welfare and the protection of the environment and wildlife. Thus, the COGCC should develop and implement a compliance assistance program to help operators understand and comply with COGCC rules, policies and NTOs. As part of this approach, the COGCC should create a system that allows operators to work with inspectors to timely and effectively cure rule violations prior to the issuance of citations or other enforcement activities.

**Rationale for change:** The COGCC has just engaged in lengthy rule-making concerning enforcement. The cure period was eliminated in lieu of a grace period following initial adoption of a regulation. Hence, I have omitted the cure period from this recommendation, but retained the primary thrust of the recommendation in the form of a compliance assistance program. I have added the purpose of assuring uniform enforcement, to address the likelihood of a number of new inspectors being added to the COGCC staff.

## Minority Report

The following proposals were considered for approval and received a final vote by the Task Force; however, these proposals did not receive the two-thirds approval necessary to become Recommendations of the Task Force and are encompassed in the minority report.

### RECOMMENDATION TO REQUIRE RESIDENTIAL DRILLING PLANS

(Recommendation #14)

TOTALS:		Yes: 9		No: 12	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency or General Assembly:** COGCC

**Description:** Residential Drilling Plans are intended to identify foreseeable oil and gas activities in a defined geographic area, facilitate discussions about potential impacts, and identify measures to minimize adverse impacts to public health, safety, welfare, and the environment from such activities.

- I. Triggers. Residential drilling plans will be required if the Relevant Local Government “opts in” to the program and one of the following conditions is met:
  - a. The proposal is within an Urban Mitigation Area
  - b. If a “Relevant Local Government has pre-emptively requested a residential drilling plan for that specific area based on anticipated development or public use of outdoor amenities.  
*NOTE: “RELEVANT LOCAL GOVERNMENT” should be expanded to include any municipal governments that have boundaries within 1,500 feet of the proposed location.*
  - c. If the Residential Drilling Plan is required by the COGCC oil and gas location assessment staff outside of an Urban Mitigation Area.
- II. Process.
  - a. Prior to selecting an oil and gas location, the operator must offer to meet with the local Government Designee (LGD) and a designated representative of the Colorado Oil and Gas Conservation Commission (COGCC) to seek local government input concerning locations for such large-scale facilities. Such input, based on the local government planning perspective, would be designed to anticipate community concerns. Should the local government decide to use this process, the first meeting begins a collaboration by which the potentially impacted operator and the local government can agree on site location and operational practices. These agreements can be documented in:
    - I. Memorandum of Understanding (MOU)
    - II. Comprehensive Drilling Plan (CDP)

III. Or any other mechanism in which agreement is established

- b. The duration of the negotiations between groups listed above will last no longer than 180 days.
- c. When the plan has been approved by the relevant local government(s) the plan and relevant 2A permit applications may be submitted for COGCC review
- d. If the proposal has not received approval by the relevant local government, the operator may choose to seek mediation
- e. If mediation is unsuccessful, the Operator may continue through COGCC process – allowing for objections from the local government to be heard. However, if the local government also has its own approval process, site development cannot occur without also complying with that approval process or obtaining redress in district court.

III. Allow for larger drilling units. Support proposals to amend COGCC pooling and unitization rules to create larger drilling units to accommodate multi-well pads and related production facilities.

**Rationale:** COGCC Director Matt Lepore noted that some oil and gas location proposals require some additional planning coordination with local governments because of their Intensity and Scale and Proximity to residential areas. Multiple or large-scale proposals within an urban mitigation area should be required to coordinate with the relevant local government(s). This proposal formalizes what the best operators are doing already.

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**RECOMMENDATION TO COORDINATE LOCAL GOVERNMENT LAND USE PROCESSES WITH ISSUANCE OF  
STATE OIL AND GAS PERMITS**

(Recommendation #7)

TOTALS:		Yes: 13		No: 8	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Agency or General Assembly:** Colorado Oil and Gas Conservation Commission (COGCC)

**Recommendation:** The public interest is best served when local government land use planning and permit processes work parallel with and in accord with the state oil and gas regulations and processes.

State permits for oil and gas siting for drilling or production and applicable local government decisions/permits shall be coordinated consistent with the following principles:

1. If the local government and the permit applicant have entered into a Memorandum of Understanding, the state may issue expedited permits consistent with the terms of the MOU that are not prohibited by state law or rule.

2. If a Comprehensive Development Plan is in place in the location of the proposed site the state may issue expedited permits that are consistent with the requirements of the CDP but which are not prohibited by state law or rule.
3. In the absence of an MOU or CDP, an applicant seeking to undertake oil and gas activities within the boundaries of a local government jurisdiction shall begin the local government land use planning processes at the same time as commencing the state oil and gas permitting processes. If at the conclusion of the local government process the applicant has accepted the conditions required by the local government, the state may issue expedited permits including such local government conditions that are not prohibited by state law or rule.
4. If a local government does not require a permit applicant to go through its land use processes, then the state shall take such action on the state permit applications as required by state law and rule.
5. If a local government requires a permit applicant to participate in its local land use processes but chooses not to issue permits or authorizations for the applicant to proceed in its jurisdiction, or if the conditions or requirements of granting approval are prohibited by state law or are unreasonable, and a compromise cannot be reached, the applicant shall offer to engage in mediation with the local government. If the local government agrees to mediation, the applicant and the local government shall jointly select a mediator or mediators and shall equally share the cost of mediation. Upon selection of a mediator(s), the mediation process shall conclude within 45 days of retention of the mediator(s) unless the two parties jointly agree to an extension. The parties may request the assistance of OGCC staff, and if they do so, the OGCC Director shall exert his best efforts to provide the requested technical assistance.
6. If the local government does not choose mediation or if mediation does not result in an agreement between the local government and applicant, either party may commence an action in district court. The applicant may continue complying with the requirements of the state permitting process pending any such litigation.
7. State rule-making should set timelines for all aspects of this recommendation that are reasonable considering the nature of the MOU, CDP or land use processes but which do not result in a taking or denial of rights solely by abuse or delay of process.

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**RECOMMENDATION TO CREATE A STATUTORY OIL AND GAS DISPUTE RESOLUTION PANEL**  
(Recommendation #12)

TOTALS:		Yes: 13		No: 8	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** General Assembly

**Description:** Enact legislation creating an oil and gas dispute resolution panel to hear disputes concerning siting of operations or disputes concerning surface owner damages:

There is hereby created an Oil and Gas Dispute Resolution Panel. The Panel shall convene and hear disputes between an operator and local governments or an operator and a surface owner concerning siting of proposed oil and gas operations or surface owner damage issues. The Panel shall be comprised as follows: three arbiters, with one chosen by the operator, one by the local government and the third chosen by the other two. Any arbitration shall be held within thirty (30) days of the request by the operator, the surface owner or the local government. The panel shall issue its decision within 15 days after the hearing. Unless the arbitration panel orders otherwise, each party shall pay the costs of its arbiter, and share the costs of the neutral third arbiter. Any party may request relief from the appropriate District Court if it disagrees with the arbitration decision. If neither party requests relief from the order, the order shall be enforced by the Oil and Gas Conservation Commission.

**Rationale:** Some local governments either currently have or desire to enact land use, surface effects, health, safety, welfare, and police power regulations governing the siting of wells and production facilities for oil and gas operations. Provided the use of such authority does not materially impede recovery of the mineral resource or create an operational conflict with the state provisions, such authority should be given effect.

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## RECOMMENDATION TO AMEND REGULATIONS TO ACKNOWLEDGE LOCAL GOVERNMENT

### SITING AUTHORITY

(Recommendation #12a)

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency:** Colorado Oil and Gas Conservation Commission (COGCC)

**Description:** Amend COGCC Rule 201 by adding the following:

*In those jurisdictions where the local government has enacted siting regulations concerning the location of oil and gas wells or production facilities, a COGCC-approved APD or location may not be acted upon until the location of the well or production facility is approved by the local government. In the event the COGCC and the local government decisions over a location for a well or production facility are in conflict, the operator or the local government may request mediation as described in proposal #17.*

**Rationale:** Some local governments either currently have or desire to enact land use, surface effects, health, safety, welfare, and police power regulations governing the siting of wells and production



facilities for oil and gas operations. Provided the use of such authority does not materially impede recovery of the mineral resource or create an operational conflict with the state provisions, such authority should be given effect and any disputes should be resolved in a way that is impartial and efficient.

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### RECOMMENDATION TO CHANGE STANDING AND NOTICE REQUIREMENTS

(Recommendation #21b)

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency or General Assembly:** COGCC

**Description:** Change COGCC Rule 503.b(7) to give neighboring surface owners notice. Remove the threshold requirement for local governments to appeal a drilling or location permit.

- I. Add a definition of 'neighboring surface owner'; Neighboring surface owners are those who own land within the 1,000 foot “buffer zone” from proposed oil and gas facilities as described in COGCC Rule 604.
- II. Provide notice to surface owners and neighboring surface owners of all proposed operations;
- III. Amend Rule 503(b)(7) to provide that a surface owner may request a hearing for any reason,
- IV. Give local governments the right of appeal. In the event the relevant local government challenges a permit, remove the requirement within the existing rules that places the burden on the local government to present sufficient evidence for the Commission to make a preliminary finding that the potential impacts are not adequately addressed by the rules and regulations of the Commission.
- V. The “Relevant Local Government” that has standing to request a hearing before the COGCC also includes any local governments that have boundaries within 1,500 feet of the proposed location.

**Rationale:** According to COGCC Rule 503.b(7), only the operator, surface owner, and relevant local government have standing to request a hearing on an application for a new oil and gas location or a permit to drill. The COGCC rules provide inadequate due process to those harmed by proposed oil and gas development.

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**RECOMMENDATION TO ALLOW LOCAL GOVERNMENTS TO ASSESS FEES TO FUND INSPECTIONS AND MONITORING OF THE OIL AND GAS INDUSTRY**

(Recommendation #26)

TOTALS:		Yes: 10		No: 11	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** General Assembly

**Description:** Amend Colorado Revised Statutes § 34-60-106 to give local governments explicit authority to charge a reasonable fee to fund inspection and monitoring of oil and gas facilities and operations.

**Rationale:** Almost all task force members have stated that they would like to see more oil and gas inspectors in the field. Local governments have been told that they may supplement the COGCC inspectors with local inspectors through agreement with the COGCC. Gunnison County has entered into an agreement with the COGCC for this purpose. However, state law prohibits the local government from assessing any fees from industry to pay for inspections.

**RECOMMENDATION TO FACILITATE PLANNING FOR OIL AND GAS DEVELOPMENT AND PROVIDE FLEXIBILITY IN LOCATING WELLS**

(Recommendation #10)

TOTALS:		Yes: 13		No: 8	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Objectives:** provide flexibility in siting wells and production facilities by allowing larger drilling and spacing units (“unconventional resource units”) that provide scale that can support centralized operations (e.g. remote fracking; replacing trucks with pipes; more effective emission controls).

1. Amend COGCC Rule 318A to specify that legacy “drilling windows” designed for vertical and directional drilling, as well as the “twinning rule,” are not requirements for siting horizontal wells. This will remove existing siting restrictions, allow flexibility in locating well pads and production facilities, and better fit horizontal drilling operations.

2. Clarify the authority of the COGCC to consider surface impacts when establishing drilling units, including formation of “unconventional resource units” of varying sizes and configurations, as follows:

A BILL FOR AN ACT CLARIFYING THE AUTHORITY OF THE OIL AND GAS CONSERVATION COMMISSION OF  
THE STATE OF COLORADO TO TAKE SURFACE IMPACTS INTO CONSIDERATION IN ESTABLISHING  
DRILLING UNITS

**§ 34-60-116. Drilling units - pooling interests**

(1) To prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, ~~or~~ to protect correlative rights, AND TO REDUCE SURFACE IMPACTS ASSOCIATED WITH WELL SITES AND PRODUCTION FACILITIES, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as provided in this section, has the power to establish AND CONFIGURE drilling units SO AS TO BALANCE THESE GOALS. ~~of specified and approximately uniform size and shape covering any pool.~~

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**RECOMMENDATION TO AMEND COGCC RULES TO ACKNOWLEDGE LOCAL GOVERNMENT  
REGULATORY AUTHORITY**  
(Recommendation #2)

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency or General Assembly:** Colorado Oil and Gas Conservation Commission (COGCC)

**Description:** Amend the Rules of the COGCC to acknowledge that local government land use regulations may be stricter than similar COGCC regulations and that such regulations must be complied with by oil and gas operators.

**Rationale:** Local governments currently have land use, surface effects, health, safety, welfare, and police power authority over oil and gas operations. Currently, there are two references to local government authority in COGCC rules.

COGCC Rule 201 state:

*Nothing in these rules shall establish, alter, impair, or negate the authority of local and county governments to regulate land use related to oil and gas operations, so long as such local regulation is not in operational conflict with the Act or regulations promulgated thereunder.*

COGCC Rule 303(a)(2) states the following concerning local government regulations:

*Operational Conflicts. The Permit to Drill shall be binding with respect to any provision of a local governmental permit or land use approval that is in operational conflict with the Permit to Drill.*

The COGCC rules contain requirements (600 – Series Safety Regulations and 800 – Aesthetic and Noise Control Regulations) regulating surface and land use issues associated with oil and gas development. Rule 201 should be amended to specifically recognize local land use authority and that such authority may be stricter than similar COGCC regulations and requirements provided the use of such authority does not create and operational conflict. It would also help the state/local regulatory framework to provide a recommendation that the COGCC implement its regulations in a harmonious manner with local regulations.

Amend Rule 201 by adding the following:

*Local government land use, surface effects, health, safety, welfare, and police power regulations over oil and gas operations are recognized by the COGCC and may be applied in a manner that is stricter than similar COGCC regulations provided such application does not result in an operational conflict with the Permit to Drill. It is the intent of the COGCC to implement its regulations in a harmonious manner with local government requirements, to the extent possible.*

Amend Rule 303(a)(2) by adding the following:

*A local regulation that addresses a similar area as a state regulation may impose stricter standards than the state regulation provided such standards do not result in an operational conflict.*

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#### RECOMMENDATION TO AMEND OIL AND GAS CONSERVATION ACT TO ACKNOWLEDGE LOCAL AUTHORITY

(Recommendation #3)

TOTALS:		Yes: 8		No: 13	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency of General Assembly:** General Assembly

**Description:** Amend the Oil and Gas Conservation Act to acknowledge local authority and render the OGCA consistent with the Mined Land Reclamation Act.

**Rationale:** Local governments currently have land use, surface effects, health, safety, welfare, and policy power authority over oil and gas operations. Colorado’s Oil and Gas Conservation Act does not recognize this local government authority over oil and gas operations. Colorado’s Mined Land Reclamation Act does acknowledge local authority as follows:

The operator shall be responsible for assuring that [its] operations...comply with city, town, county, or city and county land use regulations...Any [] operator subject to this article shall also be subject to zoning and land use authority and regulation by political subdivisions as provided by law.

C.R.S. 34-32-109 (6)

Add the following language as a new Section to the Oil and Gas Conservation Act, C.R.S. 34-60-102(3):

*Any oil and gas operator subject to this article shall also be subject to zoning and land use authority and regulation by political subdivisions as provided by law. The oil and gas operator shall be responsible for assuring its operations comply with city, town, county or city and county land use regulations.*

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**RECOMMENDATION TO HAVE THE GENERAL ASSEMBLY ENACT LEGISLATION TO IMPROVE THE OPERATIONAL CONFLICT PREEMPTION STANDARD GOVERNING THE RELATIONSHIP BETWEEN STATE AND LOCAL REGULATORY AUTHORITY OVER OIL AND GAS DEVELOPMENT**

(Recommendation #4)

TOTALS:		Yes: 8		No: 13	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency or General Assembly:** General Assembly

**Description:** Enact legislation improving the operational conflict preemption standard that governs the relationship between State and Local Government regulation of oil and gas development to the following standard:

*A local regulation may be preempted where it materially impedes or destroys ultimate recovery of the mineral resource impacted by application of the local regulation.*

**Rationale:** Local governments currently have land use, surface effects, health, safety, welfare, and police power authority over oil and gas operations. The General Assembly has generally provided technical and health, safety, welfare and environmental authority over oil and gas development to the

Colorado Oil and Gas Conservation Commission (COGCC). When the Colorado Supreme Court evaluated this dual authority (in 1992), it determined that local authority was valid only if it did not conflict in operation with state statutes or state regulations. This preemption test favors expansive state authority in derogation of local authority and has been used to invalidate local regulations where they touch on the same subject as state regulations. This test is not appropriate in 2015 given today's best practices and operational techniques that the industry can use in the development of Colorado's oil and gas resources. The 1992 preemption test, which has been used to invalidate important local government land use and health, safety, welfare and environmental regulations, should be improved by the Legislature and redefined to allow for legitimate application of these important local regulations provided they do not impede ultimate recovery of Colorado's mineral resources. This ensures local government protection of the health, welfare and environment of our local communities while also ensuring that Colorado's mineral resources will not be taken, but rather developed in a timely and prudent manner.

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**RECOMMENDATION TO CLARIFY THE BALANCED RESPONSIBILITIES OF THE COMMISSION, AND TO  
ACKNOWLEDGE THE IMPORTANT ROLE OF LOCAL GOVERNMENT LAND USE REGULATIONS**

(Recommendation #9)

TOTALS:		Yes: 13		No: 8	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** General Assembly

**Description:** Colorado Revised Statutes 34-60-102 (1) (a) should be amended as follows (proposed changes in ~~Strikethrough~~/BOLD):

(1) (a) *It is declared to be in the public interest to:*

(I) ~~Foster~~ **ADMINISTER** the responsible, balanced development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources;

(II) *Protect the public and private interests against waste in the production and utilization of oil and gas;*

(III) *Safeguard, protect, and enforce the coequal and correlative rights of owners and producers in a common source or pool of oil and gas to the end that each such owner and*

*producer in a common pool or source of supply of oil and gas may obtain a just and equitable share of production therefrom; and*

(IV) *Plan and manage oil and gas operations in a manner that balances development with wild-life conservation in recognition of the state's obligation to protect wildlife resources and the hunting, fishing, and recreation traditions they support, which are an important part of Colorado's economy and culture. Pursuant to section 33-1-101, C.R.S., it is the policy of the state of Colorado that wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors.*

(V) **THE FOREGOING PUBLIC INTERESTS ARE TO BE HARMONIZED, TO THE EXTENT POSSIBLE, WITH LOCAL GOVERNMENT LAND USE REGULATIONS OVER OIL AND GAS DEVELOPMENT.**

**Rationale:** This recommendation falls in two parts. The first recommendation adds the word ‘administer’ to the charge of the Colorado Oil and Gas Conservation Commission. It is not intended to impugn the impartiality of the Commission to date. Rather, it is intended to clarify that the Commission is charged with the appropriate and balanced oversight of oil and gas operations. The change in language would assure the public that the Commission does have that role.

The second recommendation infuses into the statutory mandate the responsibility of the Commission to proceed in a manner that is harmonized with local land uses, to the extent possible. It is not intended to usurp the Commission’s ultimate authority.

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**RECOMMENDATION TO FACILITATE COLLABORATION OF LOCAL GOVERNMENTS, COLORADO OIL AND GAS CONSERVATION COMMISSION AND OPERATORS RELATIVE TO OIL AND GAS LOCATIONS**

(Recommendation #13)

TOTALS:		Yes: 13		No: 8	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Agency:** Colorado Oil & Gas Conservation Commission

**Recommendation:** *Recommend COGCC rulemaking to address Local Government collaboration with operators concerning locations for large scale multi-well oil and gas production facilities in “Urban Mitigation Areas,” as defined in COGCC rules. A COGCC rulemaking would define what constitutes “large-scale multi-well oil and gas production facilities” taking into consideration size, proximity and intensity criteria.*

This process is intended to provide interested local governments more involvement and influence in the siting of such large-scale multi-well oil and gas production facilities through input to COGCC's approval of APDs governing such facilities in Urban Mitigation Areas. Other local governments may continue to use the current LGD comment, permit condition and hearing process.

When an operator intends to permit an oil and gas location that meets the criteria for the process, the following steps would be involved:

1. Prior to selecting an oil and gas location, the operator must offer to meet with the Local Government Designee (LGD) and a designated representative of the Colorado Oil and Gas Conservation Commission (COGCC) to seek local government input concerning locations for such large-scale facilities. Such input, based on the local government planning perspective, would be designed to anticipate community concerns. Should the local government decide to use this process, the first meeting begins a collaboration by which the operator and the local government, and recognizing the requests and concerns of the surface owner on whom such facilities may be located, can agree on site location and operational practices. These agreements can be documented in:
  - a. Memorandum of Understanding (MOU)
  - b. Best Management Practices (BMPS's) on the COGCC APD
  - c. Comprehensive Drilling Plan (CDP)
  - d. Or any other mechanism in which agreement is established
2. Operator and local government are required to work towards a compromise concerning locations, and the operator is required to submit the agreement reflected in paragraph 1 upon submittal of an APD to the COGCC.
3. A local government's request concerning location must be based on a set of established set of reasonable standards or criteria, to be determined in rulemaking, and must acknowledge existing surface use agreements.
4. If a compromise cannot be reached about planned development and the operator cannot certify agreement upon submittal of the APD, the operator will be required to present its APD to the COGCC at hearing at which the local government may also participate before the permit can be approved.

**Rationale:** The scale and intensity of multi-well production facilities that are in close proximity to neighborhoods has led to a need for local governments to represent their constituents to a greater degree than in the past. Local governments have expressed the need for more involvement earlier the process of permitting oil and gas locations, in particular, to the siting of large-scale multi-oil and gas well production facilities in order to represent community concerns (such as those of nearby homeowners, schools, etc). The above outlined process allows for local governments to begin discussions with operators prior to locations being selected. It also provides a mechanism for local governments to influence locations prior to permitting at the COGCC and establishes a mechanism for collaboration among local governments, oil and gas operators, and the COGCC.

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#### RECOMMENDATION REGARDING USE OF MEMORANDA OF UNDERSTANDING

(Recommendation #18)

<b>TOTALS:</b>	<b>Yes: 10</b>	<b>No: 11</b>
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<b>Barwinski</b>	<b>N</b>	<b>Holly</b>	<b>Y</b>	<b>Quinn</b>	<b>N</b>
<b>Buescher</b>	<b>Y</b>	<b>Kelly</b>	<b>Y</b>	<b>Rau</b>	<b>Y</b>
<b>Cleveland</b>	<b>Y</b>	<b>Kourlis</b>	<b>N</b>	<b>Robbins</b>	<b>N</b>
<b>Dea</b>	<b>Y</b>	<b>Lachelt</b>	<b>N</b>	<b>Sura</b>	<b>N</b>
<b>Fitzgerald</b>	<b>N</b>	<b>Moreno</b>	<b>N</b>	<b>Toor</b>	<b>N</b>
<b>George</b>	<b>Y</b>	<b>Pearce</b>	<b>Y</b>	<b>Wedgeworth</b>	<b>N</b>
<b>Goldin-Dubois</b>	<b>N</b>	<b>Peppler</b>	<b>Y</b>	<b>Woodall</b>	<b>Y</b>

**Recommendation:** Memoranda of Understanding (MOU) should be encouraged as a voluntary alternative to drilling bans, moratoria and land use approval disputes. MOUs offer a flexible planning tool for operators and local governments in relation to a specific drilling project.

**Agency:** The Colorado Oil & Gas Conservation Commission (COGCC) should implement the following measures.

*Create a website and database of MOUs.* Both the energy industry and local communities would benefit from greater transparency of existing MOUs, primarily to guide the development of new agreements that advance mutual interests. Making all such agreements currently operative in Colorado readily available public information will likely lead to new agreements that take into full account the breadth of important, relevant local issues associated with oil and gas development.

*Task the COGCC Local Government Liaison (LGL) to facilitate negotiation of MOUs.* The COGCC should, upon the request of a local government, facilitate negotiation of MOUs with oil and natural gas operators seeking to develop energy resources. The scope of such support would need to have reasonable time and resourcing limits in place, and would necessarily rely on the public database of examples of successfully negotiated MOUs in Colorado. (The COGCC provides similar assistance to surface owners and already has staff dedicated to assisting “local government designees” with COGCC procedures.)

*Develop a model MOU.* The COGCC should, after review of the database of MOUs and in consultation with industry and local governments, publish a model MOU through a public hearing process. The model MOU would include key provisions from existing MOUs, and would be used solely to facilitate negotiation of MOUs. No aspect of the model MOU would be mandatory or otherwise favored by the law.

*Incorporate MOU provisions into state well permits.* The COGCC should incorporate appropriate MOU provisions as conditions of approval on a well permit.

*Report to the Legislature in 2016.* The COGCC should provide the General Assembly a report in 2016 on the implementation of the preceding recommendations and the status of use of MOUs in Colorado.

**Rationale:** As an alternative to the adoption of drilling bans or moratoria, oil and gas operators and local governments have found a more productive way to address the range of concerns of affected communities relative to the specific development plans of operators. This alternative to traditional land

use regulation entails the negotiation of a Memorandum of Understanding – a contract that governs well location and operational practices. MOU provisions can be incorporated into COGCC well permits as enforceable conditions of approval. Through an MOU process that offers operators expedited land use approval, local governments have the opportunity to negotiate for well locations and best management practices that respond to community concerns.

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**RECOMMENDATION TO AMEND COMPREHENSIVE FDRILLING PLAN RULES TO HARMONIZE STATE AND LOCAL AUTHORITY**

(Recommendation #19)

TOTALS:		Yes: 10		No: 11	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** Colorado Oil and Gas Conservation Commission (COGCC)

**Description:** Amend COGCC Comprehensive Drilling Plan Rule 216 to enhance the tool and harmonize Local Government and State authorities for siting and planning oil and gas operations. The amendments will give Local governments authority to initiate a Comprehensive Drilling Plan, an authority that is currently only granted to an operator, and will remove the requirement that the Comprehensive Drilling Plan include only one operator. The amendments also require Comprehensive Drilling Plans to be consistent with local government comprehensive plans, other local government long-range planning tools, and the authority of local government to control regulate land use and nuisance issues.

**Rationale:** The public expects government at the state and local jurisdictions to work together to best serve the public interest. Colorado can employ existing planning tools to better define and recognize local authority, and ensure that the best tools in the local toolbox can be integrated with existing state processes. Evolving technologies and the expanding geographic footprint of development are causing adverse impacts necessitating appropriate policy responses.

The proposed regulatory changes in Comprehensive Drilling Plans can better harmonize development proposals with local expertise by increasing protection of residential communities and providing more local authority, consistent with protection of public health, safety, welfare, and environment. Comprehensive Drilling Plans have failed to achieve their promise to date because they are entirely voluntary at the operator’s discretion. These issues can be addressed by amending Rule 216 to accomplish the following:

- ✓ Amend the rule to allow a local government whose jurisdiction contains oil and gas development to require the creation of a local government approved comprehensive development plan describing the reasonably foreseeable oil and gas development activities in a specified geographic area within a geologic basin for one or more operators.
- ✓ Amend the rule to establish that for comprehensive drilling plans required by a local government, the CDP and conditions of approval contained therein shall be consistent with local government comprehensive plans, other local government long-range planning tools, and the authority of local government to regulate land use and to mitigate nuisance issues related to surface impacts from oil and gas development.
- ✓ Otherwise make necessary conforming amendments to Rule 216 to accommodate the two points articulated above.

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### RECOMMENDATION TO MINIMIZE RESIDENTIAL CONFLICTS

(Recommendation #22)

TOTALS:		Yes: 12		No: 9	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	N
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Agency:** Colorado General Assembly

**Recommendation:** Expand the existing statutory procedure for notification to and consultation with mineral owners/lessees when significant surface development projects are being prepared for local land use approval. See: “Application for Development” – defined at C.R.S. 24-65.5-102 (2) (a). The existing procedure requires coordinated planning for development of both estates, but is limited to surface development of at least 160 acres, and only in the Greater Wattenberg Area. Notification and consultation should occur in all circumstances where surface development may coincide with oil and gas extraction. [Note: most of these situations are addressed via surface use agreements]

**Rationale:** The Task Force has heard many times that improving local government consideration of mineral development issues during community development discussions could help to minimize conflicts later on. Good land use planning should look at potential oil and gas development *and* surface development whenever either is proposed. Many existing local government master plans make no provision for oil and gas development and may lead to *de facto* condemnation of the mineral estate. Encroachment on existing wells and production facilities is common. Good public policy would minimize such conflicts by coordinated advanced planning.

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**RECOMMENDATION TO PROTECT THE PUBLIC FROM POSSIBLE NEGATIVE HEALTH IMPACTS FROM  
FRACKING AND DRILLING FOR OIL AND NATURAL GAS**

(Recommendation #34b)

TOTALS:		Yes: 9		No: 12	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency:** Colorado Department of Public Health and the Environment. (CDPHE)

**Description:** Between March 1 and June 1 the State should contract with an independent organization to conduct a review of existing studies on fracking in Colorado and nationally. Where appropriate this may include studies in progress. At the end of this review, the CDPHE should make a recommendation as to whether it can assure the public that drilling and fracking may continue because they pose no threats to the public health. If such assurance is not possible, then these operations should be suspended until CDPHE is able to complete a comprehensive assessment which assures Colorado residents that these activities pose no threat to their public health.

**Rationale:** Various impartial studies both nationally and in Colorado have raised the possibility that drilling and fracking activities may cause various health problems from skin problems to cancer. Doctor David Carpenter who recently released a study on fracking found toxic chemicals and carcinogens in Arkansas, Pennsylvania, Ohio, Colorado and Wyoming. "Five to ten years from now elevations of cancer are almost certain to happen." Similar studies caused Governor Cuomo to ban fracking in New York. At least two studies by CU and CSU have raised doubts about the safety of fracking in Colorado.

Colorado citizens need to be assured that fracking is safe before it is allowed to continue.

**RECOMMENDATION TO ASSURE ADEQUATE COMPENSATION TO AFFECTED SURFACE OWNERS –  
(Statutory)**

(Recommendation #44)

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y

Goldin-Dubois	Y	Peppler	Y	Woodall	N
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**Agency or General Assembly:** General Assembly

**Description:** Colorado Revised Statutes 34-60-127 should be amended as follows (proposed changes in ~~strikethrough~~/BOLD):

- (1) (a) *An operator shall conduct oil and gas operations in a manner that accommodates the surface owner by minimizing intrusion upon and damage to the surface of the land.*
- (b) *A SURFACE OWNER NEED ONLY ACCOMMODATE AN OPERATOR THAT IS OPERATING UNDER A LEGALLY RESERVED RIGHT OF ACCESS TO THE UNDERLYING MINERAL ESTATE. IN ALL OTHER INSTANCES, THE SURFACE OWNER IS FREE TO DETERMINE THAT IT WILL NOT PERMIT THE OPERATOR TO ENTER THE SURFACE.*
- (c) *As used in this section, “minimizing intrusion upon and damage to the surface” means selecting alternative locations for wells, roads, pipelines, or production facilities, or employing alternative means of operation, that prevent, reduce, or mitigate the impacts of the oil and gas operations on the surface, where such alternatives are technologically sound, economically practicable, and reasonably available to the operator. THE SURFACE OWNER OF THE ESTATE BURDENED BY THE MINERAL ACCESS EASEMENT MAY PROPOSE THE LEAST INTRUSIVE AND LEAST DAMAGING REASONABLE ALTERNATIVE LOCATION FOR OPERATIONS ON THAT SURFACE OWNER’S PROPERTY.*
- (d) *THE OPERATOR SHALL BE REQUIRED TO PAY ALL REASONABLE DAMAGES ASSOCIATED WITH USE OF THE SURFACE ESTATE.*
- (e) *The standard of conduct set forth in this section shall not be construed to abrogate or impair a contractual provision binding on the parties that expressly provides for the use of the surface for the conduct of oil and gas operations or that releases the operator from liability for the use of the surface.*
- (f) *The standard of conduct set forth in this section shall not be construed to abrogate or impair a contractual provision binding on the parties that expressly provides for the use of the surface for the conduct of oil and gas operations or that releases the operator from liability for the use of the surface.*
- (2) *An operator’s failure to meet the requirements set forth in this section shall give rise to a cause of action by the surface owner. Upon a determination by the trier of fact that such failure has occurred, a surface owner may seek compensatory damages or such equitable relief as is consistent with subsection (1) of this section.*
- (3) (a) *In any litigation or arbitration based upon this section, the surface owner shall present evidence that the operator CAUSED ACTUAL DAMAGES TO THE SURFACE OWNER BY ITS OPERATIONS. ~~use of the surface materially interfered with the surface owner’s use of the surface of the land.~~ After such showing, the operator shall bear the burden of showing that it met the standard set out in subsection (1) of this section. If an operator makes that showing, the surface owner may present rebuttal evidence.*

- (b) *An operator may assert, as an affirmative defense, that it has conducted oil and gas operations in accordance with a regulatory requirement, contractual obligation, or land use provision, that is specifically applicable to the alleged intrusion or damage.*
- (4) *Nothing in this section shall:*
- (a) *Preclude or impair any person from obtaining any and all other remedies allowed by law;*
  - (b) *Prevent an operator and a surface owner from addressing the use of the surface for oil and gas operations in a lease, surface use agreement, or other written contract;*
  - (c) *Establish, alter, impair or negate the authority of local and county governments to regulate land use related to oil and gas operations; or*
  - (d) *Create an obligation of the surface owner to accommodate the development of minerals that do not underlie that surface owner's property.*

**Rationale:** This recommendation focuses on the application of the accommodation doctrine such that it truly assures that the use of the surface will be minimized, and if it is not, that the surface owner will be made whole. The surface owner is required to permit access, but is not required to suffer damages from such access.

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**RECOMMENDATION TO ASSURE ADEQUATE COMPENSATION TO AFFECTED SURFACE OWNERS –  
(Regulatory)**

(Recommendation #44a)

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** Colorado Oil and Gas Conservation Commission

**Description:** Change Oil and Gas Conservation Commission Rules to provide that a surface owner who is not a party to a written surface use agreement may petition for an order of the Commission finding that loss of land value of the surface estate, crop loss, land damage, loss of income or damage to improvements has occurred or will occur as a result of the operator's oil and gas activity or proposed oil and gas activity. If the Commission finds that such damages have occurred or will occur, it shall require the operator to compensate the surface owner a sum of money equal to the amount of damages that

have been or will be sustained by the surface owner. The financial assurance otherwise required shall not limit the amount of damages.

**Rationale:** Again, the thrust of this recommendation is to assure that the surface owner does not bear the economic consequences of the oil and gas operations, but is rather made whole.

**NOTE:** If the Kourlis Dispute Resolution Panel recommendation passes, this recommendation would be amended to specify the Panel as the arbiter of any disputes concerning damages.

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**RECOMMENDATION FOR FULL AND PUBLIC DISCLOSURE OF THE CHEMICALS USED IN OIL AND GAS OPERATIONS, NO TRADE SECRET PROTECTIONS**

(Recommendation #42)

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency:** Colorado Oil & Gas Conservation Commission (COGCC)

**Description:** The COGCC will require operators to disclose information on the chemicals used in oil and gas operations to the COGCC website. Before drilling, fracturing and workover operations, operators must disclose the complete list of names, CAS (Chemical Abstracts Service) numbers, and maximum concentration, in percent by mass, of each chemical added to the drilling, hydraulic fracturing and workover fluid, as well as the trade name, supplier, and purpose of each additive, the total volume of fluid used, and the amount of fluid flow back that was recovered. Disclosures are to be made as part of the permit application and 30 days prior to treatment to surface and adjacent surface owners and emergency responders and 30 days after the oil and gas operation.

**Rationale:** The Governor's Oil & Gas Task Force has received numerous comments from the public concerning the safety of hydraulic fracturing and the trucking of fracturing fluids through neighborhoods and on public roads. We have also received specific comments urging the Task Force to recommend the full and public disclosure of all of the chemicals used in oil and gas operations. Colorado currently requires disclosure of fracturing chemicals and additives but does not require disclosure of certain "trade secret" chemicals. Also, Colorado does not require disclosure of the chemicals and additives used in drilling and workover operations.

Without full and public disclosure of the chemicals and additives used throughout oil and gas operations, many citizens believe that under the guise of “confidential business information,” the industry is allowed to hide from the public the types and amounts of chemicals used to produce oil and gas. Two of the world’s largest fracturing operators already fully disclose all of the ingredients in fracturing fluids. Baker Hughes, Inc. announced in October 2014 that it has been disclosing all of its fracturing ingredients since April 2014. Schlumberger, Ltd. recently disclosed that it has been doing likewise for years. A recent Department of Energy investigative panel found that voluntary disclosure of fracturing chemicals by industry led to repeated under-reporting of chemical use in the majority of instances studied.

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**RECOMMENDATION TO IMPROVE DISCLOSURE OF HYDRAULIC FRACTURING PROCESSES**  
(Recommendation #43)

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency or General Assembly:** COGCC Rule

**Description:** Provide the public with full and complete information regarding the hydraulic fracturing process including full disclosure of all chemicals used in the hydraulic fracturing process by revoking the trade secret exemption for all chemicals used in the hydraulic fracturing process and by providing information regarding the source of water used in the hydraulic fracturing process

**Rationale:** Concerns regarding potential impacts of oil and gas activities on water quality and public health are wide-spread and justified. The Colorado Oil and Gas Conservation Commission (COGCC) adopted rules regarding hydraulic fracturing chemical disclosure in 2011 with reporting requirements for chemicals used and water used in the hydraulic fracturing process along with exemptions to the rules. The rules were “promulgated to protect public health, safety, and welfare, including the environment and wildlife resources, from the impacts resulting from oil and gas development in Colorado. They are intended to foster the responsible and balanced development of oil and gas resources in Colorado.”

A revision to the rules eliminating exemptions that cause important information regarding the chemicals and water used in hydraulic fracturing to be unnecessarily kept from the public is contrary to the public’s interest in the issue and contrary to the public’s right to know about chemical use in or proximate to their communities.

**Proposed Rule Changes:**



## GENERAL RULES

### (200 SERIES)

a. All producers, operators, transporters, refiners, gasoline or other extraction plant operators and initial purchasers of oil and gas within this State, shall make and keep appropriate books and records covering their operations in the State, including natural gas meter calibration reports, from which they may be able to make and substantiate the reports required by the Commission or the Director.

b. Beginning May 1, 2009 on federal land and April 1, 2009 on all other land, operators shall maintain MSDS sheets for any Chemical Products brought to a well site for use downhole during drilling, completion, and workover operations, ~~excluding hydraulic fracturing treatments~~. With the exception of fuel as provided for in Rule 205.c., the reporting and disclosure of hydraulic fracturing additives and chemicals brought to a well site for use in connection with hydraulic fracturing treatments is governed by Rule 205A.

c. Beginning June 1, 2009, operators shall maintain a Chemical Inventory by well site for each Chemical Product used downhole during drilling, completion, and workover operations, ~~excluding hydraulic fracturing treatments~~, in an amount exceeding five hundred (500) pounds during any quarterly reporting period. Operators shall also maintain a chemical inventory by well site for fuel stored at the well site during drilling, completion, and workover operations, including hydraulic fracturing treatments, in an amount exceeding five hundred (500) pounds during any quarterly reporting period.

The five hundred (500) pound reporting threshold shall be based on the cumulative maximum amount of a Chemical Product present at the well site during the quarterly reporting period. Entities maintaining Chemical Inventories under this section shall update these inventories quarterly throughout the life of the well site. These records must be maintained in a readily retrievable format at the operator's local field office. The Colorado Department of Public Health and Environment may obtain information provided to the Commission or Director in a Chemical Inventory upon written request to the Commission or the Director.

~~d. Where the composition of a Chemical Product is considered a Trade Secret by the vendor or service provider, Operators shall only be required to maintain the identity of the Trade Secret Chemical Product and shall not be required to maintain information concerning the identity of chemical constituents in a Trade Secret Chemical Product or the amounts of such constituents. The vendor or service provider shall provide to the Commission a list of the chemical constituents contained in a Trade Secret Chemical Product upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release of a Trade Secret Chemical Product or a complaint from a potentially adversely affected landowner regarding impacts to public health, safety, welfare, or the environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a Trade Secret Chemical Product shall be disclosed by the vendor or service provider directly to the Director or his or her designee.~~

The Director or designee may disclose information regarding those chemical constituents to additional Commission staff members to the extent that such disclosure is necessary to allow the Commission staff member receiving the information to assist in responding to the spill, release, or complaint, provided that such individuals shall not disseminate the information further. In addition, the Director may disclose information regarding those chemical constituents to any Commissioner, the relevant County Public Health Director or Emergency Manager, or to the Colorado Department of Public Health and Environment's Director of Environmental Programs upon request by that individual. Any information so disclosed to the Director, a Commission staff member, a Commissioner, a County Public Health Director or Emergency Manager, or to the Colorado Department of Public Health and Environment's Director of Environmental Programs shall at all times be considered confidential and shall not become part of the Chemical Inventory, nor shall it be construed as publicly available. The Colorado Department of Public Health and Environment's Director of Environmental Programs, or his or her designee, may disclose

information regarding the chemical constituents contained in a Trade Secret Chemical Product to Colorado Department of Public Health and Environment staff members under the same terms and conditions as apply to the Director.

e. The vendor or service provider shall also provide the chemical constituents of a Trade Secret any Chemical Product to any health professional who requests such information, ~~in writing if the health professional provides a written statement of need for the information and executes a Confidentiality Agreement, Form 35. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such Trade Secret Chemical Product will assist in such diagnosis or treatment. The Confidentiality Agreement, Form 35, shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need, and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement of need, and a Confidentiality Agreement, Form 35, from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.~~

f. Such books, records, inventories, and copies of said reports required by the Commission or the Director shall be kept on file and available for inspection by the Commission for a period of at least five years except for the Chemical Inventory, which shall be kept on file and available for inspection by the Commission for the life of the applicable oil and gas well or oil and gas location and for five (5) years after plugging and abandonment. Upon the Commission's or the Director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the Commission or the Director with the requested information within three (3) business days in a format readily reviewable by the Commission or the Director, except in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the Commission or the Director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain the confidentiality of said information. The Commission or the Director shall notify the owner, holder, or beneficiary of any such protected information at least one (1) business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the Chemical Inventory and shall in no way be construed as publicly available. 200-4 As of May 30, 2009

g. The Director and the authorized deputies shall have access to all well records wherever located. All operators, drilling contractors, drillers, service companies, or other persons engaged in drilling or servicing wells, shall permit the Director, or authorized deputy, at the Director's or their risk, in the absence of negligence on the part of the owner, to come upon any lease, property, or well operated or controlled by them, and to inspect the record and operation of such wells and to have access at all times to any and all records of wells; provided, that information so obtained shall be kept confidential and shall be reported only to the Commission or its authorized agents.

h. In the event that the vendor or service provider does not provide the information required by Rules 205.d, 205.e, or 205.f directly to the Commission or a health professional, the operator is responsible for providing the required information.

i. In the event the operator establishes to the satisfaction of the Director that it lacks the right to obtain the information required by Rules 205.d, 205.e, or 205.f and to provide it directly to the Commission or a health professional, the operator shall receive a variance from these rule provisions from the Director.

#### **205A. HYDRAULIC FRACTURING CHEMICAL DISCLOSURE.**

a. Applicability. This Commission Rule 205a applies to hydraulic fracturing treatments performed on or after April 1, 2012.

b. Required disclosures.

(1) Vendor and service provider disclosures. A service provider who performs any part of a hydraulic fracturing treatment and a vendor who provides hydraulic fracturing additives directly to the operator for a hydraulic fracturing treatment shall, ~~with the exception of information claimed to be a trade secret,~~ furnish the operator with the information required by subsection 205A.b.(2)(A)(viii) - (xii) and subsection

205A.b.(2)(B), as applicable, and with any other information needed for the operator to comply with subsection 205A.b.(2). Such information shall be provided as soon as possible, but in no case, not later than ~~within 30 days following the conclusion~~ prior to the commencement of the hydraulic fracturing treatment and in no case later than 90 days after the commencement of such hydraulic fracturing treatment.

(2) Operator disclosures.

A. ~~Within 60 days following the conclusion~~ At least 15 days prior to the commencement of a hydraulic fracturing treatment, ~~and in no case later than 120 days after the commencement of such hydraulic fracturing treatment,~~ the operator of the well must complete the chemical disclosure registry form and post the form on the chemical disclosure registry, including:

(i) the operator name;

(ii) the proposed date of the hydraulic fracturing treatment;

(iii) the county in which the well is located;

(iv) the API number for the well;

(v) the well name and number;

(vi) the longitude and latitude of the wellhead;

(vii) the true vertical depth of the well;

(viii) the total volume of water and the source of the water expected to be used in the hydraulic fracturing treatment of the well or the type and total volume of the base fluid used in the hydraulic fracturing treatment, if something other than water;

(ix) each hydraulic fracturing additive used in the hydraulic fracturing fluid and the trade name, vendor, and a brief descriptor of the intended use or function of each hydraulic fracturing additive in the hydraulic fracturing fluid;

(x) each chemical intentionally added to the base fluid;

(xi) the maximum concentration, in percent by mass, of each chemical intentionally added to the base fluid; and

(xii) the chemical abstract service number for each chemical intentionally added to the base fluid, if applicable.

~~B. If the vendor, service provider, or operator claim that the specific identity of a chemical, the concentration of a chemical, or both the specific identity and concentration of a chemical is/are claimed to be a trade secret, the operator of the well must so indicate on the chemical disclosure registry form and, as applicable, the vendor, service provider, or operator shall submit to the Director a Form 41 claim of entitlement to have the specific identity of a chemical, the concentration of a chemical, or both withheld as a trade secret. The operator must nonetheless disclose all information required under subsection 205A.b.(2)(A) that is not claimed to be a trade secret. If a chemical is claimed to be a trade secret, the operator must also include in the chemical registry form the chemical family or other similar descriptor associated with such chemical.~~

~~C. At the time of claiming that a hydraulic fracturing chemical, concentration, or both is entitled to trade secret protection, a vendor, service provider or operator shall file with the commission claim of entitlement, Form 41, containing contact information. Such contact information shall include the claimant's name, authorized representative, mailing address, and phone number with respect to trade secret claims. If such contact information changes, the claimant shall immediately submit a new Form 41 to the Commission with updated information.~~

~~D. Unless the information is entitled to protection as a trade secret, All data and information submitted to the Commission or posted to the chemical disclosure registry is public information and should be made publically available in an easily accessible format on the CDPHE website.~~

(3) Ability to search for information.

~~A. If the The Commission shall ensure determines, as of January 1, 2013, that:~~

~~(i) The chemical disclosure registry does not allows the Commission staff and the public to search and sort the registry for Colorado information by geographic area, well location, ingredient, chemical abstract service number, time period, and operator; and~~

~~(ii) There is no reasonable assurance that the registry will allow for such searches by a date certain acceptable to the Commission,~~

~~Then the provisions of subsection 205A.b.(3)(B) below shall apply.~~

~~B. Beginning February 1, 2013 Beginning June 1, 2015, any operator who posts a chemical disclosure form on the chemical disclosure registry shall also submit the form to the Commission in an electronic format acceptable to the Commission. As soon thereafter as practicable, the Commission shall make such forms available on the Commission's website in a manner that allows the public to search the information and sort the forms by geographic area, ingredient, chemical abstract service number, time period and operator, as practicable.~~

(4) Inaccuracies in information. A vendor is not responsible for any inaccuracy in information that is provided to the vendor by a third party manufacturer of the hydraulic fracturing additives. A service provider is not responsible for any inaccuracy in information that is provided to the service provider by the vendor. An operator is not responsible for any inaccuracy in information provided to the operator by the vendor or service provider.

(5) Disclosure to health professionals. Vendors, service companies, and operators shall identify the specific identity and amount of any and all chemicals ~~claimed to be a trade secret~~ to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and executes a confidentiality agreement, Form 35. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3)

knowledge of the information will assist in such diagnosis or treatment. The confidentiality agreement, Form

35, shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need, and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the specific identity and amount of any chemicals claimed to be a trade secret are necessary for emergency treatment, the vendor, service provider, or operator, as applicable, shall immediately disclose the information to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor, service provider, or operator, as applicable, may request a written statement of need, and a confidentiality agreement, Form 35, from all health professionals to whom information regarding the specific identity and amount of any chemicals claimed to be a trade secret was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall in no way be construed as publicly available.

c. Disclosures not required. A vendor, service provider, or operator is not required to:

- (1) disclose chemicals that are not disclosed to it by the manufacturer, vendor, or service provider;
- (2) disclose chemicals that were not intentionally added to the hydraulic fracturing fluid; or
- (3) disclose chemicals that occur incidentally or are otherwise unintentionally present in trace amounts, may be the incidental result of a chemical reaction or chemical process, or may be constituents of naturally occurring materials that become part of a hydraulic fracturing fluid.

d. Trade secret protection.

(1) Vendors, service companies, and operators are not required to disclose trade secrets to the chemical disclosure registry.

(2) If the specific identity of a chemical, the concentration of a chemical, or both the specific identity and concentration of a chemical are claimed to be entitled to protection as a trade secret, the vendor, service provider or operator may withhold the specific identity, the concentration, or both the specific identity and concentration, of the chemical, as the case may be, from the information provided to the chemical disclosure registry. Provided, however, operators must provide the information required by Rule 205A.b.(2)(B) & (C).

The vendor, service provider, or operator, as applicable, shall provide the specific identity of a chemical, the concentration of a chemical, or both the specific identity and concentration of a chemical claimed to be a trade secret to the Commission upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release or a complaint from a person who may have been directly and adversely affected or aggrieved by such spill or release. Upon receipt of a written statement of necessity, such information shall be disclosed by the vendor, service provider, or operator, as applicable, directly to the Director or his or her designee and shall in no way be construed as publicly available.

The Director or designee may disclose information regarding the specific identity of a chemical, the concentration of a chemical, or both the specific identity and concentration of a chemical claimed to be a trade secret to additional Commission staff members to the extent that such disclosure is necessary to allow the Commission staff member receiving the information to assist in responding to the spill, release, or complaint, provided that such individuals shall not disseminate the information further. In addition, the Director may disclose such information to any Commissioner, the relevant county public health director or emergency manager, or to the Colorado Department of Public Health and Environment's director of environmental programs upon request by that individual. Any information so disclosed to the Director, a Commission staff member, a Commissioner, a county public health director or emergency manager, or to the Colorado Department of Public Health and

~~Environment's director of environmental programs shall at all times be considered confidential and shall not be construed as publicly available. The Colorado Department of Public Health and Environment's director of environmental programs, or his or her designee, may disclose such information to Colorado Department of Public Health and Environment staff members under the same terms and conditions as apply to the director.~~

e. Incorporated materials. Where referenced herein, these regulations incorporate by reference material originally published elsewhere. Such incorporation does not include later amendments to or editions of the referenced material. Pursuant to section 24-4-103 (12.5)

C.R.S., the Commission maintains copies of the complete text of the incorporated materials for public inspection during regular business hours. Information regarding how the incorporated material may be obtained or examined is available at the Commission's office located at 1120 Lincoln Street, Suite 801, Denver, Colorado 80203.

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**RECOMMENDATION TO ALLOW COUNTIES TO REGULATE NOISE ASSOCIATED WITH OIL AND GAS OPERATIONS**

(Recommendation #35)

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** General Assembly

**Description:** Allow Counties to regulate Noise associated with Oil and Gas Operations.

**Rationale:** Currently, C.R.S. 30-15-401(1)(m)(II)(B) prohibits Counties from regulating noise associated with oil and gas operations. Noise from oil and gas operations is one of the most disruptive elements for neighbors to oil and gas development. Allowing Counties to regulate and enforce noise regulations would greatly enhance their ability to mitigate this aspect of oil and gas operations. Strike the following language from C.R.S. 30-15-401(1)(m)(II)(B)

(II) Ordinances enacted to regulate noise on public and private property pursuant to subparagraph (I) of this paragraph (m) shall not apply to:

- (A) Property used for purposed which are exempt, pursuant to section 25-12-103, C.R.S., from noise abatement; and
- (B) Property used for: Manufacturing, industrial, or commercial business purposes; public utilities regulated pursuant to title 40, C.R.S.; ~~and oil and gas production subject to the provisions of article 60 of title 34, C.R.S.~~

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**RECOMMENDATION TO ENHANCE PUBLIC HEALTH AND SAFETY FROM OIL AND GAS DEVELOPMENT**

(Recommendation #36)

TOTALS:		Yes: 10		No: 11	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Agency or General Assembly:** Colorado Oil and Gas Conservation Commission (COGCC)

**Description:** Amend existing rules regulating noise to a) require electric or natural gas powered drilling rigs wherever practicable; b) employ noise suppression practices for engines, e.g. enclosures, sound blankets and hospital grade mufflers; and c) require electric compressor engines and install compressors in a specially designed building to mitigate noise and vibration issues.

For safety purposes, amendments should: a) require pipelines or water recycling to minimize truck trips; b) require a telemetry system to notify the operator of upset conditions with remote well shut-in capability; c) require steel-bermed lined enclosures around tanks; d) install a fire suppression system for the well site; e) require outreach and training with local emergency response agencies; f) improve complaint procedures and establish a more user-friendly complaint process; and g) require on-site signage with operator contact information for residents with complaints and concerns, available 24 hours per day, seven days per week.

**Rationale:** A great deal of the public concern about oil and gas activities near residential areas concerns noise and safety issues. The 2013 rulemaking made some progress on noise standards in COGCC rules, but noise abatement continues to be an issue for some local residents and jurisdictions. These concerns are reasonably easy and cost-effective to address and, when combined with some of the other recommendations addressing public health, will go a long way toward reducing the tensions expressed through the ballot initiatives.

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**RECOMMENDATION TO REQUIRE ONGOING DOWNGRAIDENT GROUNDWATER WATER QUALITY AND SOIL MONITORING FOR OIL AND GAS PROCESSING FACILITIES**

(Recommendation #39)

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y



George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Agency or General Assembly:** Colorado Department of Public Health and Environment (CDPHE), Water Quality Control Commission (WQCC) for groundwater, and Hazardous Materials and Waste Management Division (HMWMD) for soil

**Description:** Develop and implement additional rules requiring ongoing water quality monitoring<sup>1</sup> of groundwater and soil downgradient<sup>2</sup> of oil and gas processing facilities.

Monitoring requirement specifications will be developed during rulemakings (WQCC and HMWMD), and will address, among other specifics: groundwater monitoring well siting, depth and number (likely facility specific); soil sampling locations; frequency and timing of sampling; sampling and analysis procedures; and sampling parameters. Monitoring data will be publically available on the CDPHE website.

**Rationale:** Concerns regarding potential impacts of oil and gas activities on water quality are widespread and justified. The Colorado Oil and Gas Conservation Commission (COGCC) adopted Groundwater Baseline Sampling and Monitoring rules in 2013 with monitoring requirements for new oil and gas wells, multi-well sites, or dedicated injection wells. Per the Rules Statement of Basis and Purpose, the rules were “promulgated to protect public health, safety, and welfare, including the environment and wildlife resources, from the impacts resulting from oil and gas development in Colorado. They are intended to foster the responsible and balanced development of oil and gas resources in Colorado.”

A new rule requiring ongoing groundwater monitoring for oil and gas *processing* facilities is a logical next step, especially given the significant impacts that may occur. Two well-publicized recent cases in Colorado include a pipeline leak at a Williams energy company natural gas processing facility that contaminated Parachute Creek and a broken pipe at a Suncor oil refinery that contaminated Sand Creek and the South Platte River. In both these cases, large volumes of petroleum hydrocarbons leaked into soils and groundwater before being discovered. Given the volumes of hydrocarbons handled at these facilities and the potential for significant impacts to soils and groundwater, ongoing monitoring is necessary to ensure that public health, safety and the environment are protected. The COGCC has already taken a similar step for oil and gas wells and a robust monitoring program for processing facilities should now be developed and implemented, with all data made publically accessible. These regulations will greatly aid in the early detection and mitigation of oil and gas spills.

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<sup>1</sup> Ongoing monitoring would occur throughout the life of a facility until such facility is decommissioned and any impacts fully remediated. The required frequency of monitoring events would be determined during a rulemaking. Parameters would be based on CDPHE-Water Quality Control Commission Regulation 41 - The Basic Standards for Ground Water and CDPHE-Hazardous Materials and Waste Management Division Colorado Soil Evaluation Values Table.

<sup>2</sup> Downgradient is the direction that a fluid would be expected to flow based on gravity, topography, soil and groundwater characteristics.



**RECOMMENDATION TO DELAY FURTHER RULEMAKING IN SUBJECT AREAS THAT HAVE RECENTLY BEEN STUDIED AND FOR WHICH NEW RULES HAVE BEEN PUT IN PLACE SO THAT EXPERIENCE MAY DETERMINE WHETHER OR NOT THE RULE CHANGES ARE EFFECTIVE**

(Recommendation #53)

TOTALS:		Yes: 10		No: 11	
Barwinski	N	Holly	Y	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Agency or General Assembly:** Rules promulgated by COGCC and CDPHE within last two years.

**Description:**

1. In 2013 COGCC adopted new and amended rules intended to effect changes to a number of impacts that have been discussed by the task force including application of several 1000 foot setback rules. Not enough time has passed to be able to evaluate the efficacy of these rule changes.
2. Within the last few months CDPHE Air Quality Control Commission adopted significant air emission controls for oil and gas facilities. We must wait to observe the beneficial effect of enforcing these rules now in place.

**RECOMMENDATION TO CREATE AN OMBUDSMAN**

(Recommendation #55b)

TOTALS:		Yes: 13		No: 8	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Regarding both the General Assembly and the Department of Local Affairs.** The Task Force should recommend to the General Assembly the creation of an Ombudsman to deal with citizen concerns regarding oil and gas development.

**Description:** The General Assembly should create a Property Rights Ombudsman to be housed in the Colorado department of Local Affairs. The Ombudsman shall:  
Develop and maintain expertise and understanding regarding oil and gas and local property law

Advise real property owners who have concerns regarding oil and gas activities  
Provide information to private citizens, government entities and other interested parties about oil and gas development, and land use law, and the rights of each person involved in such activity;  
If requested, the Ombudsman may render an advisory opinion regarding the rights of each person.

**Rationale:** The Ombudsman’s Office (“OO”) will provide the opportunity for community members to have an informal conversation with someone who is independent, impartial and neutral. The OO will listen to, and hold confidential, concerns and help determine and identify potential options for navigating and addressing issues. The OO will provide information about leasing and surface use agreements, industry and regulatory policies, procedures, rules, and formal or administrative options for addressing concerns. The OO should also serve as an informal fact-finder, go-between or mediator and can help to direct community members to appropriate resources within companies, the regulators or other bodies.

The OO shall operate as a 3rd party and shall subscribe to the International Ombudsman Association (IOA) Standards of Practices and Code of Ethics, and the procedures and policies of the OO shall be aligned with the IOA Standards of Practice and Code of Ethics. These Standards and Ethics provide the operating framework the OO will look to for governance of conduct and activities and help protect the independence of the OO. The OO will submit an annual report to the Governor, COGCC, Colorado Department of Public Health and the Environment, DOLA, with legislative, policy and general practice recommendations reduce oil and gas development conflicts with landowners and communities.

The Department of Local Affairs shall develop processes and procedures to ensure the widest possible dissemination of information regarding the rights of each person involved in or effected by oil and gas development.

## Process

The Colorado Oil and Gas Task Force met on seven occasions between September 2014 and February 2015. All meetings of the Task Force were open meetings with observers in attendance. Each Task Force meeting was facilitated by The Keystone Center.

Meeting agendas and summarized meeting minutes have been included as appendices within this report (Appendices E and F, respectively) and are posted on the Colorado Department of Natural Resources' website, along with other relevant meeting materials, which can be found at: <http://dnr.state.co.us/ogtaskforce/Pages/home.aspx>.

### **Process for Recommendations and Voting**

Executive Order 2014-005 stated that, "recommendations of the Task Force regarding new or amended legislation shall be made by a two-thirds vote of the membership. If necessary and appropriate, those members in the minority may issue a separate report containing their recommendations."

Task Force Co-Chairs were able to call for a vote when a quorum was present. A quorum consisted of two-thirds of Task Force members, with at least one member present from each sector outlined in the Executive Order. Official votes of the Task Force were placed under the following process: all votes made on the official record were taken by roll call; alternates were not able to vote on the official record but could provide a provisional vote on behalf of their member; absent Task Force members were given 48 hours after the end of the meeting to confirm their alternate's provisional votes; and voting results were sent to the entire Task Force after the 48-hour window had passed.

### **Open Records and Open Meetings Laws, and Conflict of Interest as Related to the Process Facilitated by The Keystone Center**

At the first meeting, the Task Force was presented with a briefing by the Colorado Attorney General's Office (AG's Office) regarding the application of the state's open meetings, open records and conflict of interest laws and policies. The AG's Office indicated that these laws and policies applied to the work and deliberations of the Task Force despite the fact that this was an advisory body that may or may not make legislative recommendations and was not a policy making body. The AG's Office confirmed that it would represent the Task Force should any legal issue arise concerning these matters.

The AG's Office's advice included the following: Colorado's open meetings law required that anytime two or more Task Force members discussed any matter related to the issues of the Task Force such discussions must be (1) open to the public and press, (2) noticed to the public and press, and (3) minutes were to be taken of such discussions. Additionally, the Task Force was notified that the Colorado Open Records Act (CORA) applied to all correspondence between Task Force members and may be subject to review.

The Keystone Center agreed that any formal actions and recommendations of the Task Force should be debated in a public forum, and the Task Force complied with the open meetings laws and CORA. The

constraints, however, resulting from this particular interpretation of the open meetings law did result in complications and challenges for The Keystone Center staff and Task Force members concerning the functioning of this effort. Those challenges included the following:

- Task Force members were not allowed to engage each other in conversation — outside of the full Task Force meetings — in order to understand each other's positions or negotiate possible options and resolutions to issues and positions unless such conversations were open, noticed and recorded;
- Task Force members felt constrained in their ability to coordinate travel arrangements to meetings, attend collective meals after full meetings were completed, join in field trips to oil and gas operations, or other logistics and social interactions unless such activities were open, noticed and recorded;
- Task Force members could not share written materials, email messages, or other documents related to matters of the Task Force directly with other members unless these were either forwarded to other members by The Keystone Center staff or were open, noticed and recorded; and
- The Co-Chairs could not participate together in weekly conference calls to discuss meeting agendas and other logistical and procedural issues without formal notice.

In addition to the challenges mentioned above, there was little to no opportunity for Task Force members to get to know one another as individuals which would have allowed for a different level of rapport and candor in discussions.

Based on The Keystone Center's 40-years of experience facilitating policy dialogues, these impediments challenged the Task Force's ability to negotiate. While it was theoretically possible for these challenges to be met by having all activities be open, noticed, and recorded; neither The Keystone Center staff nor the Task Force members were comfortable or able to do so.

Advisory bodies to the Governor that are comprised of private citizens, convened and supported by the tools of good processes, allow for the most potential in developing innovative policy solutions that will effectively inform the Governor. There is great value in bringing disparate groups together to foster an honest and open exchange of ideas balanced by a deep understanding of interests. Such processes can effectively move past political and positional rhetoric to the creative development of solutions to many intractable issues.

## Appendices

- Appendix A: Executive Orders
- Appendix B: Governor Hickenlooper's Letter to the Task Force dated January 30, 2015
- Appendix C: The Task Force Ground Rules
- Appendix D: Anti-trust Statement
- Appendix E: Meeting agendas
- Appendix F: Approved summarized meeting minutes

## **Appendix A: Executive Orders**

**Appendix A1: Executive Order B 2014-005 “Creating the Task Force on State and Local Regulation of Oil and Gas Operations”**

# STATE OF COLORADO

## OFFICE OF THE GOVERNOR

136 State Capitol Building  
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## B 2014 005

### EXECUTIVE ORDER

#### **Creating the Task Force on State and Local Regulation of Oil and Gas Operations**

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order creating the Task Force on State and Local Regulation of Oil and Gas Operations.

#### **I. Background and Purpose**

The state and local jurisdictions share an interest in efficient and effective regulations that provide for the responsible development of the state's oil and gas resources. The Colorado Oil and Gas Conservation Commission ("COGCC") is charged with fostering the responsible development of Colorado's oil and gas resources in a manner consistent with the protection of public health, safety and welfare, including protection of the environment and wildlife. At the same time, counties and municipalities ("local jurisdictions") provide planned and orderly development within Colorado and have broad statutory authority to balance basic human needs and environmental concerns when regulating the use of land within their boundaries.

The increased oil and gas activity that is occurring in new areas of Colorado's Front Range and that involves new technology such as horizontal drilling combined with hydraulic fracturing has caused a number of local jurisdictions to revisit the adequacy of their own regulations associated with oil and gas operations.

Colorado case law has established preemption rules that create a priority between potentially conflicting laws enacted by various levels of government, and industry, the state and local jurisdictions have operated within the parameters established by the courts. Occasionally, however, parties disagree whether a local rule is preempted by a state rule. Parties often hesitate to pursue resolution in court because proving and defending against preemption claims is an adversarial, cumbersome, time consuming, and expensive process. Instead, the state and local jurisdictions, in collaboration with the oil and gas industry, seek to fashion mechanisms through which they can coordinate their efforts and achieve a complimentary regulatory structure that

benefits Colorado's economy, quality of life, health, environment and wildlife. It is in the interest of all parties to seek ways in which the concerns of local jurisdictions, operators, and the state can be addressed collaboratively.

With this as the backdrop, and recognizing the state's interest in resolving issues that involve mixed regulatory jurisdiction between local governments and the state in an amicable manner between all parties, including entities wishing to develop oil and gas mineral resources, there is a need to establish this Task Force to examine the many facets of these issues and provide recommendations for policy or legislation on how best to achieve these goals.

## II. Declaration and Directives

- A. The Task Force on State and Local Regulation of Oil and Gas Operations is hereby created for the purposes described in section I, above.
- B. The Task Force shall identify and strive to reach agreement on recommendations for policy or legislation to harmonize state and local regulatory structures as to activities associated with oil and gas operations with particular focus on the following objectives:
  - 1. the benefit of oil and gas development on the state's economy;
  - 2. protecting public health, water resources, the environment and wildlife;
  - 3. avoiding duplication and conflict between state and local regulations of oil and gas activities; and
  - 4. fostering a climate that encourages responsible oil and gas development.
- C. The issues that the Task Force addresses shall include, but not be limited to:
  - 1. distances between oil and gas wells and any occupied structure, or other restrictions on the location of an oil or gas well and its related production facilities, including but not limited to the requirement in COGCC Rule 604(c)(2)(E) regarding setting multiple well-pad facilities as far away as possible from occupied structures;
  - 2. adoption of laws or regulations by a local jurisdiction that are more or less stringent than those adopted by state government;
  - 3. adjustments to regulations that may reflect population density, geographic diversity and the unique conditions that may distinguish urban, suburban and rural communities;
  - 4. interaction between surface owners and energy companies when planning and locating oil and gas facilities;



5. floodplain restrictions;
  6. noise abatement;
  7. operational methods employed by oil and gas activities;
  8. air quality and dust management;
  9. traffic management and impacts; and
  10. fees, financial assurance, and inspection.
- D. The Task Force shall explore options that address the issues in section II(C), above, and that help clarify and/or better coordinate the regulatory jurisdiction over activities associated with oil and gas operations between state and local jurisdictions. Such options examined shall include, but not be limited to:
1. memorandums of agreement, intergovernmental agreements, and letters of cooperation and consent between the state and local jurisdictions;
  2. changes to existing laws or regulations; and
  3. suggested new laws and regulations.
- E. Recommendations of the Task Force regarding new or amended legislation shall be made by a two-thirds vote of the membership. If necessary and appropriate, those members in the minority may issue a separate report containing their recommendations.

### III. Membership

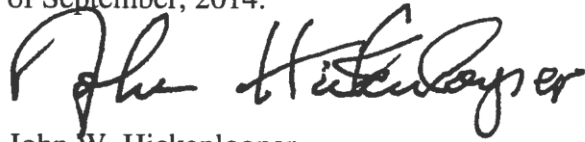
- A. The Task Force shall consist of twenty-one total members, two of whom shall co-chair the Task Force. The nineteen additional members of the Task Force shall represent the following organizations or subject-matter areas, as follows:
1. six members representing the oil and gas industry, the agricultural industry, and the home building industry;
  2. six members representing local government and the conservation community; and
  3. seven members representing a variety of interests.
- B. The Task Force shall meet as determined necessary by the co-chairs.

- C. The members of the Task Force shall receive no compensation nor shall they be reimbursed for travel or other expenses incurred in the performance of their duties.

IV. Duration

The Task Force shall report its recommendations and findings to the Governor by no later than February 27, 2015.

GIVEN under my hand and the  
Executive Seal of the State of  
Colorado, this eighth day  
of September, 2014.

A handwritten signature in black ink, appearing to read "John W. Hickenlooper", written over the printed name.

John W. Hickenlooper  
Governor

**Appendix A2: Executive Order A 2014-203 "Members Task Force on State and Local Regulation of Oil and Gas Operations"**

# STATE OF COLORADO

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John W. Hickenlooper  
Governor

## **A 2014 203**

### **EXECUTIVE ORDER**

#### **MEMBERS**

#### **TASK FORCE ON STATE AND LOCAL REGULATION OF OIL AND GAS OPERATIONS**

**ORDERED:**

That the following named persons be and they are hereby appointed to the:

#### **TASK FORCE ON STATE AND LOCAL REGULATION OF OIL AND GAS OPERATIONS**

for terms expiring July 1 2015:

Honorable Gwen Lachelt, Durango, Colorado, to serve as co-chair, appointed;

Randy Cleveland of Sterling, Colorado, to serve as co-chair, appointed;

Brad Holly of Lone Tree, Colorado, to serve as a member representing the oil and gas industry, the agricultural industry, and the home building industry, appointed;

Daniel E. Kelley of Littleton, Colorado, to serve as a member representing the oil and gas industry, the agricultural industry, and the home building industry, appointed;

Peter Dea of Golden, Colorado to serve as a member representing the oil and gas industry, the agricultural industry, and the home building industry, appointed;

Winton "Perry" Pearce of Denver, Colorado, to serve as a member representing the oil and gas industry, the agricultural industry, and the home building industry, appointed;

Kent Peppler of Platteville, Colorado, to serve as a member representing the oil and gas industry, the agricultural industry, and the home building industry, appointed;

R. Scot Woodall of Henderson, Colorado, to serve as a member representing the oil and gas industry, the agricultural industry, and the home building industry, appointed;

Sara Barwinski of Greeley, Colorado, to serve as a member representing local government and the conservation community, appointed;

Matt Sura of Boulder, Colorado, to serve as a member representing local government and the conservation community, appointed;

Jeffrey P. Robbins of Durango, Colorado, to serve as a member representing local government and the conservation community, appointed;

Jon Goldin-Dubois of Denver, Colorado, to serve as a member representing local government and the conservation community, appointed;

Jim Fitzgerald of Bayfield, Colorado, to serve as a member representing local government and the conservation community, appointed;

Will Toor of Boulder, Colorado, to serve as a member representing local government and the conservation community, appointed;

Bruce Rau of Centennial, Colorado, to serve as a member representing a variety of interests, appointed;

Elbra M. Wedgeworth of Denver, Colorado, to serve as a member representing a variety of interests, appointed;

Russell B. George of Rifle, Colorado, to serve as a member representing a variety of interests, appointed;

Honorable Rebecca Love Kourlis of Englewood, Colorado, to serve as a member representing a variety of interests, appointed;

Bernie Buescher of Grand Junction, Colorado, to serve as a member representing a variety of interests, appointed;

Honorable Patrick Quinn of Broomfield, Colorado, to serve as a member representing a variety of interests, appointed;

Steve Moreno of Greeley, Colorado, to serve as a member representing a variety of interests, appointed.



GIVEN under my hand and the  
Executive Seal of the State of  
Colorado, this eighth day  
of September, 2014.

A handwritten signature in blue ink, which appears to read "John W. Hickenlooper", is written over the text of the Governor's name.

John W. Hickenlooper  
Governor

**Appendix A3: Executive Order B2014-006 "Amending Executive Order B2014-005 Regarding the Task Force on State and Local Regulation of Oil and Gas Operations"**

# STATE OF COLORADO

**OFFICE OF THE GOVERNOR**

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**John W. Hickenlooper**  
Governor

## **B 2014 006**

### **EXECUTIVE ORDER**

**Amending Executive Order B 2014-005 Regarding the Task Force on  
State and Local Regulation of Oil and Gas Operations**

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order amending Executive Order B 2014-005 creating the Task Force on State and Local Regulation of Oil and Gas Operations, dated September 8, 2014.

**I. Amendment**

Section III of Executive Order B 2014-005 is amended to read as follows:

**III. Membership**

- A. The Task Force shall consist of twenty-one total members, two of whom shall co-chair the Task Force. The nineteen additional members of the Task Force shall represent the following organizations or subject-matter areas, as follows:
  - 1. six members representing the oil and gas industry, the agricultural industry, and the home building industry;
  - 2. six members representing local government and the conservation community; and
  - 3. seven members representing a variety of interests.
- B. The Task Force shall meet as determined necessary by the co-chairs.
- C. The members of the Task Force shall serve without compensation, but shall be reimbursed from moneys in the oil & gas conservation and environmental response fund created in section 34-60-122 (5) of the Colorado revised statutes for reasonable actual and necessary expenses incurred in attending official Task Force meetings.

II. Duration

This Executive Order shall remain in effect until rescinded or modified by Executive Order. In all other respects, Executive Order B 2014-005 shall remain in full force and effect as originally promulgated.



GIVEN under my hand and the  
Executive Seal of the State of  
Colorado, this twelfth day  
of September, 2014.

A handwritten signature in blue ink, which appears to read "John W. Hickenlooper", is written over the text of the signature line.

John W. Hickenlooper  
Governor

**Appendix B: Governor Hickenlooper's Letter to the Task Force dated January 30, 2015**

# STATE OF COLORADO

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John W. Hickenlooper  
Governor

January 30, 2015

Dear Task Force members,

Thank you for your continued work on the Task Force. I appreciate the time and effort you have all spent on reaching consensus on possible recommendations. We all knew these conversations would be difficult and your willingness to listen to different ideas and compromise to find solutions that will move us forward is to be commended.

I want to make sure that my expectations and charge to the Task Force are clear. The Executive Order recognized that these issues are complex and encompass a vast spectrum of views and ideas of the people in this group. Therefore, consensus on all proposals may not be possible. Consistent with the Executive Order, I encourage you to strive to achieve support from two-thirds of the Task Force membership on as many proposals as possible, regardless of whether the implementation tool is legislation, regulation, policy or allocation of human or other resources. I anticipate receiving these recommendations at the end of February. However, as it states in the Executive Order, I also expect to receive reports on each of those items on which a two-thirds vote is not obtainable.

This is not the end. Colorado will continue to strive to be the leader in fostering responsible oil and gas development while providing protections for public health, safety and welfare, including the environment and wildlife. The work of the Task Force over the last several months moves us in that direction and I look forward to receiving the final recommendations.

Sincerely,

John W. Hickenlooper



## **Appendix C: Task Force Ground Rules**



### **Final Participation Ground Rules Task Force on State and Local Regulation of Oil and Gas Operation October 10, 2014**

#### **OBJECTIVES**

Objectives of the Task Force are established under Executive Order B2014-005.

#### **DECISION-MAKING**

The Executive Order states that “recommendations of the Task Force regarding new or amended legislation shall be made by a two-thirds vote of the membership. If necessary and appropriate, those members in the minority may issue a separate report containing their recommendations.”

Co-chairs will call for a vote when a quorum is present. A quorum will be a two-thirds majority, with at least one member from each sector present. Members may vote electronically after the Task Force vote if they are not present during the vote. The timeframe for this vote will be at the discretion of the chairs and will be established prior to the vote.

Possible agreements on recommendations will be tested throughout the process. To the extent that agreements are reached, those agreements will be captured in a draft report. At its final meeting, the Task Force will review the draft set of potential findings and recommendations and determine where agreement can be reached and where divergent perspectives persist. A final report documenting these findings and recommendations will be provided to the Governor.

#### **ROLE OF THE CO-CHAIRS**

The co-chairs will determine the meeting schedule for the Task Force and develop the agendas for the meetings with the assistance of the facilitators. Task Force members will discuss future agenda items at the end of each meeting. Between meetings TF members should submit possible agenda items to the co-chairs for consideration as meeting agendas are developed. The Co-chairs will provide information about why agenda items were or were not included. The co-chairs will also call for votes as appropriate to determine whether a recommendation will be made by the Task Force.

#### **ROLE OF THE FACILITATOR**

The Keystone Center will assist the co-chairs in facilitating the Task Force. The role of the facilitators is to assist the group in identifying issues and interests, narrowing options, and developing agreement where possible. Keystone Center staff will do this in accordance with its own statement of independence (attached). The Keystone Center is providing its services to the Task Force through its own innovation funding and is not receiving financial support from the State or any entity represented on the Task Force to conduct its work.

#### **MEMBERSHIP AND ATTENDANCE**

Task Force members agree not to appoint alternate members and instead will strive to attend all meetings in person. Members agree that participation by phone or conference call is not desirable. If

any member is unable to attend a meeting they can still contribute to the Task Force by providing agenda items to the co-chairs for discussion and by reviewing appropriate materials so as to be prepared for discussions in subsequent meetings. If a member cannot make a significant number of the scheduled Task Force meetings, that member can work through the Governor's office to approve an alternate to participate at those meetings the member cannot attend. The member must identify to the Task Force the meetings which the alternate will attend and the alternate will not be able to vote on any Task Force deliberations.

### **COLORADO OPEN RECORDS ACT (CORA) AND PUBLIC COMMENT**

The Task Force will uphold the requirements of the CORA as briefed by the Colorado State Attorney General's office. If there is a question regarding CORA the State Attorney General staff will be available to the Task Force for consultation.

Task Force meetings will be noticed on the Task Force website and will be open to the public. Meetings will incorporate time for public comment. Task Force members will actively listen to public comment but will not respond directly during the comment period. In addition, interested members of the public will be able to submit comments via the website. Those comments will be available at each meeting for Task Force member review.

Members of the public are asked to uphold the same discussion guidelines as the Task Force. In particular, the Task Force requests that members of the public do not applaud, boo or hiss during any part of the Task Force meetings including public comment, do not wave signs or placards, and do not use derogatory language or personal attacks in their comments.

### **GUEST SPEAKERS**

The guest expert speakers invited to inform the Task Force will be vetted to ensure balanced perspectives and will be asked to share information specifically relevant to the goals of the Task Force. Such guests will be vetted by the facilitator and co-chairs to ensure balance.

### **DISCUSSION GUIDELINES**

Task Force members wish to maintain an environment that promotes open and constructive discussion. Members recognize that such an environment must be built on mutual respect and trust, and each commits to avoid actions that would damage that trust. In communicating about the group's work, including communicating with the press, each member agrees to speak only for herself or himself; to avoid characterizing the personal position or comments of other participants; and to always be thoughtful of the impact that specific public statements may have on the group and its ability to complete its work. No one will speak for any group other than their own, without the explicit consent of that group. Further, Task Force members will strive to uphold the following guidelines:

- Participate actively, in good faith, and in an effort to promote joint problem-solving. Take ownership in and be open to the outcomes.
- Be mindful of comment length and the importance of encouraging participation from everyone in the group. When agreeing, do so briefly.
- Be honest, open-minded, and respectful when offering and listening to differing points of view; when disagreeing, do so judiciously and do not engage in personal attacks and refrain from using language that may be seen as inflammatory by others in the group. Raise concerns and ask questions early and before decisions are made.

- Seek and incorporate factual information into discussions and decisions. Be mindful of the presence of multiple backgrounds; watch the use of acronyms from your field.
- Respect time commitments in the agenda; maintain focus on the issues and objectives.
- No interruptions or side conversations. Be respectful regarding use of phones and other technologies.

## **Appendix D: Anti-Trust Statement**

### **Anti-Trust Statement**

It is The Task Force's policy to fully comply with both the letter and the spirit of all applicable state, federal and international antitrust laws. Because competitors may be present at this meeting, several topics of conversation must be avoided. In general, the types of discussion that must not occur are those that may suggest or imply agreements among competitors with respect to: prices; terms of sale, discounts, credit or any other such items that could impact prices. Other topics that must be avoided include the allocation of customers, markets or territories; bid-rigging; and group boycotts or joint refusals to do business with others

The Task Force will conduct this meeting in a manner that complies with all applicable antitrust laws. If at any time during the course of the meeting a participant believes that a topic prohibited under the antitrust laws is being discussed, or is about to be discussed, they should advise the facilitator and co-chairs who will halt any further discussion.

## **Appendix E: Meeting Agendas**

## Appendix E1: September 25, 2014 Agenda



### Colorado State and Local Regulation of Oil and Gas Operations Task Force Introductory Work Session Final Agenda September 25, 2014

#### Meeting Objectives:

- Ensure understanding of the purpose of the task force as described in the EO.
- Agree on basic protocols for the Task Force, including understanding of Colorado Open Records Act (CORA) requirements, which govern task force business.
- Build mutual understanding members' expectations for the Task Force.
- Provide basic information about the current regulatory framework to help inform where further information is needed that can be addressed in future meetings.
- Establish an order of priority for addressing issues in subsequent meetings.
- Agree on the timeline and process going forward from Sept 25- February 27.
- Demonstrate a transparent process to members of the public.

#### **10:00 a.m. Welcome and introductory remarks**

-Co-Chairs, Randy Cleveland and Gwen Lachelt

#### **10:25 a.m. Review purpose and protocols for the Task Force**

The Keystone Center will review the purpose of the Task Force as set forth in the Executive Order and initial operating protocols for the Task Force. Review briefing book and initial materials and other logistical information.

#### **11:10 a.m. Welcome, Governor Hickenlooper**

#### **11:20 a.m. Expectations for Task Force**

Review participant expectations of overall objectives and desired outcomes from the Task Force. Each member will have 3 minutes to share their expectations.

#### **12:00 noon Working Lunch**

#### **12:15 p.m. Overview of Task Force participation requirements**

State AG office will review CORA and other requirements

#### **12:45 p.m. Overview of current state legal and regulatory framework, with focus on the Oil and Gas Conservation Commission**

Matt Lepore, Director of the Colorado Oil and Gas Conservation Commission, will provide a brief overview of the current state-level framework that governs oil and gas development in Colorado. This presentation will serve as the basis for determining what additional information will be needed at future Task Force meetings to inform deliberations.

#### **1:30 p.m. Break**

#### **1:45 p.m. Overview of current local level approaches and practices**

Paula Swenson, Gunnison County Commissioner and Geoff Wilson, General Counsel, Colorado Municipal League will provide a county and municipality overview of the current status of local approaches relative to oil and gas development in Colorado. This presentation will serve as the basis for determining what additional information will be needed at future Task Force meetings to inform deliberations.

- 2:30 p.m. Initial identification of issues to be addressed and Task Force scope**  
First pass discussion about the key issues to be addressed by the Task Force. Identify additional background information that will be needed to address these issues.
- 3:45 p.m. Review minutes and action items**  
Approve minutes for the meeting. Review and discuss proposed timeline and next steps for the Task Force, including public comment (online and at meetings), and make adjustments as necessary. Review Task Force website.
- 4:00 p.m. Public comment**  
(Note: This initial meeting is a working session and will have limited opportunity for public comment. As will be reviewed in the work plan there will additional opportunity for public comment and feedback online that will be presented at subsequent meetings. Public commenters will be requested to keep their comments to 3 minutes)
- 6:00 p.m. Adjourn**

## Appendix E2: October 9-10, 2014 Agenda



### Colorado Oil and Gas Task Force Final Revised Agenda October 9-10, 2014 Durango, CO

#### October 9, 2014:

- 12:00 p.m. Lunch**
- 12:10 p.m. Welcome co-chairs**
- Introductions of Task Force members
  - Review anti-statement
- 12:20 p.m. Welcome from local leaders**
- Southern Ute Tribal Chairman
  - Mayor of Durango
  - Chair of the La Plata County Commission
- 12:30 p.m. Approve minutes and ground rules**
- 12:45 p.m. Review outcomes of September 25 meeting**
- New information for binders
- 1:00 p.m. Review of Colorado Supreme Court decisions informing local government authority**
- Attorneys David Little, Bjork Lindley and Little, John Sullivan, Sullivan Green and Seavy, and John Dugan, Dugan and Associates
- 1:45 p.m. Review of Colorado Department of Public Health and Environment regulatory oversight**
- Dr. Larry Wolk, Executive Director
- 2:15 p.m. Break**
- 2:30 p.m. Southwestern Colorado oil and gas development case study:**
- Using La Plata County and Southwestern Colorado as an example, the panel will provide an overview of how the oil and gas development, permitting, and regulatory process works. Task Force members will be asked to share their own experiences and where those vary from how it works in La Plata County. Invited panelists will include:
- BP
  - Kinder Morgan
  - Todd Weaver, La Plata County
  - Colorado Oil and Gas Conservation Commission
  - CDPHE
- 4:30 p.m. Review next day's agenda**



**4:45 p.m.      Adjourn Task Force discussions**

**5:00 p.m.      Public Comment**

**7:00 p.m.      Adjourn**

**October 10, 2014:**

**8:30 a.m.      Other perspectives on regulatory collaboration, Southern Ute Tribe**

- Bob Zahradnik, Southern Ute Tribe

**8:45 a.m.      Review outcomes from previous day**

**9:15 a.m.      Task Force discussion of issues**

Based on outcomes of September 25 meeting, Task Force members will begin to identify the issue areas they believe that the Task Force should be addressing

**10:45 a.m.      Break**

**11:00 a.m.      Review of site visits- what to expect**

**11:30 a.m.      Work plan and next steps**

**12:00 noon      Adjourn**

## Appendix E3: November 20-21, 2014 Agenda



**Colorado Oil and Gas Task Force  
Revised Final Agenda  
November 20-21, 2014  
The Ranch, Larimer County Fairgrounds, CO**

### **November 20, 2014:**

**8:00 a.m. Optional driving tour in own cars, leaving from hotel lobby**

**11:45 a.m. Lunch for Task Force members available**

**12:00 p.m. Welcome from co-chairs, Gwen Lachelt and Randy Cleveland**

**12:15 p.m. Approve minutes and review outcomes of October meeting and review agenda**

**12:30 p.m. Welcome and presentation on local government perspectives**

The panelists for local government within the region will be asked to share their experience with areas specifically called out in Section C. of the EO and which of those items have been most important for them to address for their communities.

- Commissioner Barbara Kirkmeyer, Weld County
- Commissioner Elise Jones, Boulder County
- Council Member Hugh McKean, City of Loveland
- Mayor Christine Berg, Lafayette
- Mayor Dennis Coombs, Longmont and Eugene Mei, Longmont City Attorney

#### **Task Force discussion with local government representatives**

##### **Possible questions include:**

- What aspects of state regulations and the state regulatory process are helpful in addressing community concerns. What aspects of state regulations and process are lacking?
- What aspects of current local government authority are helpful in addressing community concerns? What aspects of local government authority is lacking?
- To the extent “gray” areas or areas of uncertainty exist as to the jurisdiction of state and local authority, where is clarity most needed? And where, if at all, do you find flexibility helpful?

**3:00 p.m. Break**

**3:15 p.m. Surface owner rights perspectives and Task Force discussion**

This discussion will cover surface owner rights, where surface owners currently have leverage to address their concerns, and best practices for surface use agreements (as referenced in Section C.4. of the EO) and questions and answer from the Task Force

- Ken Wonstolen, Attorney, Bill Barrett Corporation
- Bruce Baizel, Director, Earthworks Energy Program
- Randy Feuerstein, Attorney, Dufford & Brown

#### **Task Force discussion:**

- Task Force members who are surface rights owners and adjacent neighbors will be asked to share their experiences and perspectives

- Task Force member discussion to include how surface owner rights issues relate to potential issues and recommendations the Task Force will address

**4:45 p.m. Formal Task Force discussions conclude for the day**

**5:00 p.m. Public comment**

To accommodate more comments, speakers will be allowed 2 minutes for comments.

**7:00 p.m. Adjourn**

**November 21, 2014:**

**7:45 a.m. Continental breakfast**

**8:00 a.m. Review of previous day discussions**

**8:15 a.m. Task Force reflections on deliberations to-date**

**9:00 a.m. Task Force discussion on how to build towards agreements and recommendations**

Based on feedback received, discuss and agree on how the Task Force wants to approach decision-making and building towards recommendations going forward.

- Issues-based (as laid out in sections B. and C. in the EO)  
OR
- Framework-based (as laid out in section D. in the EO, e.g., interagency agreements, transparency and due process, comprehensive planning, “toolbox” development)

**10:00 a.m. Break**

**10:15 a.m. Task Force further discussion on priority issues or frameworks based on earlier discussion**

**11:15 a.m. Discuss and prioritize potential informational agenda items for future meetings**

- Models from other states and communities
- Health and Safety
- Technology and Development: What do new developments mean for state and local government planning, permitting and regulatory frameworks?
- Economic development and impacts

**11:50 a.m. Review any agreements and next steps**

**12:00 noon Adjourn**

**12:30 p.m. Optional driving tour, leaving from Fairgrounds**

## **Appendix E4: December 10-11, 2014 Agenda**



### **Colorado Oil and Gas Task Force Final Agenda December 10-11, 2014 Rifle, Colorado**

#### **December 10, 2014:**

- 10:00 a.m. Welcome from co-chairs - Randy Cleveland and Gwen Lachelt**
- Review agenda and approve November minutes
- 10:10 a.m. Perspectives from the Piceance Basin and surrounding areas**
- Commissioner John Martin, Garfield County
  - Bruce Bertram, Delta County local government designee
  - Commissioner Rose Pugliese, Mesa County
  - Commissioner Timothy Corrigan, Routt County
  - Commissioner Shawn Bolton, Rio Blanco County
  - Commissioner Chuck Grobe, Moffat County
- Task force question & answer and discussion
- 11:30 a.m. Perspectives from affected community members**
- Carrie Couey, Rancher
  - Dave Devanney, Battlement Concerned Citizens
  - Amy Williams, Citizens Supporting Property Rights
  - Douglas Saxton, Garfield County resident
  - Joyce Wizer, Garfield County resident
- Task force question & answer and discussion
- 12:30 p.m. Break and lunch**
- 12:45 p.m. Mineral owners and takings issues**
- Wayne Forman, Brownstein Hyatt Farber Schreck;
  - Kevin Lynch, University of Denver Sturm College of Law
  - Roy Savage, National Association of Royalty Owners-Colorado
  - Mary Ellen Denomy, Ken Pro Institute
- Task force question & answer and discussion
- 1:45 p.m. Review of questions about current regulatory framework and process**
- Matt Lepore, Colorado Oil and Gas Conservation Commission
- 2:45 p.m. Task force discussions about key issue areas, full group discussion**
- Review Task Force member feedback on issues and recommendations;  
prioritize issue areas where Task Force should focus
- 3:30 p.m. Break**
- 3:45 p.m. Continued task force discussion of issue areas, small group discussion**

Based on prioritized issues, small groups will draft issue statements to be considered by Task Force for potential recommendations

**4:45 p.m.      Adjourn task force discussions**

**5:00 p.m.      Public Comment**

**7:00 p.m.      Adjourn**

**December 11, 2014:**

**8:00 a.m.      Review outcomes from previous day; report out from small groups, full group discussion of issue statements**

**9:00 a.m.      Explore range of potential recommendations, small group discussion**  
Identify information needed by January meeting to further explore and vet potential recommendations

**10:00 a.m.      Break**

**10:15 a.m.      Review outcomes of small group discussions and prioritize potential range of recommendations that warrant further consideration and/or analysis, full group discussion**

**11:30 a.m.      Future agenda items and next steps**

- Health panel and discussion
- Report out on requested information from discussions
- Discussion to narrow areas of recommendation

**12:00 noon      Adjourn**

## **Appendix E5: January 15-16, 2015 Agenda**



**Colorado Oil and Gas Task Force  
Final Agenda  
January 15 – 16, 2015  
4-H Building, Island Grove Regional Park, Greeley, CO**

### **January 15, 2015:**

- 10:30 a.m. Welcome from co-chairs - Randy Cleveland and Gwen Lachelt**
- 10:35 a.m. Welcome from Tom Norton, Mayor of Greeley**
- 10:40 a.m. Review business items- The Keystone Center**  
Review anti-trust statement, agenda and approve December minutes
- 10:45 a.m. Response to Task Force requests from Matt Lepore, Colorado Oil and Gas Conservation Commission**  
Task force question & answer and discussion
- 12:00 p.m. Lunch**
- 12:30 p.m. Task Force discussion on member feedback and recommendations**
- Process for getting to recommendations and final votes
  - Siting and infrastructure consolidation
  - Local government input and authority
  - Health and safety
  - Application and enforcement of existing regulations
- 2:15 p.m. Break**
- 2:30 p.m. Panel discussion on human health and public safety**
- Dr. Larry Wolk, Colorado Dept. Public Health and Environment
    - Response to Task Force requests
  - Dr. John Adgate, Colorado School of Public Health
  - Dr. Gabrielle Petron, NOAA and CIRES – University of Colorado at Boulder
  - Dollis Wright, Quality Environmental Professional Associates
- Task force question & answer and discussion
- 4:15 p.m. Local perspectives from Greeley region**
- 4:45 p.m. Adjourn task force discussions**
- 5:00 p.m. Public Comment**
- 7:00 p.m. Adjourn**

**January 16, 2015:**

- 8:00 a.m.**      **Review outcomes from previous day and explore potential recommendations**
- 10:15 a.m.**      **Break**
- 10:30 a.m.**      **Continued task force discussion on recommendations**
- 11:30 a.m.**      **Future agenda items and next steps**
- 12:00 noon**      **Adjourn**

## Appendix E6: February 2-3, 2015 Agenda



**Oil and Gas Task Force Work Session  
Final Agenda  
February 2-3, 2015  
Colorado Convention Center, Denver, CO**

### **February 2, 2015:**

- 10:00 a.m. Welcome from co-chairs - Randy Cleveland and Gwen Lachelt**
- 10:05 a.m. Review business items - The Keystone Center**  
Review anti-trust statement, agenda and approve December minutes  
Review process for getting to recommendations and final votes
- 10:15 a.m. Review Task Force proposals, first pass in full group**  
Task force question & answer and discussion
- 12:15 p.m. Lunch**
- 12:45 p.m. Continued Review of Task Force proposals in full group**
- 2:00 p.m. Break**
- 2:15 p.m. Continued Review of Task Force proposals in full group**
- 3:15 p.m. Drafting groups, if needed, by issue area to merge proposals and draft potential recommendations OR continued discussion in full group**
- 4:15 p.m. Opportunity to shift to different drafting groups, if needed**
- 5:00 p.m. Drafting groups report back to full group**
  - Key areas of agreement and areas needing further discussion
- 5:30 p.m. Adjourn**

### **February 3, 2015:**

- 8:00 a.m. Review outcomes from previous day and feedback on drafting**
- 10:15 a.m. Break**
- 10:30 a.m. Continued task force discussion on recommendations**
- 11:30 a.m. Future agenda items and next steps**
- 12:00 noon Adjourn**



## **Appendix E7: February 24, 2015 Agenda**



### **Colorado Oil and Gas Task Force Final Agenda February 24, 2015**

- 8:30 a.m. Welcome from co-chairs**
- 8:40 a.m. Approve minutes and other business**
- 8:45 a.m. Review discussion and amendment procedures**
- Amendments can only be incorporated if accepted by proposal author
  - All proposals must be final by end of meeting today
- 9:00 a.m. Final discussion and amendment proposals on land use revised proposals**  
(17, 13b, 16b, 20, 14, 7, 12, 21b, 25, 26)
- 10:15 a.m. Break**
- 10:30 a.m. Final discussion and amendment proposals unchanged land use proposals**  
(2, 3, 4, 9, 13, 18, 19, 22)
- 11:00 a.m. Final discussion and amendment proposals COGCC staffing and health recommendations**  
(27, 31b, 34b)
- 11:30 a.m. Final discussion and amendment proposals on surface owners and disclosure proposals**  
(44, 44a, 42, 43)
- 12:15 p.m. Lunch**
- 12:45 p.m. Final discussion and amendment proposals on all remaining proposals**  
(35, 36, 37, 39, 41, 49, 52b, 53, 54)
- 1:15 p.m. Task Force member time to make amendments to own proposals**
- 2:15 p.m. Status check with authors on amendments**
- 3:00 p.m. Review of all final amendments to proposals**
- 4:30 p.m. Next steps for voting and final report**
- 5:00 p.m. Adjourn**

## **Appendix F: Summarized Meeting Minutes**

## Appendix F1: September 25, 2014 Summarized Meeting Minutes



### Colorado Oil and Gas Task Force September 25, 2014 Denver, CO Summarized Meeting Minutes

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#### Task Force Members Present:

Randy Cleveland (co-chair), Gwen Lachelt (co-chair), Sara Barwinski, Peter Dea, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Rebecca Kourlis, Steve Moreno, Perry Pearce, Kent Pepler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Scot Woodall

**Task Force Members Absent:** Bernie Buescher, Elbra Wedgeworth

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#### Meeting Objectives:

- Ensure understanding of the purpose of the task force as described in the Executive Order.
- Agree on basic protocols for the Task Force, including understanding of Colorado Open Records Act (CORA) requirements, which govern task force business.
- Build mutual understanding members' expectations for the Task Force.
- Provide basic information about the current regulatory framework to help inform where further information is needed that can be addressed in future meetings.
- Establish an order of priority for addressing issues in subsequent meetings.
- Agree on the timeline and process going forward from Sept 25-Feb 27<sup>th</sup>
- Demonstrate a transparent process to members of the public.

#### Welcome

Gwen Lachelt and Randy Cleveland, co-chairs welcomed the Task Force and provided remarks regarding the expectations to address the tough issues before the Task Force on an open or public comment.

#### Purpose and ground rules (draft attached)

Lisa Dale, Department of Natural Resources reviewed the binders for the Task Force and logistical information for submitting reimbursements for travel to meetings. Sarah Stokes Alexander, The Keystone Center, reviewed the purpose of the group as defined in the Executive Order and the proposed ground rules. Task Force members will review the ground rules and vote on them at the next meeting.

#### Expectations for the Task Force

Members of the Task Force shared their expectations for the Task Force. Members expressed their belief in the collaborative process. It gives the Task Force the ability to take on one of the toughest conflicts of competing values we have today. All voices will be heard. A way to allow non-powerful

interest can participate in the process. This process is essential for democracy and it will allow fairness, transparency, and quality. With good faith and an honest intention, we can find a balance with these critical tough issues. Honest intention on everyone's part is required. The Task Force needs to move this issue to the next level, no value in creating enemies. Give legislators what they need: a sound basis of fact and reasoning to make better law. It is the right balance that is important.

Additional themes from these statements included:

- Develop a clearer understanding of the current situation and issues
- Balance the important interests of quality of life and resource development and air and water quality, public health, safety, and welfare
- Solve the tough issues before the Task Force because Colorado needs mutually agreeable solutions
- Recognize the complexity of the issues and do not assume simple answers
  - Be fact based
  - Understand the different situations faced by urban and rural communities
- Develop a strong regulatory basis that is balanced with different interests; explore ability to be clear but flexible to address state and local concerns, and consider different alternatives
- Empower local communities and governments to address specific concerns.

Many members expressed hope that this group can work hard to develop solutions and “get to yes,” by keeping open minds to each others’ perspectives, and having honest intentions, and make decisions that may not make everyone happy but balances the interests as best as possible.

### **Governor’s Welcome**

Governor Hickenlooper welcomed the Task Force and thanked them for their service on the Task Force. He expressed his optimism for this group coming to recommended solutions.

### **Overview of Open Records law and other open meeting requirements and conflict of interest**

David Blake, with the State Attorney General’s office reviewed the open meeting and open records requirements for the Task Force. Generally, all conversations pertaining directly to the business of the Task Force that occurs between two or more Task Force members should take place at noticed meetings to avoid violating the law. If a CORA request is made, it must be complied with within 3 days and all correspondence between Task Force members may be subject to review. Task Force members are not required to keep records of e-mail or notes. The State Attorney General is available to consult with the Task Force if there are any questions as they go forward. He also reviewed the requirements to disclose actual conflicts of interest and recuse themselves from votes if a conflict exists.

### **Overview of current state legal and regulatory framework (presentation)**

Matt Lepore, Director of the Colorado Oil and Gas Commission provided an overview of oil and gas law and development in Colorado. He then provided an overview of the regulations that apply to oil and gas development in Colorado.

Mr. Lepore briefly shared their approach to working with local governments and operator agreements. He shared the story of working with the City of Brighton.

### **Overview of current local level approaches**

Geoff Wilson, General Counsel, Colorado Municipal League, presented a general overview of how local government authority has evolved and is now being practiced in Colorado. Paula Swenson, Gunnison County Commissioner, presented how Gunnison County regulates oil and gas development and the process they used to get to a regulatory framework (presentation).

### **Initial Identification of issues to be addressed and Task Force Scope**

Committee members suggested priorities for future agendas. Suggestions included:

- Defining problems and agreeing which problems the Task Force will address
- Presentations on industry technology and operational techniques
- State versus local authority
- Public health, safety, and welfare concerns
- Presentation on what other states are doing regarding oil and gas development and regulation
- Recognizing that there is a need for alternatives for different areas
- Presentation on surface owner and mineral owner rights
- The availability of a representative from both the COGCC and CDPHE

The Task Force concluded its proceedings and opened the meeting for public comment.

## **Appendix F2: October 9-10, 2014 Summarized Meeting Minutes**



### **Colorado Oil and Gas Task Force October 9 - 10, 2014 Durango, Colorado Summarized Meeting Minutes**

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#### **Task Force Members Present:**

Randy Cleveland (co-chair), Gwen Lachelt (co-chair), Bernie Buescher, Peter Dea, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Steve Moreno, Perry Pearce, Kent Pepler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Elbra Wedgeworth

#### **Task Force Members Absent:**

Sara Barwinski, Rebecca Kourlis, Scot Woodall

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**Thursday, October 9, 2014**

12:00pm – 7:00pm

#### **Welcome**

Gwen Lachelt, co-chair, welcomed Task Force members to Durango and provided brief opening remarks. Task Force members were then welcomed by local leaders from southwest Colorado including the Chairman of the Southern Ute tribe, Mayor of Durango, and Chair of the La Plata County Commission.

#### **House Keeping**

Lisa Dale reviewed the new information that is included in the Task Force member binders that will also be posted to the website, including public comment received through the website up to 48 hours of the meeting. She also reviewed the schedule for the option field tours in Garfield County and the Longmont area, noting that there would be brief presentations that would be open for the public before embarking on the operational tours, which would be limited to Task Force members due to space and safety concerns.

#### **Approve Minutes and Ground Rules**

Sarah Stokes Alexander, The Keystone Center, briefly reviewed the antitrust statement, proposed ground rules and September 25<sup>th</sup> meeting minutes for Task Force (TF) approval; TF members were provided with copies of each document prior to the meeting.

There were no comments or questions from TF members on the antitrust statement.

Members requested the September 25<sup>th</sup> meeting minutes better reflect comments made by Mr. George regarding the expectations of the Task Force. Some TF members expressed concern with the Deputy

Attorney General's interpretation of the Colorado Open Records Act and wanted to be clear this interpretation would not infringe on their rights.

Other discussion around the ground rules included:

- Request for the co-chairs to establish more clear guidelines to vote when TF members are absent from a meeting.
- Discussion among the TF members on the *Guest Speakers* section of the ground rules regarding "balanced" information.
- TF members also requested the opportunity to discuss agenda items for upcoming meetings at the end of each TF meeting.

Approval of meeting minutes and ground rules was delayed to the first order of business for the morning of Friday, October 10<sup>th</sup>.

### **Review of Colorado Supreme Court Decisions Informing Local Government Authority**

Attorneys David Little of Bjork Lindley and Little, John Sullivan of Sullivan Green and Seavy, and Tom Dugan of Dugan and Associates, provided broad overviews of Colorado case law, including lead Supreme Court cases informing preemption and local government authority.

### **Review of Colorado Department of Public Health and Environment Regulatory Oversight**

Dr. Larry Wolk, Executive Director, and Kent Kuster of the Colorado Department of Public Health and Environment (CDPHE) provided an overview of the department's regulatory oversight and responsibilities. See attached for the presentation.

### **Southwestern Colorado Oil and Gas Development Case Study**

Using La Plata County and Southwestern Colorado as an example, a panel of presenters provided an overview of how oil and gas development, permitting, and the regulatory process work in this region of Colorado. Panel members included Jamie Conway from Kinder Morgan, Dave Brown from British Petroleum, Matt Lepore from the Colorado Oil and Gas Conservation Commission, and Todd Weaver from the La Plata County Planning department. The panel provided information on the permitting process to drill a well and the steps an operator must undertake at the local and state levels including permitting forms, application reviews, Memorandums of Understanding, and Surface Use Agreements with adjacent property owners. The presentations did not cover federal or tribal drilling permits as this is beyond the scope of the Task Force.

Much of the discussion and questions following the panel focused on the MOU process in La Plata County where the terms and conditions of the early MOUs were codified into the La Plata County Code. Specifically an agreement for operators to use or share existing infrastructure is now a requirement under local regulations which allow only four well pads within a 640 acre land area, with some provisions for exceptions to those regulations.

Other discussion from TF members included:

- Time and cost associated with permitting process for both operators and regulators
- Disputes between local and state entities in issuing permits; local government ability to request additional information during state permitting process
- Cumulative impacts of multiple wells or well operators and use of existing infrastructure
- Water quantity levels affected by oil and gas operations
- Surface owner rights and their standing to bring disputes against an operator before the COGCC

**Public Comment** (see attached summary from public comment session)

The Task Force adjourned for the day following two hours of public comment.

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**Friday, October 10, 2014**

8:30am – 12:00pm

**Other Perspectives on Regulatory Collaboration, Southern Ute Tribe**

Bob Zahradnik, representing the Southern Ute Tribe, provided an overview of the Southern Ute's history in the area and the tribe's background in oil and gas development.

**Meeting Minute and Ground Rule Approval**

Sarah Stokes Alexander, the Keystone Center, presented changes requested by TF members to the September 25<sup>th</sup> meetings minutes and ground rules document.

Approval of the meetings minutes was moved by Mr. Pearce and seconded by Mr. Moreno. September 25<sup>th</sup> meeting minutes were approved unanimously.

The ground rules document was revised to include a provision for the Chairs to establish voting rules in a member's absence, Chairs and facilitators will look for balanced information from guest speakers, and that TF members will avoid deliberation during public comment. Additional discussion from TF members around the ground rules, and similar issues falling under this topic from the previous day, included the following:

- Providing clear, defined guidelines for guest speakers on what they should present to the Task Force.
- Providing TF members with meeting materials and guest speaker list in a timelier manner before each meeting to provide adequate time for preparation.
  - Opportunity for TF members to provide feedback and suggestions for guest speakers to be vetted by Co-Chairs and facilitator.
  - Opportunity for TF members to submit questions to guest speakers in advance of meetings.
- Request to look at protocol for allowing elected officials to speak during public comment.
- Concern with reading statements from public outside of public comment period.



Acceptance of ground rules as amended was moved by Mr. Goldin-Dubois and seconded by Mr. George. The amended ground rules passed unanimously.

### **Review Outcomes from Previous Day**

Sarah Stokes Alexander, The Keystone Center, provided a review of the Executive Order to highlight the focus and issues to address given to the Task Force.

Ms. Stokes Alexander provided a summary of the themes that emerged from the previous day's meeting which included:

- Surface use and mineral rights
  - Leverage: what happens when it does not go well
  - Adjacent neighbors
- Complaints process, public process, and outreach
- MOU codification
  - Local government leverage (is it the same as La Plata?)
- Use of existing infrastructure and cumulative effects of multiple wells

Other issue areas identified from the last meeting included:

- Defining problems and agreeing which problems the TF will address
- Recognizing that there is a need for alternatives for different areas
- Industry technology and operational techniques
- State vs. local authority
- Public health, safety, and welfare concerns
- Examples of what other states are doing regarding oil and gas development and regulation
- Surface owner and mineral owner rights

### **Task Force Discussion of Issues**

TF members discussed the identified themes and suggested additional issue areas which emerged from the previous meetings they would like the opportunity to further discuss, emphasizing a need for more time allotted to discussion on future agendas. Many of the TF member comments focused on the following:

- Master/comprehensive planning of drilling operations
- General Assembly purview / legislative authority and how the Task Force should work within this with respect to its recommendations
- Viewpoint from the Colorado Attorney General on legal interpretation of Supreme Court decisions informing local government authority
- Industry best practices, surface use agreements, and memorandums of understanding
  - How to apply best practices in other regions
- Air and water quality issues
- Surface rights issues in relation to the recent changes in drilling technology

- House Bill 07-1252 and right of accommodation for surface owners
- Consumer advocacy and potential role for industry, local government or state government to provide some level of support to those affected
- Hear the perspective from those who proposed the ballot initiatives
- Better understanding of local authority and jurisdiction
  - Siting of wells, noise regulations, vibration concerns, ability to impose impact fees, traffic management in relation to development, the ability to impose fees to recover costs, the ability to inspect operations
- State's knowledge of health and safety of the industry

### **Work Plan and Next Steps**

TF members discussed the draft agenda providing feedback on proposed agenda items as well as suggestions for additional agenda items at future meetings.

Much of the discussion during this period included unanimous support to move the November 20-21 meeting from Rifle to the Front Range. Members still expressed a strong desire to hold a later meeting in Rifle.

Feedback from TF members on the proposed draft agenda items for future meetings included:

- Make sure health presentation includes how the State deals with health concerns, their response and documentation of concerns.
- Looking at exemplary model regulations from other states may be an unnecessary process where the TF will be unable to make any meaningful correlations.
  - TF should limit scope of other state regulations to residential drilling, setbacks, and local control
- Mineral owner rights and consequences of takings should be included in the surface owner rights discussion.
- The ballot Initiative concerns discussion should include guest speakers from the citizen groups who proposed the ballot initiatives.
  - Rather than focusing on the ballot initiatives this discussion should include elected officials from those communities to speak to tension in the community and what led to the ballot initiatives.
- Economic Impacts
  - Industry's economic impact and job creation
  - Economic analysis should include impact on property values
  - Economic impact to local governments on roads and inability to assess impact fees
- The Task Force should consider the economic, environmental, and community implications of its recommendations.

### **Next Steps**

The Department of Natural Resources will move the November 20-21 meeting location to the Front Range; the Rifle meeting will be moved to a future date.

The meeting adjourned on time.

## **Appendix A: Projected Notes from Discussion about Issues**

### **Planning process:**

- Comprehensive/Master planning for operations- can the process address cumulative impacts?
  - Panel of State, Front Range community, and operator on how comprehensive planning might work
  - Build a hypothetical situation for operators to share what they can and cannot do- for example COGCC has a process for a single operator to do comprehensive planning but does not address issues of how to create a cooperative multi-operator perspective; need to understand complexity; what role do joint operating agreements play?
  - Existing planning that might be shared more broadly
- How do we anticipate the next areas/issues and provide better tools for communities grappling with this (transfer knowledge from mature processes to new ones)?
- Earlier public engagement
- Lack of resources for participation of surface owners; those impacted by development
- Different levels of expertise within communities
  - examples of MOUs, other resources may help
- Split estate issues- mineral and surface owner involvement
- Differential surface impacts with change in technology that concentrates impacts- links to master planning
- Role of cooperation in building trust
- How to provide more information and demonstrate responsible practice

### **Legal/Voluntary Framework:**

- Complaints process, reporting and response
- Better coordination/streamlining process for permitting
- Better clarity on legislative authority and State AG perspective (recognizing possible limitations of AG representation/ability to offer opinion); need to understand and work with legislative process
- What is the change in community control that is being considered? What is better addressed local or otherwise?
  - Best practices of local government and in addressing specific issues
  - How do/can local governments leverage current authority? Is it sufficient?
    - Specifically as it relates to siting
- Split estate issues- mineral and surface owner recourse
- Adjacent communities and neighbor standing with COGCC
- Role of MOUs

### **Specific impacts**

- Noise impacts
- Vibration
- Traffic

House Bill 1252:

Surface owner accommodation

**Understanding Technology:**

- Differential surface impacts with change in technology that concentrates impacts- links to master planning
- How technology can or cannot address some of the siting conflicts; other mitigation of impacts

**Understanding concerns/current situations:**

- Need to hear from those who are in favor of a ban to understand their perspective; need to better understand ballot initiatives and their intent
  - Elected officials and staff and community groups
  - Consider moving Nov meeting
- Current knowledge and future research needs on impacts from School of Mines or other academic institutions; State perspective
  - Air quality
  - Water
- Understand current constraints of agencies
- What does the trade secret provision mean?

**Building Public Trust:**

- Need to hear from those who are in favor of a ban to understand their perspective; need to better understand ballot initiatives and their intent
  - Elected officials and staff and community groups
- Public engagement process
- Surface owner recourse
- Public information and outreach regarding current process, risks and transparency (e.g., fracking fluids)

**Task Force Process:**

- Need to understand concerns that led to ballot initiatives but be careful about inviting campaigns
- Use academic institutions to help build knowledge
- Consider moving location of Nov meeting for public comment to address front range concerns
- As we develop problem statements understand where there are solutions and where there are not solutions; types of solutions
- Consideration of effects of recommendation on economic, environmental and other issues, positive and negative

## Appendix F3: November 20-21, 2014 Summarized Meeting Minutes



### Colorado Oil and Gas Task Force

November 20-21, 2014

The Ranch, Larimer County Fairgrounds - Loveland, Colorado

### Summarized Meeting Minutes<sup>3</sup>

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#### Task Force Members Present:

Randy Cleveland (Co-chair), Gwen Lachelt (Co-chair), Sara Barwinski, Bernie Buescher, Peter Dea, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Rebecca Kourlis, Steve Moreno, Perry Pearce, Kent Pepler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Elbra Wedgeworth, Scot Woodall

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**Thursday, November 20, 2014**

12:00pm – 7:00pm

#### Welcome

Randy Cleveland and Gwen Lachelt, co-chairs, opened the meeting with a general welcome to the Task Force (TF) members and brief opening remarks. Ms. Lachelt provided a general overview of the meeting's agenda and review of the Task Force goals.

#### Approval of Meeting Minutes

The draft meeting minutes from the October 9-10, 2014 Task Force meeting in Durango, Colorado was presented to the TF for approval. The minutes were amended in the "Southwestern Colorado Oil and Gas Development Case Study" section to provide more clarity. After the change, the meeting minutes were moved for approval and passed unanimously as amended.

Lisa Dale, Department of Natural Resources (DNR), provided general housekeeping items to the TF including: a new 48-hour advance deadline to receive public comment online; the location for the next TF meeting in Rifle, Colorado on December 10-11, 2014 at Farm Fresh Café; and a request for TF members to notify DNR if they require a hotel reservation for the upcoming meeting.

Sarah Stokes Alexander, The Keystone Center, read a revised copy of the anti-trust statement which is included at the end of the summarized meeting minutes in Appendix A. There were no objections to the revised statement.<sup>4</sup>

#### Presentation on Local Government Perspectives

Representatives from local governments along the northern Front Range participated on a panel discussion presenting their experiences with oil and gas development specifically called out in section II.C of the Governor's Executive Order, and also presented on which of these issues were most important to them to address for their communities. The panelists consisted of Commissioner Barbara

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<sup>3</sup> The draft meeting minutes were revised to rename the document "Summarized Meeting Minutes"

<sup>4</sup> The draft meeting minutes were revised to include the reading of the Anti-Trust Statement and include an attachment of the statement.

Kirkmeyer of Weld County, Commissioner Elise Jones of Boulder County, Councilmember Hugh McKean of Loveland, Mayor Christine Berg of Lafayette, and Mayor Dennis Coombs and City Attorney Eugene Mei of Longmont. The panelists provided diverse viewpoints on the level of local government authority needed to adequately address oil and gas development within their respective districts.

The comments and questions from TF members during the discussion focused mostly on the authority local governments believe they have available to them and what tools the local government panelists believed they did or did not need in order to address oil and gas development. Questions and comments included:

- Are the current rules and regulations enough for local governments?
- Would the ability for local governments to use zoning and/or engage in comprehensive planning to address oil and gas development be adequate and effective?
- Would a zoning or comprehensive planning process impede on private property rights or potentially amount to a taking?
- Do local governments have ability to address public health and safety concerns with regards to oil and gas development?
- Do local governments have the ability and/or process to receive input and address the concerns of adjacent property owners?

#### **Presentation on Surface Owner Rights Perspective**

Attorneys Ken Wonstolen from Bill Barrett Corporation, Bruce Baizel from Earthworks, and Randy Feuerstein from Dufford & Brown provided presentations on surface owner rights. The presentations focused on surface owner rights, where surface owners currently have leverage to address concerns, and best practices for Surface Use Agreements (SUA). Following the panel presenters, members of the Task Force who are also surface owners shared their experiences and perspectives. TF members who shared their experiences during this portion of the discussion were Sarah Barwinski, Rebecca Kourlis, Kent Peppler, and Jim Fitzgerald.

#### **Public Comment**

In order to accommodate more speakers, public comment was limited to two minutes per person. The public comment session commenced with remarks from local elected officials followed by comments from the general public.

The Task Force adjourned for the day following two hours of public comment.

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#### **Friday, November 21, 2014**

8:00am – 12:00pm

#### **Review of Previous Day Discussions**

Sarah Stokes Alexander, the Keystone Center, opened the meeting with an overview for the day. Task Force members then provided feedback and suggestions from the previous day's discussion in a round-robin format. TF member comments during this portion of the meeting also focused on ways the group could build towards agreements and recommendations.

Themes that emerged from the round-robin discussion included:

- A need for focus on the Task Force with better structure and strategy.

- Understanding there is not ample time or ability to address everything listed in the Executive Order.
- There is a short amount of time left for the Task Force and a lot to get done.
- Narrow the focus to concentrate on some main issue areas including, but not limited to:
  - Question of local authority to address community input in permitting process
  - Consolidation of surface impacts
  - Health and public safety
  - Consideration of others affected, including surface owners, adjacent neighbors, and mineral rights owners
- A need for more panels and presentations to better understand different perspectives as well as current tools available to those with concerns or issues. However, while some TF members felt there was a need for more panels and presentations, there were also members who felt there had been ample panel discussions and were ready to move more towards narrowing issues and developing solutions.
  - Need to sharpen the quality of panelists and content presented.
  - Emphasis on objectivity.
  - Some of the suggested panels included:
    - Adjacent landowners and citizens perspective
    - Mineral/Royalty owners perspective
    - COGCC and DNR presentation/conversation on tools available to local governments within existing rules and regulations
- Suggestion to divide the Task Force into working groups at the Rifle meeting to identify issues and themes and suggest recommendations.

### **Strawman Framework: Comprehensive Planning**

Doug Young, the Keystone Center, provided a briefing on the Strawman Framework document provided to TF members by the Keystone Center. The concept for the framework was taken from an existing, voluntary COGCC rule and expanded upon it to explore ways local governments could address local concerns and issues within the existing rule. The framework was meant to serve as a conceptual idea without specific provisions, allowing room for TF members to consider different ways the framework could be used.

Discussion around the proposal implied TF members had mixed perceptions towards the feasibility of the strawman framework. There seemed to be consensus among TF members that there were parts of the proposal which needed to be further developed and it may be a recommendation to come back to at a later time; however, at this time the TF needed to advert their focus to agreeing on a set of issues to address before they could move forward with any solutions or recommendations.

### **Discuss and Prioritize Potential Informational Agenda Items for Future Meetings**

The TF discussed future agenda items, possible panel discussions, and how to best use the remaining time of the Task Force. There was a general consensus to break the TF members into working groups at the Rifle meeting, however, there was not a formal vote confirming overall agreement to utilize the working group format.



A list of potential future agenda items was generated during this discussion which will be disseminated to TF members via email to decide which items would be the most important to have a presentation during the remaining meeting times. Items from the list which do not generate support for a presentation will instead be provided to members via briefing materials (documents or white papers, etc.).

Items from the list included:

- Models from other states and communities
- Public Health and Safety
- Technology and Development
- Economic Development and Impacts
- Affected Citizens
- Mineral Owners
- Western Slope Local Government
- Current Regulatory Framework

In addition to deciding future agenda items, TF members would also be asked via email whether or not they would like to extend the meeting time in Rifle to allow for more presentations and group discussions.

Following the discussion on future agenda items, the Task Force adjourned on time.

#### **Appendix A: Anti-Trust Statement**

- It is The Task Force's policy to fully comply with both the letter and the spirit of all applicable state, federal and international antitrust laws. Because competitors may be present at this meeting, several topics of conversation must be avoided. In general, the types of discussion that must not occur are those that may suggest or imply agreements among competitors with respect to: prices; terms of sale, discounts, credit or any other such items that could impact prices. Other topics that must be avoided include the allocation of customers, markets or territories; bid-rigging; and group boycotts or joint refusals to do business with others.
- The Task Force will conduct this meeting in a manner that complies with all applicable antitrust laws. If at any time during the course of the meeting a participant believes that a topic prohibited under the antitrust laws is being discussed, or is about to be discussed, they should advise the facilitator and co-chairs who will halt any further discussion.

## **Appendix F4: December 10-11, 2014 Summarized Meeting Minutes**



### **Colorado Oil and Gas Task Force December 10 - 11, 2014 Rifle, Colorado Summarized Meeting Minutes**

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#### **Task Force Members present:**

Randy Cleveland (co-chair), Gwen Lachelt (co-chair), Bernie Buescher, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Rebecca Kourlis, Perry Pearce, Kent Pepler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Elbra Wedgeworth

#### **Task Force Members absent:**

Sara Barwinski, Peter Dea, Steve Moreno, Scot Woodall

#### **Alternates present in place of absent Task Force Members**

Lem Smith (alternate for Peter Dea) and Duane Zavadil (alternate for Scot Woodall)

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#### **Wednesday, December 10, 2014**

10:00 a.m. – 7:00 p.m.

#### **Welcome**

Gwen Lachelt and Randy Cleveland, co-chairs, opened the meeting with a general welcome to the Task Force members, the panelist, and the general public. Mr. Cleveland reflected on where the Task Force has been and where it is heading. He reminded the Task Force members that they needed to narrow the issues and he hoped they could compromise in order to find a solution.

#### **Approval of Meeting Minutes**

The draft meeting minutes from the November 20-21, 2014 Task Force Meeting in Loveland, Colorado was presented to the Task Force for approval. The minutes were amended to change the title of the minutes to “summarized meeting minutes” and to add review of the anti-trust statement as a specifically-noted item, and to attach the full statement as a reference.. After the change, the summarized meeting minutes were moved for approval and passed unanimously as amended.

#### ***Anti-Trust Statement***

Sarah Stokes Alexander, the Keystone Center, reviewed the anti-trust statement due to the presence of representatives of several competing companies (attached).

#### **Housekeeping Notes**

Sarah Stokes Alexander, reviewed the agenda. . Ms. Alexander made note that approved alternates were not able to vote, but in case of a formal vote, all Task Force members not able to attend would be contacted in order to cast a formal vote. Lisa Dale, The Colorado Department of Natural Resources (DNR), also mentioned that all handouts must be sent to DNR at least 48 hours prior to the meeting in order to be added to the Task Force binders.

### **Perspectives from the Piceance Basin and surrounding areas panel**

Representatives from local governments in the Piceance Basin and the surrounding areas on the Western Slope participated on a panel discussion presenting their experiences with oil and gas development specifically called out in section II.C of the Governor's Executive Order. Panelists focused the majority of the time on measures local governments have used to permit and monitor including local land use codes, Local Government Designees (LGDs), and collaborations with citizens and industry, including monthly forums with operators in the area and advisory groups. The panelists consisted of Commissioner Rose Pugliese of Mesa County, Bruce Bertram, Delta County local government designee, Commissioner Shawn Bolton of Rio Blanco County, Commissioner Chuck Grobe of Moffat County, Commissioner John Martin of Garfield County, and Commissioner Timothy Corrigan of Routt County. The panelists presented their diverse experiences, challenges, and solutions to working with their constituents and operators in their respective districts.

The comments and questions from the Task Force members during the discussion focused around the tools, resources, and authority that local representatives felt were lacking, if any, as well as follow-up to what is currently happening in communities around collaborations with citizens and industry. Questions and comments included:

- What additional authority is needed at the local government level, or are existing authorities are sufficient?
- Hearing about the diversity of approaches taken by local governments, are local governments lacking tools, resources, or mechanisms?
- Is there anything that industry could provide to the LGD or Colorado Oil and Gas Conservation Commission (COGCC) to make processes more robust or to be able to facilitate what goes on?
- How is the advisory group in Garfield County guided? When there are conflicts, how does the advisory group get to resolution?
- Is it possible to have communications between the local government, citizens and industry prior to the application going to the COGCC and the COGCC issuing a notification? If so, how early can that happen?

### **Perspectives from affected community members panel**

Five community members from the Western Slope provided insight into their diverse experiences with oil and gas development in their neighborhoods and on their private land. Carrie Couey, rancher in Garfield County, Dave Devanney of Battlement Concerned Citizens, Douglas Saxton of Garfield County, Joyce Wizer of Garfield County, and Amy Williams of Citizens Supporting Property Rights all spoke to their individual experiences of oil and gas development and also gave their recommendations to the Task Force

### **Mineral owners and takings issues**

The Task Force heard from a panel of speakers on the legal rights of mineral owners and issues around takings. The panel consisted of Attorney Wayne Forman from Brownstien Hyatt Farber Schreck, Law Professor Kevin Lynch from University of Denver – Sturm College of Law, Roy Savage from the National Association of Royalty Owners – Colorado, and Certified Public Accountant Mary Ellen Denomy from the Ken Pro Institute.

The panelist presentations focused mostly on takings law and how to determine when a regulation may go so far as to be considered a total regulatory taking or partial taking. Currently, there is not substantial

case law around taking issues in Colorado nor a litmus test or strict percentage basis to determine taking cases.

The task force discussion with the panelists hinged on the balance between the mineral owners' right to access and produce their resources versus the government's role in protecting public health and safety. It was acknowledged that governments have a legitimate role in protecting the health and wellbeing of their citizens, however, there needs to be clear, demonstrable evidence of public health risks before taking away an individual's mineral right. Even with this clarity, it proved difficult to determine how far the courts would allow a government's regulation to go without a defined litmus test or strict percentage.

### **Review of questions about current regulatory framework and process**

Matt Lepore from the Colorado Oil and Gas Conservation Commission (COGCC) presented to the Task Force on the COGCC's current regulatory framework and permitting process, including an overview of the public comment period and MOU process.

Discussion between Mr. Lepore and the Task Force consisted of the following:

- Complaint process: What is the process when an individual files a complaint with the COGCC? How does the agency follow-up on complaints? What happens to the information within the complaint? Does COGCC have proper staffing levels to handle complaints?
- Memorandums of Understanding:
  - Are there recurring items/themes within MOUs that could be codified or set in rule state-wide?
  - COGCC authority to enforce agreements within MOUs between local governments and operators.
- Education and training from COGCC to local governments: Could COGCC focus education efforts in a more efficient manner – perhaps working more with local elected officials or enhancing the local government designee program?
- Resource needs and capacity of COGCC to do its job and enforce rules.
- Due process rights of adjacent landowners.
- Is there a balance the COGCC can strike between valid competing rights? Is there a balance between all the existing interests that come into conflict including: mineral owner, surface owner, adjacent land owner, public health and safety?

At the end of the discussion, it was decided there is a need for another presentation from COGCC to further address the questions and topics that arose. Mr. Lepore will present at a future Task Force meeting to address questions on, but not limited to: staffing needs and the capacity of COGCC to do its job; COGCC interaction with local government designees and how to bolster this process; different approaches used by counties to address oil and gas development issues and the extent of their ability to address those issues; and perspective from COGCC on how it could better balance or reduce conflict between competing rights and other potentially affected interests.

### **Task Force discussions about key issue areas, full group discussion**

The Task Force was presented with a draft summary of topic areas raised through Task Force member feedback prior to the meeting. The five main topic areas were: (1) siting and infrastructure consolidation, (2) local government input and authority in siting, (3) regulatory authority over impacts from operations, (4) health and safety issues, and (5) other issues as identified (surface owner issues,

role of COGCC, application and enforcement of existing regulations, and complaints process). Task Force members offered some suggestions on additions or movement of sub-issues but were generally comfortable with the outline as a tool for discussion.

The Task Force then participated in an anonymous electronic polling activity, in which the members were polled on three separate questions: (1) Of these issues (issues stated above), which two lend themselves to the quickest resolution; (2) Of these issues, which two can the Task Force be most successful in addressing through its recommendations; and (3) Of these issues, which two should be the primary focus of the Task Force.

Based on the polling results the top three issues that Task Force members felt could lend themselves to the quickest resolution were application and enforcement of existing regulations, complaints process, and siting and infrastructure consolidation. The second two questions (most successful in addressing through recommendation and primary focus of the task force) had the same results which included, local government input and authority in siting, siting and infrastructure consolidation, and application and enforcement of existing regulation. This activity was used to gage the temperature of the Task Force and prioritize issues and was not a formal vote or a vote for consensus. Issues that did not rise to the top three may still be discussed at future meetings.

#### **Public Comment**

In order to accommodate more speakers, public comment was limited to two minutes per person. The public comment session commenced with remarks from local elected officials followed by comments from the general public.

The Task Force adjourned for the day at 7:00 p.m. following two hours of public comment.

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#### **Thursday, December 11, 2014**

8:00 a.m. – 12:30 p.m.

#### **Review of Previous Day Discussions**

Sarah Stokes Alexander, The Keystone Center, opened the meeting with a review of the previous day and an overview for the current day. Task Force members then quickly broke into small groups to start the discussion.

#### **Small Group Discussion**

Task Force members broke into two small groups to refine issues, as needed, and begin to identify a range of possible solution sets for the previously identified issues. The small group discussions were facilitated by the Keystone Center. The co-chairs were not assigned to a specific small group, while the remaining Task Force members were placed in prearranged groups consisting of the following members:

*Small Group A:* Facilitated by Christine Scanlan

- Brad Holly
- Lem Smith (Alternate for Peter Dea)
- Perry Pearce
- Jeff Robbins
- Will Toor
- Bruce Rau

- Elbra Wedgeworth
- Russ George

*Small Group B:* Facilitated by Sarah Alexander

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Dan Kelly</li> <li>• Duane Zavadil (Alternate for Scot Woodall)</li> <li>• Kent Pepler</li> <li>• Jim Fitzgerald</li> <li>• Matt Sura</li> </ul> | <ul style="list-style-type: none"> <li>• Jon Goldin-Dubois</li> <li>• Becky Kourlis</li> <li>• Pat Quinn</li> <li>• Bernie Buescher</li> </ul> |
|---|--|

***Small Group A Discussion Summary:***

The small group discussion began with a conversation around the issues Task Force members thought that the group as a whole could solve and ended with a deeper look at possible solutions. Throughout the conversation there were specific areas of focus which emerged as the most prevalent issues for the Task Force to address.

**Main issues,** as identified by Group A:

- Harmonizing State and Local Authorities
  - Best future practices
  - Mindful of unintended consequences
    - Consolidation
    - Timing
  - A statewide solution needs to allow flexibility at local level.
  - Best Management Practices incorporated into the solution.
- Enhancing local authority
  - To what extent?
  - Who has the final decision?
  - Comprehensive planning, zoning, master planning
    - Density triggers
    - Mineral estates
    - Placement of facilities
    - Realities of technology
    - Health and safety of residents
- Increased collaboration with the State.
  - Encouragement/forced relocation of facilities.

In trying to simplify the problems the Task Force is trying to solve, Group A developed the following **issue statement**: “reduce surface impacts and conflicts with multi-well sites, while recognizing the benefits of consolidation and acknowledging the realities of impacts when sited near residential areas.”

After determining the issues, the group moved forward in their discussion to **possible solutions sets** to explore further. Solution sets included:

- Comprehensive Development Plans (CDPs) and/or enhancing the MOU process.
  - Who is involved and who makes the decisions?
  - Is it required state wide?
  - Is it required when siting near residential areas?

- Timing?
- What are the needed criteria for the framework?
- Multi-well sites
  - Siting near residential areas?
  - Different siting criteria and mitigations needed.
- Local government and COGCC balance of authority.
- Best Management Practices

Throughout the small group discussion issues were raised for which Task Force members felt they **needed more information** in order to discuss further. These issues included:

- Understand current frameworks for CDPs and MOUs.
  - Role of state versus the local government.
- Consolidations (constraints)
  - Unitization – how it works currently and implications.
  - What tools are available and/or needed.
- Mitigation/siting rules for larger sites to be considered.
- How the current complaint process works.
- LEAN processes for COGCC rulemaking and the permitting process.
- Whether or not to have a trust fund for consolidated sites.

***Small Group B Discussion Summary:***

The small group discussion stayed at a fairly high level as group members honed in on specific issue areas they felt the Task Force should focus on. Throughout the conversation there were specific areas of focus which emerged as the most prevalent issues for the Task Force to address.

**Areas for focus**, as identified by Group B, included:

- Clarity around local government authority
  - Need for flexibility in different circumstances (e.g. situations in Northern Front Range are different than on the Western Slope).
  - Reconsider timing of when local governments are included in the COGCC approval process.
  - Improve communication between local governments, operators/industry, and COGCC.
- Consultative Comprehensive Planning
  - Need for both local governments and industry to communicate and understand each other's development and growth plans.
  - Should unitization be a part of comprehensive planning?
- Comprehensive health studies
  - Need independent study that is publicly available
  - Improve consistency of data collection and reporting across the state
  - Consolidation of ongoing health studies
- Different considerations for multi-well production facilities
  - Explore the possibility of creating different thresholds for multi-well production facilities in more densely populated/urban areas.
    - Discussion should be mindful of residential encroachment on areas that were recently/previously used for agricultural or industrial uses.

- In many cases, the agricultural sector would prefer multi-well pads due to access issues and unintended consequences from moving pads away from roads.
- Inspection regime and infrastructure
  - Look at the goal of inspections and what the role for additional inspectors would be.
    - Should this include public health inspections?
  - Should new inspectors be from COGCC or should local governments be able to hire inspectors at the county level?
  - Are there other tools to help improve inspections like monitoring at facilities with infrared cameras?

As Group B discussed these areas for focus, there were specific themes that emerged across each focus area. The **themes identified** from the group discussion included:

- Greater need for industry to share information on: Best Management Practices (BMPs), existing tools, and options available.
  - As stakeholders are more aware of options available to them, BMPs could be incorporated into the MOU process
- Build on existing infrastructure and BMPs
  - Better use of Local Government Designees in certain regions
  - Engagement from industry in local government planning and zoning processes
- Flexibility to address specific situations and concerns
  - Differences between development in urban and rural areas
  - Improve stakeholder engagement – creating a seat at the table and an opportunity for affected parties to be heard, including surface owners and adjacent neighbors.

Finally, the discussion of issues also led to emerging needs. Some of the identified needs arose from specific focus areas, while other needs were common across all the areas of focus. The **needs identified** from the small group discussion include:

- Consultative Planning Process (envisioned through the following steps)
  - 1.) Incorporation of a Comprehensive Planning Model
  - 2.) Specific agreements and MOUs
  - 3.) Specific permits approved based on the planning process
- Clearly defined areas of local government authority
  - Possibility of looking at statutory change or COGCC rule clarifying when local government can make planning or zoning decisions.
- Involvement of all stakeholders
  - Create meaningful opportunity for stakeholders to give input in the process and be heard.
- Clear dispute resolution process
  - Need to understand where “the hammer” comes down in the process when there is disagreement.
  - Should there be a mediation or arbitration clause when there is disagreement between COGCC, local government, operator and/or surface owners?
- Ability to adapt over time
  - Technology is continually changing, many times towards improved processes and mitigating effects, and industry needs ability to adapt over time.
- Address timing and timeliness



- Do current timeframes in approval process give adequate time to local governments, affected surface owners, and industry to respond?

### **Report Out from Small Groups**

The Task Force members returned to full group discussion and received report outs from the Keystone facilitators on the small group discussions. It was emphasized that there were no agreements reached in the small groups, however they were able to use the opportunity to agree on areas of focus as the Task Force moves forward with recommendations. For each group, Keystone summarized the areas of focus, main themes, and needs that arose throughout the conversation; these summaries were expanded in the meeting summary section above.

After the report out, the Task Force members further discussed additional issues such as:

- The need to address role of surface owners and mineral owners.
  - The need to address unintended consequences in solution sets.
- Encourage the use of existing roles through greater resources and funding for implementation.
  - Fix the local government ability to charge fees for role.
- Consider requiring higher level of emissions controls in residential areas.

### **Task Force discussions about meeting outcomes, full group discussion**

Following the small group report-out, Task Force members began to discuss common themes to further explore as well as areas where they would like to receive more information including mineral trespass and emission control.

Common themes to explore included:

- Comprehensive planning and the relationships between state and local authority
  - Multi-operator involvement
  - Working within the existing framework, look at how to use available education and resource tools early in the process and create a more robust planning process from the beginning.
- Current state and local tensions and need for harmonization
- Multi-well production facilities

Task Force members also discussed drafting solutions in advance of the January meeting. There are a few members of the group who were ready to bring forward possible solutions for the rest of the Task Force to discuss. There was general agreement from members they would like to see these proposals, however members would prefer the format of the proposals be presented as a menu of options to discuss and agree upon opposed to a conclusive framework.

The conversation also led into the timing of when the Task Force receives materials with input from other members and the format in which they would prefer to see these materials. It was proposed that members should receive the raw, unfiltered input from fellow Task Force members and not summarized versions. Task Force members would also like to receive these materials well in advance of meetings and were interested in looking into an online repository to access the materials instead of receiving via email.

### **Next Steps**

The next steps for the Task Force include the following:

- Keystone will circulate outcomes from the Rifle meeting to the Task Force
- Task Force members should submit initial suggestions and details to Keystone by December 19<sup>th</sup>
- By January 5<sup>th</sup>, Keystone will circulate the following to Task Force members:
  - Initial summary of inputs and areas of convergence
  - Full submittals from members
  - State agency suggestions/recommendations
- Any additional revisions to these documents will be circulated by Keystone on January 9<sup>th</sup>

The next Task Force meeting is scheduled for January 15<sup>th</sup> and 16<sup>th</sup> in Greeley, Colorado. DNR will be updating members on details and logistics for the upcoming meeting.

The meeting ended with a discussion on the format for the January meeting in Greeley and the length of time needed for the final Task Force meeting in February. A motion was voted on by the Task Force to adjust the timeframe of the Greeley meeting to start at 10:00am and limit the presentations to two: health panel and COGCC discussion; and additionally for the final Task Force meeting to be held over two days, instead of one, from noon to noon. The motion failed on a tied vote and was subsequently brought to the four absent Task Force members, with two voting now and two abstaining. The voting by absent members did not change the outcome.

The Task Force adjourned the meeting at 12:30pm

## **Appendix F5: January 15-16, 2015 Summarized Meeting Minutes**



### **Colorado Oil and Gas Task Force**

**January 15 - 16, 2015**

**Greeley, Colorado**

### **Summarized Meeting Minutes**

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#### **Task Force Members present:**

Randy Cleveland (co-chair), Gwen Lachelt (co-chair), Sara Barwinski, Bernie Buescher, Peter Dea, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Steve Moreno, Perry Pearce, Kent Peppler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Elbra Wedgeworth

#### **Task Force Members absent:**

Rebecca Kourlis and Scot Woodall; Kent Peppler, absent only on January 16th.

#### **Alternates present in place of absent Task Force Members**

Tom Kourlis (alternate for Rebecca Kourlis) and Duane Zavadil (alternate for Scot Woodall)

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**Thursday, January 15, 2015**

10:30am – 7:15pm

#### **WELCOME**

Co-chairs Gwen Lachelt and Randy Cleveland opened the meeting with brief comments. Both co-chairs reminded the Task Force members of the charge given to the Task Force by the Governor and the responsibility of the Task Force to make recommendations for responsible development of oil and gas. Mr. Cleveland emphasized the need for the Task Force to continue its focus, prioritization, and collaboration with the remaining time left for the Task Force.

Following the co-chairs' welcome, Mr. Buescher provided brief comments on the challenges faced by the co-chairs to strike a reasonable balance throughout the entire process to provide opportunities to hear from panelists, educate the Task Force members, and allow ample time for discussion. It was mentioned this was an important balance to strike, especially for members of the Task Force who are unaffiliated with industry or an environmental group. Mr. Buescher also emphasized the need to narrow the issues as time is running out for the Task Force.

#### **Welcome from Greeley Mayor, Tom Norton**

Mayor Tom Norton welcomed the Task Force to Greeley and distributed a letter to the members outlining where the city of Greeley stands on the issues before the Task Force. Mayor Norton spoke to several issues including the importance of Greeley's requirement to balance the property rights of both mineral and surface owners; emphasis on collaboration between operators and surface owners to figure out the right process – a method that has worked well in Greeley; and the importance of the oil and gas industry for many people in agriculture.

#### **REVIEW OF BUSINESS ITEMS**

Sarah Alexander, the Keystone Center, provided a review of the meeting agenda and an update to public comment procedures. For public comment, names are to be drawn at random and each speaker is

allotted two minutes; speakers will be unable to transfer their time to another designee. If a speaker must leave, they are encouraged to submit their comments online.

Ms. Alexander also provided a reminder that the Task Force and its members are in line with antitrust statements; if members feel the Task Force is venturing into territory that may be comprised of antitrust conversations they are encouraged to alert the facilitators immediately to cease discussion in that area.

Kathleen Staks, Department of Natural Resources (DNR), provided a logistics update to the Task Force members. The next Task Force meetings will take place on February 2-3 and February 24, 2015 in Denver at the Colorado Convention Center. Task Force members should let DNR know as soon as possible if they will require a hotel room for both meetings; DNR will also provide parking reimbursement for Task Force members at the downtown Denver location. Members must also send their receipts to DNR for reimbursement; however, meals are based on a per diem rate.

The Task Force members then approved the revised Summarized Meeting Minutes from the Rifle, CO meeting without any comments or opposition.

#### **ANSWERS AND INPUT TO TASK FORCE REQUESTS FROM MATT LEPORE, COGCC**

Matt Lepore, Executive Director of the Colorado Oil and Gas Conservation Commission (COGCC), responded to questions that were raised by members at the previous Task Force meeting. Mr. Lepore identified five topics that had questions to answer, including: staffing, operator agreements between local governments and operators, ability of a local government to become involved in the permitting process, urban mitigation area best practices, and the “snake pit” question from Mr. George on how to best fix the problem from COGCC’s perspective.

##### **Staffing**

Mr. Lepore began with addressing questions around appropriate levels of staffing for inspectors. The COGCC recommended adding somewhere between 16 to 22 Full Time Employees (FTEs) which included not just inspectors but additional staff support for engineers, hearings group, environmental group, permitting, information technology, and two additional FTEs to handle complaint intake and tracking. The recommendation for the number of additional FTEs would be dependent on revenue forecasts for COGCC and the General Assembly must give the final approval for an increase in staffing. The funding for additional staff would not come through General Fund dollars; instead the Commission is mostly funded through a mill levy on mineral extractions which is anticipated to fall with the recent decline in oil prices. COGCC does have rulemaking authority to increase the mill levy to the statutory cap which the Commission is currently well below. It is estimated by COGCC an additional 16 FTE would cost approximately \$1.6 million.

Mr. Lepore also addressed the ratio of inspectors per well by looking at staffing levels in other states. The average in other states was approximately 1,621 wells per inspector; however the range of inspectors to wells varies greatly from state to state. Colorado is currently somewhere around 1,900 wells per inspector, with each inspector conducting roughly 1,000 well inspections per year. An increase of inspectors in Colorado would not drop the time frame of well inspections but it is expected to help. Mr. Lepore also noted the Commission inspects wells using a risk based analysis which may be a more suitable metric for inspections opposed to a ratio of inspectors to wells. There are some high risk wells that may require more than one inspection per year while it would be adequate to inspect other low risk wells once every few years.

### **Surface Use Agreements**

Following the discussion on staffing, Mr. Lepore briefly spoke to questions related to Surface Use Agreements and a local government's ability to become involved in the permitting process. On Surface Use Agreements, Mr. Lepore stated that some kind of ombudsman at the state who would be a source of information on oil and gas questions could be helpful, but suggested this position should be separate from COGCC. Mr. Lepore felt this would be a position that could help answer many questions, especially about Surface Use Agreements.

### **Local Government Involvement**

Mr. Lepore provided examples of the ways in which a local government may be involved in the permitting process. Fundamentally a local government can become involved through the Local Government Designee (LGD) process. Other participation from local governments include the right to comment on a permit; ability to extend the public comment period from 20 to 30 days; ability to require consultation with the Colorado Department of Public Health and Environment (CDPHE) on health, safety, and environmental risks; and an ability to compel a hearing on a permitting decision after the permit is issued to raise questions specifically around public health and safety. Mr. Lepore emphasized that as long as he has been with the Commission, COGCC has always done their best to work with local governments, keeping in mind they are bound by statutory authority.

### **Scale, Proximity and Intensity**

The presentation then focused on Mr. Lepore's view of the issue and suggested areas for the Task Force to explore. Mr. Lepore stated that, in his opinion, the crux of the issue is based on the scale, proximity and intensity of drilling operations. He believes that some form of comprehensive planning, as explored by the Task Force, could be a beneficial process; however, the devil would be in the details and the question for the Task Force would be what the triggers for a development plan are. Comprehensive planning is not necessary in every area of the state, and Mr. Lepore recommended looking at the scale of an operation and proximity to people as potential triggers to consider for initiating a planning process. He also noted there could be better plans to keep facilities away from homes, possibly through better use of pipelines which would require planning and Rights of Ways working alongside local governments and land owners. Mr. Lepore also felt there may be a need to allot more time in the permitting process, especially in areas with larger populations.

### **Suggested Areas for Exploration**

Finally, Mr. Lepore suggested areas for the Task Force to look at including: pooling mineral interests, traffic mitigation, air emissions and odors, flaring of gas, noise, and a single source of information on all things oil and gas. With regards to pooling, Mr. Lepore suggested a tool that might be used is pooling mineral interest owners in a single unit. Pooling has the potential to help with development plans and it creates an area of common interest without worry about subsurface trespass issues. Mr. Lepore cautioned pooling is a tool that would have to be used very carefully and may require some minor statutory changes.

The COGCC is currently looking at strengthening their rules on flaring of gas and believe there are some instances where it does not make sense to flare. There may also be opportunity for better coordination with midstream companies who capture these gases.

Noise has also been a problem for COGCC and they are looking at best practices to mitigate sound nuisances including oil rigs powered through electrical power lines to minimize noise. Mr. Lepore also felt a source of information on all things oil and gas would be helpful, but he suggested this position

should be housed outside of COGCC. He went on to mention that NGOs and the LGD process have worked well in certain areas of the state providing valuable information to citizens; however these programs are not well established in every county and are non-existent in some areas. He also noted it would be difficult to mandate a LGD in every county unless there was funding to back the mandate.

#### **Task Force Discussion with Mr. Lepore**

Following his presentation, the Task Force members engaged in discussion with Mr. Lepore. The comments and discussion included:

- COGCC submitted a decision item to the General Assembly's Joint Budget Committee requesting funding for two FTE – an enforcement officer and permitting technician.
- The concept for an ombudsman could have a lasting impact, it should be required this position is neutral and maintains confidentiality regardless of where their funding comes from. The position could perhaps be housed in the Dept. of Local Affairs or Dept. of Regulatory Agencies, or with an organization like Colorado Counties Inc. or the Colorado Municipal League.
- Master planning can take a long time to complete; this should be recognized in a proposal.
- COGCC receives about 25 percent of their funding from other sources including federal grant dollars and severance tax.
- Urban mitigation areas are not mapped at the Commission; they do not exist until someone proposes a well and the radius for the urban mitigation area is determined by the proposed location.
- There are restraints on what the COGCC and a local government can do within the permitting process. If an operator meets all the statutory requirements but the location of their well is not ideal, there is not much the COGCC or a local government can do. Mineral rights and the right to access are a constraint that likely will not go away.
- With regards to setbacks, there is not much clarity on what “as far away as possible” means. Proximity and scale of an operation might be a better trigger for this issue.
- There probably is not a need to have both Comprehensive Drilling Plans (which is already in the rules) as well as a Comprehensive Development Plan. A comprehensive plan should be mandatory if there are specific triggers met. Those triggers are something the Task Force should examine and the recommended process needs to be transparent to avoid frustration.

#### **TASK FORCE DISCUSSION ON MEMBER FEEDBACK AND RECOMMENDATIONS**

Keystone summarized the current issues for review by the Task Force. Current issues included:

- Multi-well facilities and infrastructure consolidation, especially in urban areas:
  - Local Government role in planning and siting/comprehensive planning
  - Updating COGCC regulations to better address pooling
  - Mitigation measures – best practices
- Local Government role:
  - Planning, siting, and operations
  - Dispute resolution process
  - Enhanced role for LGDs
- Health and safety:
  - Ongoing monitoring and study
  - Reporting repository
- Enforcement of existing regulations:
  - Efficient use of existing resources/greater staffing
  - Ombudsmen other complaints and citizen resources

The taskforce had an open discussion of these issues, possible solutions, and items suggested by Matt Lepore of the COGCC. Comments included:

- Discussion to support 22 FTE for the COGCC. They will make the agency more accountable even when the industry is currently facing some turbulent times.
- Comprehensive planning should include local governments. The operator should notify the local government and its planning bodies of drilling plans for the next two to five years, so locals can have a concept of where they need to put land aside for drilling. Ninety to 120 days in advance cannot accomplish this.
  - Residents want to know longer out than a year or two where development may occur. Local government needs a significant role to successfully address conflict. It is important for people to know their local government officials have real say in the process and not just input.
- Pooling needs to be a tool, but it also needs to be tweaked. It is an area of unconventional resource units. The COGCC recognized the importance of an Ombudsman. Utah has an approach to resolving property disputes between different interest owners which includes a group of mediation attorneys looking at the dispute and suggesting a solution. There are triggers to go to court if a party does not like the Ombudsman's decision. Finally, there needs to be incentives or some way to encourage use of electric rigs.
- Does there need to be a consideration to grandfather permits that are already in process.
- As comprehensive development plans (CDPs) are considered, the big question is who makes the decision and what are the guardrails around the decision making process. The criteria will help the process and ultimately affect the outcomes. Outcomes should reduce the impact on surface owners, adjacent neighbors, all while allowing operators to get the resource. There should be a trigger and a tool applied when there is an identified or implied issue. Need to discuss what local government decisions could be appealed to a regulatory body if a permit is not issued and what is the appeals mechanism that avoids court.
- Appreciate focus on production facilities and the impact on communities, but still want to discuss setbacks with multi-well sites and implementing the "far away as possible" rule. Setbacks are a primary public health and mitigation in certain areas.
- The Task Force could use something similar to the 1041 process to give local governments more control over the process.
- There is a need for an information warehouse independent of a state agency. A location that people trust and feel safe receiving information from and a location that can decipher what is real and what is not.
- A cautionary note that setback requirements and master planning can be contradictory. Not advocating one or the other, but adding practical commentary to consider in the process.
  - Setbacks can also be complementary to CDPs. The CDP may be the answer where if the operator does not want to go through the CDP process, they cannot site closer than a certain standard. If the operator does go through the process, it is possible they can site closer than the standard.
- Perhaps comprehensive health plans can help decide how far away these sites should be from urban areas. The health registry is important, as well is the issue around flaring of gas and emissions.
- Need to have local government input/standing at the beginning of the process instead of what is currently going on with the commission dealing with conflict after the fact. There needs to be a



dialogue where citizens and local governments can present and vent their concerns and allows the industry to address issues early on.

- How to deal with what has already been drilled and approved, the wells that are going to be less than 500 feet from homes? Also how do we improve the LGD relationship with the community and their training? Some areas need more than one Local Government Designee (LGD).
- Need to confirm the process in urban mitigation zones and determine what would trigger the dialogue between the COGCC, LGDs, and operator using the CDP. It takes more than one operator to work out the best plan with the least amount of surface impacts.
- Agreement with what has been said and want to add a need for increased notification in comment periods.
- Comprehensive planning for large, urban mitigation areas as well as a model to deal with multi-well pads that allows for alternative location analysis. Need to also address the issue of a state driven siting process with some local input.
- Need to discuss beefing up the LGD role and enhance what is currently happening.
- There are two approaches that are fundamentally different. One is a local planning process to which oil and gas would be subjected. The other is a planning process at the COGCC with discretion for locals, a check box process. The Task Force needs to weigh whether to have a local planning process or to create new authority and discretion for the COGCC.

#### **PANEL DISCUSSION ON HUMAN HEALTH AND PUBLIC SAFETY**

The Task Force heard from a panel of speakers on human health and public safety. The panel consisted of Dollis Wright of Quality Environmental Professional Associates, Dr. John Adgate of Colorado School of Public Health, Dr. Gabrielle Petron of NOAA and CIRES, and Dr. Larry Wolk of Colorado Department of Public Health and Environment (CDPHE).

The panelist presentations focused on public health and safety research, monitoring, and their respective organization's studies and activities. The main takeaways from the panel included Dollis Wright recommending a communication plan to inform the public, completion of a needs assessment in communities with oil and gas development, and a health study on the correlation of oil and gas development to increased incidents of asthma and respiratory issues in children. Dr. John Adgate recommended tracking health data in a meaningful way through a registry as well as funding research that fills knowledge gaps. Dr. Gabrielle Petron suggested that emission and controls effectiveness still need to be investigated and better assessed at the process and at the regional levels, as well as better air quality monitoring to fill in the data gaps. Finally, Dr. Larry Wolk, CDPHE, gave three recommendations for the Task Force to consider. The recommendations included:

1. Health complaint system that will be used to track and respond to complaints from oil and gas development. Dr. Wolk suggested a tiered approach; with tier one response to the complaint by a health professionals and tier two for environmental field sampling using the proposed mobile monitoring unit requested by the Air Pollution Control Division (APCD).
2. Request for eight additional FTEs for inspections dedicated to oil and gas, plus four additional time-limited IR camera staff.
3. Request for a mobile monitoring and response unit for enforcement follow-up, hotspot identification, fence line monitoring, emergency response, and complaint response.

Dr. Wolk also requested support from the Task Force for decision item that has been sent to the Joint Budget Committee to make the five temporary employees at APCD permanent staff. The request is part of a broader request seeking 11 FTEs, related to oil and gas permitting and compliance activities.



Discussion between the Task Force and the human health and public safety panel consisted of the following comments and questions:

- Advocate for a health registry because of the lack of recent data in terms of disease and exposure.
  - Certain conditions fall under mandatory reporting. Registries are important but must be done right, must filter out biases, and cannot over-burden health care providers.
- Expansion of ozone monitoring and quality needs to happen.
  - Currently there is a lack of money and staff to validate modeling the State does with ozone monitoring. With the increase in the Front Range population, we need more staff, instruments, and funding to better understand what needs to be done to emissions in urban areas with oil and gas development.
- Based on earlier presentations concerning a data warehouse, is there a place to house the data independent of the COGCC, or is the COGCC the best place to house it?
  - CDPHE is a warehouse for public and environmental health data, but if the data is specific to oil and gas operations, then it would be best housed with the COGCC. Moreover, the University of Colorado is working on developing a repository of studies to oil and gas, which is funded by the National Science Foundation.
- Is there enough information to make a recommendation of setbacks? If there is not enough information, what does the panel need and when do you think you will have the information?
  - The panel could not recommend a specific setback number, but panelist did mention that the issue is around intensity, frequency, and the reach of the emissions.
- The scale of emissions is large and there are a variety of emissions that have large impacts on the regional scale, but we do not know the impacts on the local scale. Given what we know today, would it be appropriate to do a higher regulation of air quality control?
  - We need to understand the impacts first. There is nothing to indicate health impacts as a result of the current setbacks.
  - The Colorado State University (CSU) research could help answer this question but data will not be available until after the Task Force is complete.
  - The state has done a health consult in Garfield County, a very active area. There is inconclusive data on public health effects; therefore more studies should be done. No one is recommending stopping operations.
- The health question is the foremost for all of the Task Force members. If there are health issues in anything we do, then those should be known. We cannot jump to conclusions without facts. The Task Force should support the importance of helping scientists move forward with areas of study and get them the equipment they need.
- One thing the COGCC does well is their complaints database. If you look at CDPHE, you cannot find that information easily. Is there a funding issue, or is there something we can do to help achieve getting that information to the public?
  - It is a long-term project for CDPHE. We are working on changes to be more transparent and get data more readily available.
- The Saccamanno study mentioned said there was an increased cancer risk near some facilities and residents should live at least 1,300 to 1,600 feet away from sites.
  - The overall conclusion was that it was not an increased risk. They gave a range since the population is different at sites. Her actual conclusion was that an increase of cancer was within acceptable range.

- With the new regulations implemented for oil and gas, does the perspective change what will happen in the future versus what happened in the past?
  - We will have new information from this past year, but we want to study more after all the regulations are in place and we will need funding. We need to know when all the rules are implemented.
- Will the pending CSU data fill the need for additional studies?
  - Robust data will come from the CSU study. A credible data set will help develop a health risk assessment.
- There was general Task Force support for the health complaint system.
- Is there a health complaint system that exists today? Or is this enhancement specific to oil and gas?
  - There is not currently a health complaint system, but there is a hotline based on public health concerns which this could be an enhancement to. The health complaint system would be specific to oil and gas.

#### **LOCAL PERSPECTIVES FROM GREELEY**

Five community members from Greeley provided insight into their diverse experiences with oil and gas development in their neighborhoods. Therese Gilbert, Weld Air and Water; Trisha Golding, Frontier Parent Group; Gene Moore, neighbor to Gilbert Wells project; Craig Rasmuson, Synergy Energy; and Eric Berglund, Upstate Colorado Economic Development, all spoke to their individual experiences of oil and gas development and some also gave their recommendations to the Task Force.

#### **ADJOURN TASK FORCE DISCUSSION**

#### **PUBLIC COMMENT**

In order to accommodate more speakers, public comment was limited to two minutes per person. The public comment session commenced with remarks from local elected officials followed by comments from the general public.

The Task Force adjourned for the day at 7:15 p.m. following two hours of public comment.

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#### **Friday, January 16, 2015**

8:00am – 12:30pm

#### **WELCOME AND HOUSEKEEPING**

The Task Force began Friday's meeting with an overview of a revised agenda for the day, an update on general housekeeping items, and a review of submitting proposal recommendations and voting procedures.

#### ***Revised Agenda for January 16, 2015***

The meeting agenda was updated to include:

- |        |  |
|--------|--|
| 8:00am | Full Group Discussion <ul style="list-style-type: none"> <li>• Process overview/template</li> <li>• Issue statements</li> </ul>  |
| 8:45am | Small Group Discussions <ul style="list-style-type: none"> <li>• Multi-well facilities</li> <li>• Local government</li> <li>• Application of existing framework</li> </ul> |

- Health
- 11:00am Break
- 11:15am Full group report out
- 11:45am Next Steps

### ***Final Meeting Update***

Members were informed the final meeting of the Task Force would take place over one full day on Tuesday, February 24, 2015 from 8:30am to 5:00pm in Denver, CO. There had been discussion at a previous Task Force meeting to extend the final meeting over two days; however scheduling conflicts made a two-day meeting impractical.

### ***Process Overview***

The Keystone Center also reviewed the general process to take place during the remaining meeting time for the Task Force. The process for the remaining Task Force meetings included:

January 15<sup>th</sup> and 16<sup>th</sup>, 2015

- Issue statements
- Continue discussion on solutions/recommendations
- Encourage all recommendations and ideas to be brought forth to allow for discussion, input and consideration

February 2<sup>nd</sup> and 3<sup>rd</sup>, 2015

- Review member suggestions and submissions for solutions/recommendations
- Review key areas of agreement

February 24<sup>th</sup>, 2015

- Finalize agreements

### ***Proposal Recommendations***

A template was created and distributed to Task Force members to assist in crafting recommendations and submitting proposals that have a consistent form. The recommendations submitted by Task Force members should include the overall intent of the proposal - what needs to happen or not happen – but members do not need to draft or submit complete bill language along with their proposals.

### ***Timeline and Guidelines for Submitting Recommendations:***

- Straw man proposals submitted anytime from today (Jan. 16, 2015) until close of business, Monday, January 26, 2015
- All proposals must be sent to The Keystone Center by COB Monday, January 26, 2015
- All proposals should be submitted on the provided template
- The Keystone Center will package all recommendations and send out to Task Force members prior to the February 2, 2015 meeting
- Encourage all recommendations and ideas to be brought forth to allow for discussion, input and consolidation of recommendations

It was suggested by a Task Force member that a plethora of proposals may be overly cumbersome and perhaps it would make more sense for the Task Force to discuss possible recommendations and for the Keystone Center to capture input and compile the proposed recommendations from the Task Force discussion. It was also suggested it may be more efficient for the Keystone Center and Co-Chairs to summarize the proposals on paper. Sarah Alexander of the Keystone Center said they could work on this with the Co-Chairs in between now and the next meeting. (Note: The Task Force further discussed

proposal recommendations at the end of the meeting which is captured in last portion of this meeting summary.)

### **Voting**

The Task Force reviewed rules for voting on official items which included:

- For a vote to occur, a motion will be made and seconded by separate Task Force members
- Co-chairs and facilitator will caucus to agree on procedure for discussion on motion and moving vote forward
- Voting will be on the official record
- Formal votes will be taken by roll call
- Alternates cannot vote
- Absent Task Force members will be given 48 hours from the end of the meeting to vote electronically
- After the 48 hour window has passed, results will be sent out to the Task Force

During this time there was a question to clarify the intent in the Governor's Executive Order requiring a two-thirds majority to approve a recommendation. Mike King of the Department of Natural Resources discussed voting procedures with the committee.

### **REVIEW OF CURRENT ISSUES**

The Task Force again reviewed overarching issues that were identified and outlined by the Keystone Center; the sub-bullets provided in the list include possible solutions that had been mentioned throughout Task Force meetings and discussions. It was clarified for Task Force members that the list of current issues was intended as a bucket of issues and is not inclusive of all the issues.

- Multi-well facilities and infrastructure consolidation, especially in urban areas:
  - Local Government role in planning and siting/comprehensive planning
  - Updating COGCC regulations to better address pooling
  - Mitigation measures – best practices
- Local Government role:
  - Planning, siting, and operations
  - Dispute resolution process
  - Enhanced role for LGDs
- Health and safety:
  - Ongoing monitoring and study
  - Reporting repository
- Enforcement of existing regulations:
  - Efficient use of existing resources/greater staffing
  - Ombudsmen other complaints and citizen resources

Other discussion around the list of issues included:

- Need for clarity and distinction between “multi-well facilities” vs. “production facilities”. It was noted there are large distinctions between the nature of wells and production facilities.
- Enforcement of existing regulations should take into account recent regulation changes taking effect in 2015 which may address some of the issues in front of the Task Force.
- Additional mitigation measures should be included as a possible solution under “Health and Safety”.
- Inclusion of “Surface and Adjacent Owners” as a separate issue area to address.

## ISSUE STATEMENT POLLING

The Task Force members completed a polling activity to gage the support or lack of support for six issue statements created by The Keystone Center based on previous group discussions. Prior to polling, the Task Force members had a discussion about the issue statements and some felt that with all of the statements, there were parts they could support and parts that they would change. The polling activity was not for voting purposes, and was only used to gage where Task Force members were at the time of polling. The six issue statements and polling results are below.

1. The Task Force recognizes the need to reduce surface impacts and conflicts with multi-well production facilities, while also recognizing the benefits of consolidation and acknowledging the realities of impacts when sited near residential areas.

	Percent	Count
<b>Support</b>	65%	13
<b>Support with changes</b>	30%	6
<b>Do not support</b>	5%	1
<b>Total</b>	100%	20

2. The Task Force recognizes that the lack of clarity regarding local government authority is creating significant tension regarding siting and regulating oil and gas development in Colorado. This has the potential to put siting decisions at odds with local land use planning decisions.

	Percent	Count
<b>Support</b>	60%	12
<b>Support with changes</b>	20%	4
<b>Do not support</b>	20%	4
<b>Total</b>	100%	20

3. The Task Force recognizes that Colorado has a robust regulatory framework some of which is new and has yet to take full effect, which addresses some of the issues above and others the Task Force has considered. More efficient and consistent application, and enforcement of this regulatory framework would help address some concerns.

	Percent	Count
<b>Support</b>	40%	8
<b>Support with changes</b>	45%	9
<b>Do not support</b>	15%	3
<b>Total</b>	100%	20

4. The Task Force recognizes that there are public concerns regarding the long-term health effects and overall safety of oil and gas development; as well as the need for ongoing transparency, surveillance, monitoring, and study.

	Percent	Count
<b>Support</b>	55%	11
<b>Support with changes</b>	40%	8
<b>Do not support</b>	5%	1

<b>Total</b>	100%	20
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5. The Task Force recognizes that there is not a centralized and easily accessible repository of data and information regarding oil and gas development in Colorado.

	<b>Percent</b>	<b>Count</b>
<b>Support</b>	60%	12
<b>Support with changes</b>	25%	5
<b>Do not support</b>	15%	3
<b>Total</b>	100%	20

6. There is a need to address standing for adjacent neighbors, surface owners, and mineral rights owners.\*

	<b>Percent</b>	<b>Count</b>
<b>Support</b>	42%	8
<b>Support with changes</b>	37%	7
<b>Do not support</b>	21%	4
<b>Total</b>		19

\*Question six was developed at the meeting to address an issue raised by Task Force members prior to polling.

### **SMALL GROUP DISCUSSION**

The Task Force members broke into two groups facilitated by the Keystone Center to further discuss possible recommendations to the issue statements. The groups were guided by thinking through the small group discussions with the following questions: What are options for recommendations to address the issue statements? What major questions need to be answered to get to a recommendation? What is the state's role?

*Group A:* Facilitated by Christine Scanlan

- Bernie Buescher
- Peter Dea
- Jim Fitzgerald
- Jon Goldin-Dubois
- Brad Holly
- Dan Kelly
- Gwen Lachelt
- Steve Moreno
- Kent Peppler
- Matt Sura
- Will Toor
- Duane Zavadil

*Group B:* Facilitated by Sarah Alexander

- Sarah Barwinski
- Randy Cleveland
- Russ George
- Tom Kourlis
- Perry Pearce
- Pat Quinn
- Bruce Rau
- Jeff Robbins
- Elbra Wedgeworth

### **Small Group A Discussion Summary**

The small group began their discussion around the appropriate role of local governments vis-à-vis the COGCC when considering multi-well sites, production facilities, and the proper definition of an urban

area. After some back-and-forth discussion on the proper definition of an urban area, the group generally agreed the idea of “Scale, Proximity and Intensity” suggested by Matt Lepore in the previous day’s meeting would be more appropriate in defining triggers for a more involved review and mitigation process over multi-well pad or production facility placement. Mr. Lepore had suggested “Scale, Proximity, and Intensity” should be the first question in dealing with multi-well pads and production facilities, not an urban vs. rural location; he also recommended the Task Force should define what the triggers should be for “Scale, Proximity, and Intensity.” This conversation focused mostly on triggers and definitions for “Scale, Proximity and Intensity” and did not specifically address siting or setback requirements.

Other considerations Task Force members emphasized during this portion of the conversation, but did not wholly agree upon, included:

- Despite the location of a well in an urban or non-urban area, the State needs to raise the floor to ensure public health and safety
- Need for flexibility within specific situations and a recognition that one size does not fit all
- Need for industry input in defining “Scale, Proximity and Intensity”
- Avoid changing the current rules altogether and a need for continued education on options currently available to Local Governments
- Need for Local Government approval, in addition to state approval, before a permit is approved
- Caution some local governments may try to use this process to create an outright ban on drilling

The small group also agreed they would like to avoid head-on conflicts to the best of their ability. One suggestion to avoid conflict included earlier identification and notification of larger production facilities to the COGCC, which in turn could initiate an early planning process that would involve local communities and stakeholders before a permit is approved. It was suggested this planning process would be separate from a Comprehensive Drilling Plan and could be initiated through multiple triggers by the operator, local government, or COGCC. The conversation around an early identification process garnered initial support from many of the small group members who also agreed final support would be dependent on the details of a recommendation. The conversations around an early planning process also included:

- Process could be triggered by using the current definition already in place for urban mitigation zones
- Early notification could be done through current processes already in place with the LGD
  - Need to find funding for LGD programs
- Creation of a board with a mix of COGCC, CDPHE, etc. to grant final approval
- There are good processes currently in place to avoid conflict that are not always utilized. There is a need to increase transparency, consistency and competency around these processes for everyone involved.
- Inclusion of local government check-off and involvement in the planning process
- Universal application of Best Management Practices
- Need to ensure local governments have a greater say and meaningful input into the process
- Platting process by local governments as a trigger for early planning process

The conversation led to a general agreement that there needs to be a process which allows engagement with local governments and communities in a substantive way. The discussion also focused on what would happen when an agreement could not be reached and if should there be a conflict resolution process that might be modeled after the process in Utah and could be housed within the COGCC. The

overarching agreement between members was there needs to be a collaborative approach to solving disputes which is inclusive of local government input in a meaningful way. There was not substantial agreement in what this process would include or how much authority should be granted to local governments; some members felt a permit should not be approved without local government sign-off while others felt this could lead to an abuse of power from some municipalities and the COGCC should instead consider if the local government was engaged in an early notification process.

At the end of the small group discussion, the group focused their conversation on the public health issue statement. During this conversation it was noted that while there is a lack of complete data on health effects, mitigation requirements should still be considered when and where appropriate. Task Force members also wanted to be cautious of creating rules or regulations based off fear rather than fact. There was agreement from members to support the entire suite of recommendations proposed by Dr. Wolk during the previous day's presentation, including support specifically for the creation of a registry as well as a peer reviewed, baseline study overseen by CDPHE.

The main takeaways from the discussion amongst Group A included the notion that people are looking for tools to allow those who are most interested and affected by oil and gas operations to have a place to be heard in a meaningful way, as well as a need to ward off conflict earlier in a more constructive, collaborative way. The approval of recommendations to address these issues will be contingent on the details of the proposal.

### **Small Group B Discussion Summary**

The small group discussed and further defined the issues and possible recommendations and solutions to the issues of multi-well pads and facilities, health and safety, and standing. It was noted that other issues are important to task force members; however, the three issues listed above were the issues that were discussed in the time allotted.

### ***Multi-well pads and production facilities***

The majority of the time was spent discussing concerns regarding multi-well pads and production facilities. Issues that were discussed included:

- A key issue is who gets the final say in the permit process, the State or Local government.
- Some felt that it is not an either local control or state control, but rather there is a dual approach. The Task Force needs to solve the issue of providing local governments who have the desire to be more involved in siting decisions to have the ability, with the caveat of sidebars or sieves around their authority. There also needs to be an appeals mechanism for decisions.
- Mediation prior to going to court with questions about whether the COGCC could serve the role as mediator or be viewed as a neutral third party in resolving conflicts between local governments, operators and the State.
- Surface owner rights and the ability for citizens to have say in the siting process.
- Setbacks however with concern with absolute setbacks and how future technology will affect the siting process.

Possible tools and recommendations to address issues around siting and permitting of multi-well pads and production facilities:

- "Drilling islands" for multi-operator use.
- Comprehensive planning for local communities and operators, years in advance, with the concern that local governments cannot be forced into comprehensive planning.
- Additional authority for the COGCC to make siting and permitting decisions.



- Local governments having a discretionary but definitive role in planning and siting.
- Further define the role and use of the Local Government Designee.
- Further advancements or elimination of old wells and technology.
- Setbacks
- Pooling and unitization
- A tiered approach for areas that meet specific conditions such as urban areas, size and intensity of well pads and/or production facilities.
- If operator meets the conditions of a comprehensive development plan, they get automatic permitting, if not it would go through a route in which the COGCC has more authority in siting decisions.
- For all conditions and requirements except for siting, there should be an MOU in which the operators and communities must engage in good faith to get to an agreement.

### ***Health and Safety***

There was general support by Group B for the recommendations by Dr. Wolk of CDPHE. Proposals for recommendations include:

- Health complaint response system which was proposed by Dr. Wolk of CDPHE. There was discussion around the need for a comprehensive system rather than a system only for oil and gas. Task Force members suggested that any public health and safety concern should be called into the complaint system and it would be the responsibility for the health complaint response system to determine if it is an oil and gas issue. Task Force members were concerned that if there are issues, they need to be solved, no matter the source.
- Add more FTE COGCC staff for inspections of oil and gas sites. Task Force members reinforced the need to add not only inspectors, but other support staff as well. Moreover, it was suggested that industry should come together to create standards for wells that should be inspected more often than others (risk based standards and inspections) in order to truly know the number of inspectors needed in the State.
- Health data warehouse that builds on the NSF effort.
- Continued ozone monitoring through additional stations throughout the State. Task Force members discussed having scientists and their counterparts define the problems and need before the task force recommends additional tools for studies. An unfunded RFP in order to get more information on studies and needs was suggested as a way to get the information in order to make recommendations.
- Mobile response unit was discussed and Task Force members generally stated that it would show support for further health and safety studies, but it was not as necessary as other recommendations.
- Health assessment programs and health assessment studies could be paid for through the mill levy, if additional money was available.
- Hiring additional CDPHE FTE to address issues of health and safety.
- Local governments to hire inspectors in the county, however, there would be a need to define mechanisms for funding.

In addition to the recommendations above, other possible solutions to health and safety issues included:

- Ombudsman (can be a solution to multiple issues), but need to define where the Ombudsman will be housed.
- Recommend additional inspectors, the support staff for the COGCC and appropriate training.
- Report findings and data through a neutral third party to gain credibility.

The group reiterated that reliable data and facts need to be given to all citizens. It was recognized that fear drives many comments and reactions which otherwise may not occur if trusted information was given to those who want it. It is believed that many citizens are concerned about the combined effects of development and more information could help alleviate some of those concerns. More inspectors and long term health and safety studies will give the public additional security which many felt was a win for the State.

### ***Standing***

Issues raised by Task Force members regarding standing:

- Those directly impacted should have standing; adjacent neighbors need to have access to the process but not necessarily legal standing in the form of ability to block or appeal a decision.
- Currently adjacent land owners only have comment by local government and the COGCC. There should not be absolute standing, but some middle of the road, in which those who have a demonstrated grievance created by siting have a place to be heard.
- Need a place that is accessible and affordable, other than court for people to be heard.

Possible solutions to address standing concerns:

- Range of standing starting at input to local governments or the Local Government Designee, to consultation, to standing.
- Comprehensive local planning will address the place for citizens to go to be heard.
- Compensation for actual damages for those who do have standing.

The main takeaways from Group B discussion included the need for additional tools to allow local governments who desire an increased role in siting and permitting; additional authority for the COGCC in making siting and permitting decisions; a need for more clarity around whether the State or a neutral third party would house an ombudsman, a mediation process, and/or a health data warehouse; the need for reliable studies in order to get facts to the public on the health and safety of oil and gas development in communities; and how to address standing for those who have actual grievances from proposed or permitted development.

### **FUTURE AGENDA ITEMS AND NEXT STEPS**

The Task Force concluded the meeting with a discussion how to make a formal recommendation to the entire Task Force. A template for making recommendations was distributed and the Task Force discussed the need to vet recommended language and ideas prior to a formal vote. The Task Force also had a quick discussion concerning public comment at the February 2<sup>nd</sup>-3<sup>rd</sup> meeting. Task Force members suggested limiting the public comment time period or accepting only written comments. In the end, the Task Force decided that given the limited time left for the Task Force to make recommendations, it was best to only accept written public comments.

The Task Force adjourned the meeting at 12:00 p.m.

## **Appendix F6: February 2-3, 2015 Summarized Meeting Minutes**



### **Colorado Oil and Gas Task Force**

**February 2 - 3, 2015**

**Denver, Colorado**

### **Summarized Meeting Minutes**

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#### **Task Force Members present:**

Randy Cleveland (co-chair), Gwen Lachelt (co-chair), Sara Barwinski, Bernie Buescher, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Rebecca Kourlis, Steve Moreno, Perry Pearce, Kent Peppler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Elbra Wedgeworth, Scot Woodall

#### **Task Force Members absent:**

Peter Dea

#### **Alternates present in place of absent Task Force Members**

Lem Smith (alternate for Peter Dea)

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### **MONDAY, FEBRUARY 2, 2015**

10:00 a.m. – 5:30 p.m.

#### **WELCOME**

Co-chairs Gwen Lachelt and Randy Cleveland opened the meeting with brief comments. Both co-chairs reflected on where the Task Force started and how they have come to where they are today with the 56 recommendations put forth by Task Force members. Mr. Cleveland reminded Task Force members they needed to be mindful of the remaining time left for the Task Force. Ms. Lachelt noted to the Task Force that through the Executive Order the Task Force is an advisory body rather than a decision making body and this is an opportunity, as well as responsibility of the members, to suggest a better way for Colorado with regards to oil and gas development throughout the state.

#### **REVIEW OF BUSINESS ITEMS**

Sarah Alexander, the Keystone Center, provided a reminder that the Task Force and its members are in line with antitrust statements; if members feel the Task Force is venturing into territory that may be comprised of antitrust conversations they are encouraged to alert the facilitators immediately to cease discussion in that area. Ms. Alexander followed with a review of the meeting's agenda including the process for presenting recommendations, questions and clarity regarding recommendations, and straw polling. The Task Force members then approved the revised January 15-16, 2015 Greeley, CO Summarized Meeting Minutes without any additional comments or opposition.

Lisa Dale, Department of Natural Resources (DNR), provided a logistics update to the Task Force members. The next Task Force meetings will take place on February 24, 2015 in Denver at the Colorado Convention Center. Task Force members should let DNR know as soon as possible if they will require a hotel room; DNR will also provide parking reimbursement for Task Force members at the downtown Denver location. Members must also send their receipts to DNR for reimbursement; however, meals are based on a per diem rate. Task Force members were also directed to contact DNR if they would prefer printed copies of the public comment rather than the electronic version sent to them prior to the meeting. Finally, Task Force members were reaffirmed that neither DNR nor The Keystone Center will provide outside groups contact information for the Task Force.

Mike King, DNR, was also present to respond to questions regarding Governor Hickenlooper's letter to the Task Force clarifying the expectations, charge, and voting requirements within the Executive Order. Mr. King clarified that all recommendations will require a 2/3 majority vote for final approval and Governor Hickenlooper expects a final report by the end of February 2015.

### **DISCUSSION OF RECOMMENDATIONS**

Sarah Alexander, The Keystone Center, reviewed the process for presenting and straw polling on recommendations put forth by Task Force Members. The Task Force members also reviewed polling results from the online survey sent to members prior to the meeting. Each member completed the online survey which polled their initial reactions to the 56 recommendations on a red, yellow, green scale (red = do not support; yellow = needs more discussion; green = support with minimal discussion needed).

The recommendations were divided into three discussion sets based off the online survey results. The first set of recommendations to discuss received split results with fewer than 50 percent red, yellow, or green votes; the second set of recommendations for discussion received more than 50 percent green votes; and the final set of recommendations to discuss received more than 50 percent red votes.

#### **Presentation of Recommendations:**

Recommendations were loosely grouped into topic areas based on content to help provide parameters to the discussion. The author of the recommendation was given approximately seven minutes to share the intent of their recommendations and answer clarifying questions. Initially straw polling was intended to take place at the conclusion of discussion in each topic area; however, polling was held until the end of all recommendation presentations on the second day at the request of Task Force members.

#### **Recommendations with less than 50 percent red, yellow, or green votes:**

The first set of recommendations presented by members of the Task Force were those that had split polling results, receiving less than 50 percent green and 50 percent red votes from the online survey. The recommendations were presented and discussed by their pre-grouped topic areas which are outlined below.

**Local Government Authority:** Recommendations #1, #2, #3, #4, #5, #6, #7, #8, and #12 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

Following the presentation of the local government authority recommendations, Task Force members discussed and decided to hear all recommendations prior to straw polling to ensure they understood all recommendations and how the recommendations could be consolidated or remain as written.

**Multi-well Site Considerations, Comprehensive Planning, and Fees:** Recommendations #13, #14, #17, #18, #19, #20, #22, and #26 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

**Nuisance Issues and Air & Water:** Recommendations #36, #38, #39 and #40 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

**Disclosure and Miscellaneous Topics:** Recommendations #42, #43, and #48 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

Following the presentations and clarifying questions of the split polling recommendations, the Task Force members reviewed a revised agenda for the following day which included:

- Input on the proposals discussed on February 2<sup>nd</sup>
- Discussion of majority “greens” and “revised reds” recommendations
- Discussion of recommendation revisions
- Straw polling on all recommendations

Prior to adjourning, the Task Force had a discussion on whether or not they should advance general principles or specific proposals as their final recommendations to the Governor. After determining that general principles had been discussed at the prior meeting in Greeley, Task Force Members focused on consolidation of proposals and time to meet in small groups in order to collaborate and consolidate recommendations. Task Force members were asked to submit any revised recommendations to the Keystone Center by 7:30 a.m. the following morning.

#### **ADJOURN TASK FORCE DISCUSSION**

The Task Force adjourned for the day at 5:30 p.m.

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#### **TUESDAY, JANUARY 3, 2015**

8:00 a.m. – 1:00 p.m.

#### **WELCOME AND HOUSEKEEPING**

The Task Force began Tuesday’s meeting with an overview of a revised agenda for the day and an update on the straw polling procedure. It was clarified that straw polling was not a final vote,

recommendations needed a simple majority to continue on for final consideration, and alternates are able to vote in the straw poll.

### **Overview of Revised Process Going Forward:**

February 3rd, 2015:

- Clarifying questions on proposals with higher level of support (50 percent green from survey or more)
- Continued discussion and narrowing of local government, multi-well sites, and comprehensive planning recommendations in small groups
  - Allow for re-drafting/new drafting of proposals to better reflect levels of agreement and best parts of proposals at drafting tables with leading proposals that had the most support:
    - Increased role of local government- Russ George #7
    - Considerations from multi-well sites in residential areas- Brad Holly #13
    - Comprehensive planning- Pat Quinn #20
  - Report out on redrafting/new drafting
- Break: opportunity to withdraw/modify original proposals for polling
- Straw poll on all remaining proposals
  - All proposals that receive 11 or more green votes move to final drafting for final vote on February 24th.
    - All proposals that receive 11 or more red votes do not move forward, but will be captured in the meeting minutes from this meeting.

February 4th through 12th, 2015:

- Members to send edits to proposals to the Keystone Center who will work with primary drafters to get final drafts

February 17th, 2015:

- Keystone circulates draft final report with proposals and options for voting, as needed

February 24th, 2015:

- Formal voting on recommendations and options
  - 14 votes, or more, in favor will be represented as a formal recommendation
  - Proposals with fewer than 14 votes will be represented in the final report as minority views

February 26th, 2015:

- Final vote and final report distributed to the Task Force members for final review

February 27th, 2015:

- Electronic sign-off from Task Force members to the Keystone Center on final report by noon.
- The Keystone Center submits final report to Governor on behalf of Task Force by 3:00 p.m.

### **PRESENTATION OF RECOMMENDATIONS**

Task Force members resumed their presentations focusing on the remaining sets of recommendations to discuss including those which received 50 percent or more green votes and those that received 50 percent or more red votes from the initial online survey.

**Recommendations with 50 percent or more green votes:**

Recommendations #9, #23, #24, #25, #31, #37, #41, #44, #45, #46, #51, #52, and #53 - which all received over 50 percent support from the initial online survey - were presented by their respective authors who also clarified any additional questions from Task Force members.

**Combined recommendations:**

Recommendations #10 & #11, #27 & #30, #28 & #29, #49 & #50, and #54 & #55 – which all received over 50 percent support from the initial online survey - were combined prior to the meeting and were presented by the authors who also clarified questions from Task Force members on the newly combined proposals.

**Revised recommendations with 50 percent or more red votes:**

Recommendations #15 & #16 - which did not receive above 50 percent support during initial polling - were combined into 16b and presented by the authors who also clarified questions from Task Force members.

**SMALL GROUP DISCUSSIONS**

The Task Force members broke into three small groups to discuss main issue areas and amendments to recommendations in those areas. The three issue areas were: (1) Local Government Authority led by Russ George; (2) Planning led by Pat Quinn; and (3) Multi-well Sites led by Brad Holly. Task Force members were able to choose which small group they participated in and were instructed to move around to the different groups, as needed, to provide support, discuss concerns, and suggest amendments. Group leaders then took a few minutes to report out to the full group and will continue to work on refining the recommendations which are due to the Keystone Center by Thursday, February 12<sup>th</sup>.

**STRAW POLLING**

Authors were given an option to amend, withdraw, or combine proposals prior to straw polling. Each recommendation put forth was voted up or down to continue on for final consideration at the February 24<sup>th</sup> meeting, regardless of the initial online survey results. Task Force members voted on each recommendation by holding-up a red or green card as their straw vote. A green vote simply meant the voter would like the recommendation/content area to be considered and further discussed prior to final voting, while a red vote meant the Task Force member would prefer the recommendation/content be off the table for any further conversation and vote. A simple majority was required for the recommendation to move forward.

Any recommendation that received a majority vote to move on for further consideration will be included in the majority/minority report, pending final voting outcomes on February 24th. It was also clarified that the straw poll was not a final vote for the record and alternates were allowed to vote in the straw poll.

**Straw Poll Results:**

	Received 50% or greater support to continue consideration and voting
	Withdrawn by author prior to polling or combined with another recommendation
	Received less than 50% support; will not move forward

#	Results and Notes	#	Results and Notes
1	Withdrawn by author	29	Green: 21; Working to combine with 27
2	Green: 14 / Red: 7	30	Withdrawn by author
3	Green: 11 / Red: 10	31	Green: 15 / Red: 6; Working to combine with 56
4	Green: 11 / Red: 10	32	Green: 17 / Red: 4; Working to combine with 56
5	Green: 9 / Red: 12	33	Green: 21; Working to combine with 56
6	Withdrawn by author	34	Withdrawn and updated by author into 34b
7	Green: 16 / Red: 5	34b	Green: 12 / Red: 9; Updated from 34 by author and working to combine with 56
8	Green: 8 / Red: 13	35	Green: 13 / Red: 8
9	Green: 15 / Red: 6	36	Green: 12 / Red: 9
10	Green: 21	37	Green: 21
11	Combined with 10	38	Green: 10 / Red: 11
12	Green: 14 / Red: 7	39	Green: 14 / Red: 7
13	Green: 21; Working to combine with 17 and parts of 16b and 8	40	Green: 10 / Red: 11
14	Green: 12 / Red: 9	41	Green: 21
15	Combined with 16 to form 16b	42	Green: 13 / Red: 8
16	Combined with 15 to form 16b	43	Green: 13 / Red: 8; Working on amendment to address timeframes
16b	Green: 12 / Red: 9; Combined from 15 and 16 into new recommendation	44	Green: 14 / Red: 7
17	Green: 21; Working to combine with 13	45	Withdrawn by author
18	Green: 12 / Red: 9	46	Combined with 21 to create 21b
19	Green: 12 / Red: 9	47	Withdrawn by author
20	Green: 16 / Red: 5	48	Green: 9 / Red: 12
21	Combined with 46 to create 21b	49	Green: 19 / Abstentions: 2
21b	Green: 13 / Red: 8; Combined from 21 and 46 into new recommendation	50	Withdrawn by author
22	Green: 18 / Red: 3	51	Green: 21
23	Green: 21; Working to combine with 24 and 25	52	Withdrawn and updated by author into 52b
24	Green: 21; Working to combine with 23 and 25	52b	Green: 21; Updated by author from 52
25	Green: 21; Working to combine with 23 and 24	53	Green: 11 / Red: 10
26	Green: 12 / Red: 9	54	Withdrawn by author
27	Green: 15 / Red: 6; Amended to change FTEs to 11 and will work to combine with 29	55b	Green: 14 / Red: 7
28	Withdrawn by author	56	Green: 19 / Red: 2; Working to combine with 31, 32, 33, and 34b



**FUTURE AGENDA ITEMS AND NEXT STEPS**

The Task Force concluded the meeting with a reminder of important dates, voting, and the final report.

The Task Force adjourned the meeting at 1:00 p.m.

## **Appendix F7: February 24, 2015 Summarized Meeting Minutes**

### **Colorado Oil and Gas Task Force February 24, 2015 Denver, Colorado Summarized Meeting Minutes**

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#### **Task Force Members Present:**

Gwen Lachelt (co-chair), Perry Pearce (acting co-chair, Sara Barwinski, Bernie Buescher, Jim Fitzgerald, Russ George, Jon Goldin-Dubois, Brad Holly, Dan Kelly, Rebecca Kourlis, Steve Moreno, Kent Peppler, Pat Quinn, Bruce Rau, Jeff Robbins, Matt Sura, Will Toor, Elbra Wedgeworth

#### **Task Force Members Absent:**

Randy Cleveland (co-chair), Peter Dea, Scot Woodall

#### **Alternates present in place of absent Task Force Members**

Lem Smith (alternate for Peter Dea), Ken Wonstolen and Duane Zavadil (alternates for Scot Woodall), and Lisa Winn (alternate for Randy Cleveland)

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**Tuesday, February 24, 2015**

9:00am – 5:00pm

#### **WELCOME**

Gwen Lachelt, co-chair and Perry Pearce, acting co-chair in place of Randy Cleveland, welcomed Task Force members to the final meeting of the Task Force and both provided brief opening remarks.

#### **APPROVE MINUTES AND OTHER BUSINESS**

The Task Force members approved the February 2-3, 2015 Denver, CO Summarized Meeting Minutes without any additional comments or opposition. Sarah Stokes Alexander, The Keystone Center, then briefly reviewed the antitrust statement. There were no comments or questions from Task Force members on the antitrust statement.

#### **REVIEW DISCUSSION AND AMENDMENT PROCEDURES**

Christine Scanlan, The Keystone Center, reviewed the agenda for the day, explaining that the first part of the meeting would be spent discussing and clarifying recommendations. Recommendations were divided into groups by topic and discussion began with recommendations that had been revised or amended since the previous meeting. Task Force members could offer amendments, however only the author of the recommendation could accept or deny the amendment. Following the initial discussion of recommendations, time was given to Task Force members to further discuss amendments and put forth their final proposals. Task Force members were instructed that the final vote could be taken at the end of the meeting; however, all members had to agree whether or not to vote following the discussion. If

there was disagreement on voting at the end of the meeting, the final vote would be done via a live streamed conference call before the end of the week.

***Final discussion and amendment proposals on revised land use recommendations***

Recommendations #17, #13b, #16b, #20, #14, #7, #12, #12a, #21b, #25, #26, and #10 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

***Final discussion and amendment proposals on COGCC staffing and health recommendations***

Health recommendations #27, #31b, #49, and #34b were presented by their respective authors and authors clarified any additional questions from Task Force members. This portion of the agenda was moved forward due to time constraints of Dr. Larry Wolk from Colorado Department of Public Health and Environment who was requested to be present by a Task Force member to answer any questions on the recommendations.

***Continued final discussion and amendment proposals on unrevised land use recommendations***

Following the discussion of health recommendations, land use recommendations #2, #3, #4, #9, #13, #18, #19, and #22 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

***Final discussion and amendment proposals on surface owners and disclosure recommendations***

Recommendations #44, #44a, #42, #43, and #41 were presented by their respective authors and the authors clarified any additional questions from Task Force members.

***Final discussion and amendment proposals on all remaining recommendations***

Recommendations #35, #36, #37, #39, 52b, #53, and #55b were presented by their respective authors and the authors clarified any additional questions from Task Force members.

**AMENDMENTS TO RECOMMENDATIONS**

Following the discussion of all recommendations, Task Force members were given a break to revise their recommendations based on the discussion and clarifying questions. Revisions to recommendations included:

- Recommendation #39: An amendment to strike all but the first line in the first paragraph of the description was accepted.
- Recommendation #42: An amendment to change the title from “*Full and Public Disclosure of the Chemicals Used in Oil and Gas Operations*” to “*Full and Public Disclosure of the Chemicals Used in Oil and Gas Operations, **No Trade Secret Protections***”.
- Recommendation #21b: An amendment to change the first sentence of the description and strike clause IV.

Following discussion on amendments, co-chair Gwen Lachelt made a motion to vote on all recommendations. The motion was approved unanimously to vote.

## VOTING RESULTS

Recommendations were voted on in the order they were discussed during the meeting. Task Force members voted on each proposal by raising a green or red card and the vote was read out loud by name; a red card indicated a “no” vote while a green card indicated a “yes” vote. Alternates were permitted to provide a provisional vote on behalf of their member during the final vote; absent Task Force members were given 48 hours following the meeting to confirm their votes. All recommendations that received two-thirds majority support, or more, would be included in the majority report; while all other recommendations would be included in the minority report. Voting results are as follows:

### Recommendation #17

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland*	Y	Kourlis	Y	Robbins	Y
Dea*	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall*	Y

### Recommendation #20

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

### Recommendation #14

TOTALS:		Yes: 9		No: 12	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #7**

TOTALS:		Yes: 13		No: 8	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Recommendation #12**

TOTALS:		Yes: 13		No: 8	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #12A**

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #21B**

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #25**

TOTALS:		Yes: 18		No: 3	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	N
Dea	Y	Lachelt	N	Sura	Y
Fitzgerald	N	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Recommendation #26**

TOTALS:		Yes: 10		No: 11	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #10**

TOTALS:		Yes: 13		No: 8	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Recommendation #2**

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #3**

TOTALS:		Yes: 8		No: 13	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #4**

TOTALS:		Yes: 8		No: 13	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #9**

TOTALS:		Yes: 13		No: 8	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #13**

TOTALS:		Yes: 13		No: 8	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Recommendation #18**

TOTALS:		Yes: 10		No: 11	
Barwinski	N	Holly	Y	Quinn	N
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	N	Toor	N
George	Y	Pearce	Y	Wedgeworth	N
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Recommendation #19**

TOTALS:		Yes: 10		No: 11	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #22**

TOTALS:		Yes: 12		No: 9	
Barwinski	N	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	N
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Recommendation #27**

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y



**Recommendation #31B**

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Recommendation #34B**

TOTALS:		Yes: 9		No: 12	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	N	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #44**

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #44A**

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #42**

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #43**

TOTALS:		Yes: 12		No: 9	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #41**

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Recommendation #35**

TOTALS:		Yes: 11		No: 10	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #36**

<b>TOTALS:</b>		<b>Yes: 10</b>		<b>No: 11</b>	
Barwinski	Y	Holly	N	Quinn	N
Buescher	N	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	N	Woodall	N

**Recommendation #37**

<b>TOTALS:</b>		<b>Yes: 21</b>		<b>No: 0</b>	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Recommendation #49**

<b>TOTALS:</b>		<b>Yes: 20</b>		<b>No: 1</b>	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Recommendation #39**

<b>TOTALS:</b>		<b>Yes: 12</b>		<b>No: 9</b>	
Barwinski	Y	Holly	N	Quinn	N
Buescher	Y	Kelly	N	Rau	Y
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	N	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

**Recommendation #52B**

TOTALS:		Yes: 21		No: 0	
Barwinski	Y	Holly	Y	Quinn	Y
Buescher	Y	Kelly	Y	Rau	Y
Cleveland	Y	Kourlis	Y	Robbins	Y
Dea	Y	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	Y	Toor	Y
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	Y

**Recommendation #53**

TOTALS:		Yes: 10		No: 11	
Barwinski	N	Holly	Y	Quinn	N
Buescher	N	Kelly	N	Rau	Y
Cleveland	Y	Kourlis	N	Robbins	N
Dea	Y	Lachelt	N	Sura	N
Fitzgerald	N	Moreno	Y	Toor	N
George	Y	Pearce	Y	Wedgeworth	Y
Goldin-Dubois	N	Peppler	Y	Woodall	Y

**Recommendation #55B**

TOTALS:		Yes: 13		No: 8	
Barwinski	Y	Holly	N	Quinn	Y
Buescher	Y	Kelly	N	Rau	N
Cleveland	N	Kourlis	Y	Robbins	Y
Dea	N	Lachelt	Y	Sura	Y
Fitzgerald	Y	Moreno	N	Toor	Y
George	Y	Pearce	N	Wedgeworth	Y
Goldin-Dubois	Y	Peppler	Y	Woodall	N

***Majority recommendations as voted on by the Task Force include:***

- Recommendation #17: Recommendation to Facilitate Collaboration of Local Governments, Colorado Oil and Gas Conservation Commission and Operators relative to Oil and Gas Locations and Urban Planning
- Recommendation #20: Recommendation to Include Future Oil and Gas Drilling and Production Facilities in Existing Local Comprehensive Planning Process
- Recommendation #25: Recommendation to Enhance the Local Government Liaison and Local Government Designee Roles and Functions
- Recommendation #27: Recommendation to Increase COGCC Full Time Staff, Including Inspectors, Field Operators, Enforcement, and Permitting Staff

- Recommendation #31b: Recommendation Related to CDPHE Staffing, A Health Complaint Line, A Human Health Risk Assessment, and a Mobile Air Quality Monitoring Unit
- Recommendation #41: Recommendation to Create an Oil and Gas Information Clearinghouse
- Recommendation #37: Recommendation to Reduce truck traffic on Public Streets, Roads, and Highways for Oil and Gas Activities
- Recommendation #49: Recommendation to General Assembly Regarding Air Quality Rules
- Recommendation #52b: Recommendation to Implement a Compliance Assistance Program

***Minority recommendations as voted by the Task Force include:***

- Recommendation #14: Recommendation to Require Residential Drilling Plans
- Recommendation #7: Recommendation to Coordinate Local Government Land Use Processes with Issuance of State Oil and Gas Permits
- Recommendation #12: Recommendation to Adopt a State and Amend COGCC Rules to Acknowledge Local Government Regulatory Role in Siting of Wells and Production Facilities and Create an Oil and Gas Dispute Resolution Panel
- Recommendation #12a: Recommendation to Amend Regulations to Acknowledge Local Government Siting Authority
- Recommendation #21b: Recommendation to Change Standing and Notice Requirements
- Recommendation #26: Recommendation to Allow Local Governments to Assess Fees to Fund Inspections and Monitoring of the Oil and Gas Industry
- Recommendation #10: Recommendation to Facilitate Planning for Oil and Gas Development and Provide Flexibility in Locating Wells
- Recommendation #2: Recommendation to Amend COGCC Rules to Acknowledge Local Government Regulatory Authority
- Recommendation #3: Recommendation to Amend Oil and Gas Conservation Act to Acknowledge Local Authority
- Recommendation #4: Recommendation to Have the General Assembly Enact Legislation to Improve the Operational Conflict Preemption Standard Governing the Relationship Between State and Local Regulatory Authority Over Oil and Gas Development
- Recommendation #9: Recommendation to Clarify the Balanced Responsibilities of the Commission, and to Acknowledge the Important Role of Local Government Land Use
- Recommendation #13: Recommendation to Facilitate Collaboration of Local Governments, Colorado Oil and Gas Conservation Commission and Operators Relative to Oil and Gas Locations
- Recommendation #18: Recommendation Regarding Use of Memorandum of Understanding
- Recommendation #19: Recommendation to Amend Comprehensive Drilling Plan Rules to Harmonize State and Local Authority
- Recommendation #22: Recommendation to Minimize Residential Conflicts
- Recommendation #34b: Recommendation to Protect the Public from Possible Negative Health Impacts from Fracking and Drilling for Oil and Natural Gas
- Recommendation #44: Recommendation to Assure Adequate Compensation to Affected Surface Owners – Statutory

- Recommendation #44a: Recommendation to Assure Adequate Compensation to Affected Surface Owners – Regulatory
- Recommendation #42: Full and Public Disclosure of the Chemicals and Concentrations of Chemicals Used in Oil and Gas Operations
- Recommendation #43: Recommendation to Improve Disclosure of Hydraulic Fracturing Processes
- Recommendation #35: Allow Counties to Regulate Noise Associated with Oil and Gas Operations
- Recommendation #36: Recommendation to Enhance Public Health and Safety from Oil and Gas Development

Recommendations #13b and #16b were withdrawn by their authors at time of voting.

Following the final vote, the meeting and Task Force adjourned at 5:00pm.