

Oil and Gas Task Force
Minutes for Meeting #5 – July 18, 2019, 4:30 – 7:30 p.m.
Held at County Building, 200 W. Oak St., Fort Collins

The following minutes are a high-level summary of the proceedings because a video recording is available. For a more thorough review of the proceedings, please refer to the video recording of the meeting:

4:30 – Staff provided an introduction and overview of the proposed agenda and provided updates regarding the process.

4:45 – Meegan Flenniken with Natural Resources provided a presentation regarding design standards associated with Natural Resource properties.

Questions for Meegan

- Buffer distance?
- Agreements? None put into place?
- Natural Resource standards – applying in the code.
- State agencies and notice?
- LGD sends notice to other agencies. Wildlife plan
- Process represents an important option that county should consider – based on an inventory and type of resources valued and then avoid them.
- Private lands – if they aren't CPWD area and are private – would they be exempt? (a lot answered No) Who is required to do the survey?
- Series 1000 rules include pieces that aren't stated, but beneath the surface, COGCC looks for specific things.
- Does county own surface and not minerals on certain properties? Was O&G addressed? In most cases, county doesn't own minerals.

5:15 – Tom Butts with the Health Department provided updates regarding the Colorado Department of Health and Environment progress on state changes to Air and water quality standards and provisions.

Handed out three items from CDPHE and COCGG

- COGCC point #2 – looked at existing data. Will they be sampling new data? Yes – eg. Broomfield, Adams County. Garfield County has collected data in past year that wasn't included.
- Is County Health Department going to come out with a recommendation about a setback, as Tri County Health Department did. Not planning to. More deferring to the state.

- COGCC note regarding 2,000 feet. Why that? Study identifies receptors at 2,000 feet. It's modeled not measured. Potential acute effect. As we look at regulations – if can be done in a way that odors don't affect neighbors, a lot of this is taken care of.
- Is it true that the study will be applied as setbacks? Yes. But a higher standard of review.
- Has county discussed doing emission testing? Not in our charge at this point.
- We've calibrated draft presuming that state is doing an adequate job on that. It's an important part.
- Period of study from exploration to? Drilling to flowback – duration is variable. About a week to drill a well. Hydrofracturing can take up to 30 days (Garfield County). Study addressed the after flow back as well.
- Did it look at anything else (other cancers or congenital defects)? Not sure. Didn't sample for all the chemicals. Usually look at the ones that are know cancer causers.
- Data from study – put it in worst case weather scenario for a long period of time and didn't find long term effects. Short term not surprising given the modeling.
- Green completions are mandatory now.
- What is Weld County doing? Deferring to the state.

Comments Regarding Draft Regulations

17.1 –

There was some language about rights of mineral owner that hasn't been carried forward

Put residents first in last sentence.

Protect rights of the owners of the surface estate (as they enter into an agreement).

As a general statement of law – mineral rights are treated as dominant estate – see some additional protections for

surface owners to avoid carte blanche access for the mineral operators. So operators have to take best practices. If non consenting surface owner, see that they negotiate.

Discussed different options related to sites. – if one of the alternatives is a surface owner willing to grant – that could be a criteria.

Work needs to be done before they get the permit. It could ask that the operator has done analysis. Don't agree that county gets to pick out of three sites when in general one site will be preferred early.

Wouldn't this happen during the pre-app conference? Couldn't it happen there?

Special review process if we go that route? Could resolve.

Operators held to reasonable accommodation – If surface use agreement isn't possible, then it takes away the opportunity. Law upholds that mineral owner can move forward.

Will need to study that a bit more.

5:30 – Matt Lafferty presented the draft outline of proposed regulations and discussion amongst the Task Force regarding each section ensued.

17.1 – Intent and Purpose

6 going in the right direction

4 can tolerate but might need work

- Mineral estate holders and adding stakeholder and protection about surface holder
- More definition about use types and considered diverse.
- Satisfied based on conversation we had.
- Add quantity to water
- No additional info
- No additional info
- Like to strengthen language and remove extent practicable and remove the vague and unenforceable language.
- Put residents before the environment
- Under B the 6 regulations are taken right out of 181 – as worded.
- C – Recognize applicability to state and federal lands? Clarify not municipalities.
- Add mineral and surface owners and residents first.

17.2 – Process and Permits – special review

2 like

4 tolerate

7 don't like

- Special review process – can take 6 to 9 months, plus other studies. Today it's a use by right. This move to review SR is a bit step. Don't take lightly.
- Agree with andy. Want to see varying scale. Want to see it in appropriate situations, scaled.
- Supplemental review criteria – asks for mitigation steps have been taken. What does that mean?
- Zoning – administrative waivers, etc. Not everything has to go through quasi judicial. Would this drive industry and revenue away which might be

desirable. There should be some smaller administrative process for updating, new equipment.

- Identify a subset of small applications that might not need a whole special review, but majority of new applications should be special review because we're asking for inventories and to comply with guidelines. Judgement is appropriate for SR process.
- Most should, if administrative process is a possibility. Too much liability related to the 2,000 feet.
- Glad to see the difference between the two alternatives that it was dropped. Would like to see a simplified process for some.
- Agree with SR – more in line with senate bill. Agree with vague wording on mitigation steps.
- “may require” neighborhood meeting. Not enough opportunity for public involvement and notice. Wants more. At beginning and end. Clarify when decision regarding minor or major. Current code isn't specific enough to oil and gas.
- Agree need for an administrative process. If with detailed and precise should make it straightforward enough. County should follow the state process.
- Agree with Andy, Richard, etc. Administrative process. 6-9 months is too long. Be clear about what's required with the studies. Special review in exceptional cases.
- Two tiered process – all drilling is not equal. Areas with future of water. Vs. with multiwell pad in south area. Operations that are unique to county – where they produce water.
- Timeframe for process a concern. Two tracks.

How about requiring a special review if it's less than the state? For a two-tiered process.

Time sequence approval discussion? Approved at state level does that help expedite. State approves they get processed in parallel. We could take a different stance.

Running concurrent review is a positive thing.

17.3 – Standards Required

in entirety – how's it going?

1 entirely right direction

10 think it's going in the right direction, can live with it.

- A lot could change based on state information. If it's too restrictive, you don't leave it possible to modify. Go less specific.
- Chemicals not to be used – Thought authority was not on down hole. Is that within our authority. Frank will look at it. If it affects soils or spills we can. An argument that regulating ground water that will affect surface, can be regulated. If there's a better way to phrase the intent.
- K3 – water being produced by pipeline. There are some that are produced for different reasons.
- Wastewater injection wells. L4 would put a complete ban on that.
- Ditto on some of the other thoughts. Specificity and extent.
- On site supervision in E – no line items for inspectors – this needs to get married with the budget. In I access – Doesn't that exist already? Why are we rewriting? Does existing one need more meat? Matt explained they need to be designed to a higher standard? It doesn't exist in the code. Chemicals – hydraulic fracturing might get into some problems with flow back fluids vs. raw chemicals. It needs more thought. There are things that shouldn't be used in the industry. Look at it. N a, b, d are called out. P didn't seem to jive with waste disposal. S. Flow line question. If state gathers, we would share data. They are being revised at the state. T. Temporary water lines. Shall is pretty hard. What does technically or economically infeasible? If we pick winners... County may not
- Vagueness of infeasible or practical. That needs work. B4 – flaring. Should be limited to emergency releases. Access and road s- impact on GID taxed roads. Chemicals – county should have the right to add to the list. U financial assurance. Have long discussion in addition to what the state requires. Define storm events. Some language awkward so intent not clear.
- Applicant economically infeasible or impractical. That seems vague. Avoid the leeway that the statements allow for.
- Reporting of spills- and leaks. Why not before? Look into. Leaks = air. Spills = liquids.
- 17.3 D – planning department in case of citizen calls. COGCC.
- P – allow storage of waste on site until it can be removed.
- Mary will send an email with after thoughts. Air quality concerns. So many statements about economic infeasible. That was a top priority of people who know the state does it and wants the county to do more. E.g., #4 closed loop drilling are more economically feasible. Make them a requirement if feasible. 90 day emissions – monitoring. Leak detection and repair – see something stronger than done by operator. County third party testing – reserves right.

- Noise – ongoing complaints with COGCC. Don't know if it's strong enough. Dust – is 300 feet long enough. Reuse – Only for hydraulic fracturing. Can we exclude for irrigation?
- Air quality – add value beyond what the state does. 1, 2, and 3 restate vs. 4, 5, 6 and 7 that add value. With inspectors in the field. We can work together and be more efficient. Drop as many of the vague terms as possible, but keep some where judgment is required.
- A statement that wherever our regulations are less strict than state, that state controls. ESAB says in 17.3 B 7 – air quality action day advisories, have the applicant provide a description of their plan. D. spills and releases. A lot of times the reporting is less (like 2-4 hours). Should it be volume dependent? Maybe shorter for the health department. Preference is that it be immediate.
- Duplicity of some regulations with COGCC
- Thresholds and type of products – some exempt
- Noise needs further definition – reasonable period of time for completion – it could go on. Look at closer per the phase.
- Reuse for ag is already regulated. Can't say it can't be used.
- Financial assurance – applicant has to demonstrate – clarification on what's required in that they demonstrate that. Is this additional?
- Find them surprising realistic and workable. Highlights – comments. Air quality action days. Some days for air action can't shut down. Leak section clarification on what's a verified leak. Q1 not sure understand language – word smith. Access. – specify no fugitive dust vs. mag chloride – that can be nasty chemical. Maybe instead of pavement – compacted recycled concrete. Chemical list – would like time to review. Recycle and reuse – in general – best protection would be to haul off site (to another county). L4 clarify don't want commercial water well injection in county. S How are pipelines regulated? They don't come in here. May want to put some of the language from that in the pipeline regulations. T. temporary water lines used on large pad but not small. Technically feasible protects someone who wants to

17.4 – 17.10 – Other

Right direction – 5

Ok direction – 3

- Requirement of a surface agreement – sometimes not feasible. Sometimes will wait until approved.
- Agree – Enforcement and inspection – making sure we have the teeth behind and maximize those resources.

- Share those thoughts.
- 17.5A – clarify to make sure county can determine relevancy. Application list from the open house was longer. What’s here excludes. So, this is in addition to LUC other requirements.
- 17.5A C and K seem to be the same thing.
- Environmental stuff – 17.7 – add a statement that county reserves right to impose practical fees for violations.
- Reclamation – with financial assurances. 17.8 – A and B – recommend a standard for A of administrative costs of review so it becomes reasonable. B – if narrowing to capital impact fees, there may be standards.
- In addition to reclamation plan, stormwater and drainage added. For mining or above and beyond.
- 17.5 – tighten up “when relevant” too vague for application. What are the items always requirement vs. if they exist. Eg. A surface use agreement – always or sometimes. Would like to see a requirement that there is a surface use agreement to protect them. unless not feasible alternatives to proposed site.

7:15 Wrap Up

Notes on next steps. Most in favor of a fast track.

Andy – keep in mind – balance the residents needs, the mineral owners, surface owners, and environment. And operators. Done a good job of not banning. Health study is a good example of balance.

Nothing to add – come up with a pretty fair set of regulations.

Appreciate intelligent people who are serving and hearing different viewpoints.

Communication more open from staff – would have liked to have had it be more open and not put on the spot. Appreciated the presenters.

Thanks for the hard work and keeping us moving forward.

Doug - Appreciated the respectful nature of the conversations. Would like to recommend: 1- participate when appropriate in rulemaking processes. 2 – ensure it has adequate staff for onsite inspections and complaints. 3 revisit when state completes theirs.

Mary – health and safety – biggest thing. Learned a lot. Lack of setbacks with the regulations. Something the county should do – a standard what we consider safe development.

Predictability. Happy if a subcommunity. Public notification. Meetings have to be. Whoever interested or concerned. Cost of doing business – look into – road impact fees. Water quality – defer to Thomas Borch.

Ann – PC liaison – balance, clear, transparent regulations. No duplicity. Don't want to duplicate what's already required. Based on facts.

Adrian – Thanks – Taking health protective approach. Take conservative approach. If there are concerns about health. Take a slow approach, potentially over industry.

Sherri – Take care of environment. Open space and natural lands, wildlife habitat and migration routes, and OLAB – public participation. Make sure bonding goes over and above. Make sure county is always left whole. Like special review process – be tweaked to be more specific. Thanks to staff, TF and community. Have kept balance in mind.

Win – Thanks. What's unique about county that demands over and beyond what the state has in place vs. absence of a regulation. Hope county budgets this organization that will be responsible for this oversight. Structure and stability through regulation vs. ambiguity. That will always be better.

Kristin – commending for putting together a great group of people. Echo Anne's comments about processes that are already in place. Define terms well and clearly. Thanks, on behalf of RLUB for participation.

Thanks to staff and meals and people. And task force. Learned a lot about different issues. Thanks to the audience, realizing that interests aren't that different. Balance of property rights and viability of... Protecting viability of ... have come to reasonable balance. Continue that moving forward. Certainty would be beneficial to everyone.

Angela – Thank you. Learned a lot from this group. Transparency and public involvement with websites and TV, etc. Going forward – balance important. As they get finalized – clear, enforceable, and fundable.