

## 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.