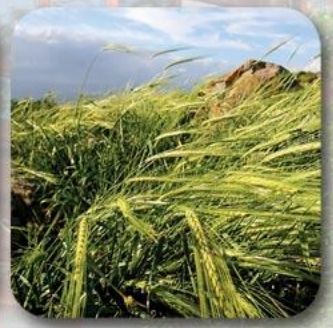
Boulder County
Land Use Department



DC-12-0003: Amendments to Oil and Gas Development Regulations

Public Hearing for the Board of County Commissioners to consider proposed Land Use Code amendments addressing oil and gas development within the Boulder County Land Use Code

December 4, 2012
4:00 p.m.

TODAY'S AGENDA

I. DC-12-0003: AMENDMENTS TO OIL AND GAS DEVELOPMENT REGULATIONS:

1. **COUNTY STAFF PRESENTATION ON DRAFT REGULATIONS**
   a. **Revisions to Draft Regulations -** Kim Sanchez / Jeff Robbins (Land Use Department / Outside Counsel)
   b. **Air Quality Monitoring Program –** Pam Milmoe (Boulder County Public Health)
   c. **Maps / Setback Analysis –** David Haines (Land Use Department, GIS)
2. **PUBLIC COMMENT** (3-min. allowance per individual speaker, unless time is pooled)
3. **BOCC DISCUSSION / ACTION / DIRECTION TO STAFF**

II. TEMPORARY MORATORIUM ON PROCESSING OF APPLICATIONS:

1. **COUNTY STAFF PRESENTATION REGARDING CURRENT MORATORIUM**
2. **PUBLIC COMMENT** (1-min. allowance per individual speaker)
3. **BOCC DISCUSSION / ACTION / DIRECTION TO STAFF**

I. PUBLIC HEARING RE: DC-12-0003 AMENDMENTS TO OIL AND GAS DEVELOPMENT REGULATIONS

Boulder County
Land Use Department

GENERAL DIRECTION FROM THE BOCC

Today's BOCC public hearing is to consider the revised Draft Regulations, which were developed by Staff in response to the direction received from the Board on November 15th. The Board provided the following general direction:

- **General Strategy –** Headed in the appropriate direction; want County to adopt a protective set of regulations in order to have adequate rules in place to review any proposed oil and gas operations, while at the same time continuing to actively engage at the State to get better statewide rules and preserve authority for local governments.
- **Standard DPR** – Do additional work to the Standard DPR process in order to ensure there is enough specificity in the review criteria.
- **Existing Well Pads** – See benefit in using existing well pads, given that there are already over 200 existing well pads in unincorporated BoCo.
- **500' vs. 1000' setback from occupied structures in Expedited DPR** – Still considering the appropriate setback from occupied structures; asked to see 750' considered as well.
- **Industry Edits** – Support Staff continuing discussions with Industry.

SCHEDULE MOVING FOWARD

Transportation Roadway Impact Study:

- ***Thursday December 6, 2012 at 4:00 P.M.*** –The Board of County Commissioners will hold a public meeting in order for staff and transportation consultants to present the results of the Transportation Oil and Gas Roadway Impact Study. This meeting will be informational only. No public testimony will be taken.

Board of County Commissioners' Review of Draft Regulations:

- ***Thursday December 13, 2012 at 4:00 P.M.*** – Anticipated adoption of the proposed regulations by the BOCC.

Meetings are posted on the County's oil and gas website:
http://www.bouldercounty.org/live/property/pages/oilgas.aspx

INPUT

- Staff met with Encana and Noble on November 12th and November 28th.
- Some changes have been incorporated into the Draft Regulations based on those discussions.
- In general, the edits address **operational concerns** brought forth by Industry but Staff has been deliberate in maintaining the same level of protection generated in the initial draft of the regulations.
- Received letter (40 pages) from Encana today, December 4 at noon.
- All public comment received to date can be found on the County's oil and gas website at http://www.bouldercounty.org/dept/landuse/pages/oilgas.aspx

BENEFITS OF EXPEDITED DPR

Expedited DPR Review Standards

Air Quality Mitigation Measures - Section 12-602(A)

1. 98% VOC destruction or control efficiency
2. Flare and Combustion Devices
3. Fugitive Emissions
4. Use of Closed Loop Pitless System
5. Green Completions
6. Capture of Produced Gas (vs. flaring or venting)
7. Pneumatic controllers
8. Maintenance During Well Blowdowns
9. Maintenance of Gathering Lines and Pipelines
10. Rod-packing Replacement
11. Certification

Water Quality Monitoring and Well Testing - Section 12-602(C)

1. Abandoned Oil and Gas Well Assessment
2. Water Well Sampling

Standard DPR Review Standards

Air Quality Standards - Section 12-703(B)

1. 98% VOC destruction or control efficiency
2. Flare and Combustion Devices
3. Fugitive Emissions
4. Certification

Water Quality Standards - Section 12-703(L)

PROPOSED REVISIONS #1 – NEW WELL PADS

BOCC Motion	Staff Response / Proposed Revision
1. Expedited DPR Eligibility for New Well Pads	
Distinguished between Expedited Development Plan Review for New Well Pads and Existing Well Pads	✓ Created separate Section 12-601.B for New Well Pads ✓ Edit to Section 12-400.E.2 to establish Expedited DPR setback criteria is determined at time application is deemed complete ✓ Commissioners need to determine whether to use Planning Commission recommendation of 1000' from any occupied structure or the staff recommendation of 500' from any occupied structure ✓ Other siting criteria remain the same, with the exception of the following staff recommendations: • Drop 150' setback from property lines since this is a COGCC requirement • Allow wells to be sited on Non Urban Planned Unit Development (NUPUD) outlots (Section 12-601.B.5) • Strike prohibition of wells in wetlands since this is covered mostly by surface waters (12-601.B.3), but added wetland review into Section 12-602.E.5; Expedited DPR could then be reclassified into Standard DPR if there was a conflict with impact to wetlands • Clarified that Comprehensive Plan resources (12-601.B.9) are those that have been mapped at the effective date of these regulations per the request of Industry

Acreage Eligible for EXP DPR:

500'	*vs.* 750'	*vs.* 1000'
31%	25%	20%
(B3)	(B4)	(B5)

Staff Recommendation:

- **500'** setback from occ. structures (Map B3) – **31%**
- Consider **300'** setback from surface waters (Map B3A) – **39%**

PROPOSED REVISIONS #2 – EXISTING WELL PADS

2. Expedited DPR Eligibility for Existing Well Pads	

Developed Eligibility Criteria for Expedited Review of Existing Well Pads	• Created separate Section 12-601.C for Existing Well Pads
	• Edit to Section 12-400.E.2 to establish Expedited DPR setback criteria is determined at time application is deemed complete
	• Proposed siting criteria would be relaxed or eliminated in order to make the use of existing well pads viable. Staff proposes the following siting criteria for use of existing well pads:
	  • 350' from occupied structures (however the wellhead and new equipment located the furthest away from occupied structures)
	  • 300' from surface water bodies
	  • 500' from domestic or commercial water wells or irrigation wells
	  • Not located within platted subdivisions or mapped townsites, except NUPUD outlots
	  • Not located within a floodway

Existing Well Pads Eligible for EXP:

350'	***vs.***	**500'**	***vs.***	**750'**	***vs.***	**1000'**
44%		42%		33%		23%
(B2)		(B3)		(B4)		(B5)

(With 500' setback from surface H20)

Staff Recommendation (Map B1):

- **350'** setback from occ. structures
- **300'** setback from surface waters

= 58% Existing Well Pads Eligible for EXP DPR

PROPOSED REVISIONS #3 – STRONGER STANDARD DPR CRITERIA

3. Strengthening Standard DPR criteria	
Strengthening Standard criteria	✓ Additional language added to Section 12-703.F Land Disturbance Standards ✓ More requirements under Water Quality Standards Section 12-703.L ✓ Additional language added to 12-703.M Wetlands Protection

PROPOSED REVISIONS #4 – OTHER EDITS

4. Other Edits	
Staff made a number of edits based off internal discussions, input from the public, County's outside technical consultant, the COGCC, and operational driven changes resulting from discussions with Industry (Encana and Noble). Changes that maintain the protections the County seeks to ensure were supported by staff.	✓ Section 12-400.D moved to Section 12-400.A.2 since pre-application conference happens only at beginning of the process. ✓ Added consultant provision to Section 4-601.E in case consultant review is needed during Expedited DPR; refinement of language in both Expedited DPR and Standard DPR sections to include notification that County has retained a consultant, chance to provide input, and requirement escrow funds; amount of fees must be reasonably related to the cost to review. ✓ Section 12-400.G.1 – Allow for Industry to provide notice using alternative methods to mail if approved by the Director ✓ Section 12-500.H. – Allow the site plan required by COGCC Rule 303(c) and forms 2 and 2A to serve as the basis for the Site Plan and Parcel Information ✓ Section 12-601.B.9 – Recognize the Comprehensive Plan layers that are in effect as of the effective date of this Article. ✓ Section 12-602.A.2.a & 12-703.B- Clarify that 98% is a manufacturer specification not operational requirement ✓ Section 12-602.A.2.b, c, and d and 12-703.B.2.a, b, and d - Deleted reference because it is applicable to large flares and gas plants and refineries and not applicable to well sites; these regulations have methods and techniques that are not applicable to well site combustors

PROPOSED REVISIONS #4 – OTHER EDITS (CONT.)

	✓ Section 12-602.A.5.d – Corrected reference so that it refers to well instead of facility ✓ Section 12-602.A.5.f – Changed drilling to well completion to more appropriately place requirement in the development process. ✓ Section 12-602.A.10 – Deleted rod packing replacement requirement because captured with leak detection ✓ Section 12-602.B.2.i and j and 12-703.D– Removed Planning Commission edit because provision of MSDS data sheet suffices for emergency response needs; I and j now consolidated; "products" referenced instead of "chemicals" ✓ Section 12-602.C.2 and C.2.c– Industry requested edits to alleviate concern about testing "all" water wells, to provide a reasonableness standard in terms of Operators getting a response for water well sampling, and to provide a defined time period for testing. The change still provides a reasonableness standard for notice and opportunity to sample wells and adequately monitor. ✓ Section 12-602.C.4 - Non-liability section added in order to clarify that testing protocol does not necessarily mean that a bad test result will be

PROPOSED REVISIONS #4 – OTHER EDITS (CONT.)

4. Other Edits	
	imputed to oil and gas operations ✓ Changes to Table 1 – Water Quality Analytes ✓ Changes to Section 12-800 Conditions of Approval in order to be consistent with COGCC requirements ✓ Section 12-800.G Electrification – Modification to allow some flexibility of all electrification of permanent equipment ✓ Section 12-900.B – Technical edit to address COGCC concern in Operational Conflict Waiver ✓ Sections 12-1200 & 12-1300.B & D Bonding/financial guarantees - Staff determined that bonding could be removed in order not to duplicate COGCC requirement; enforcement will occur through stop work orders ✓ Section 12-1200 Right to enter – County inspections shall be coordinated with the operator to ensure operator presence onsite and to ensure the site visit is conducted in accordance with all applicable operator safety requirements.

PUBLIC HEALTH / AIR MONITORING PROGRAM

- BOCC was supportive of the idea of air quality monitoring
- Interested in exploring how Boulder County Public Health could be engaged in a monitoring program
- Pam Milmoe from Boulder County Public Health will provide information regarding the cost and scope of an air monitoring study

- BOCC also had questions regarding dust suppression (Section 12-800.F), which will be addressed by Public Health today

ACTION REQUESTED FROM BOCC
RE: DRAFT REGULATIONS (Docket DC-12-0003)

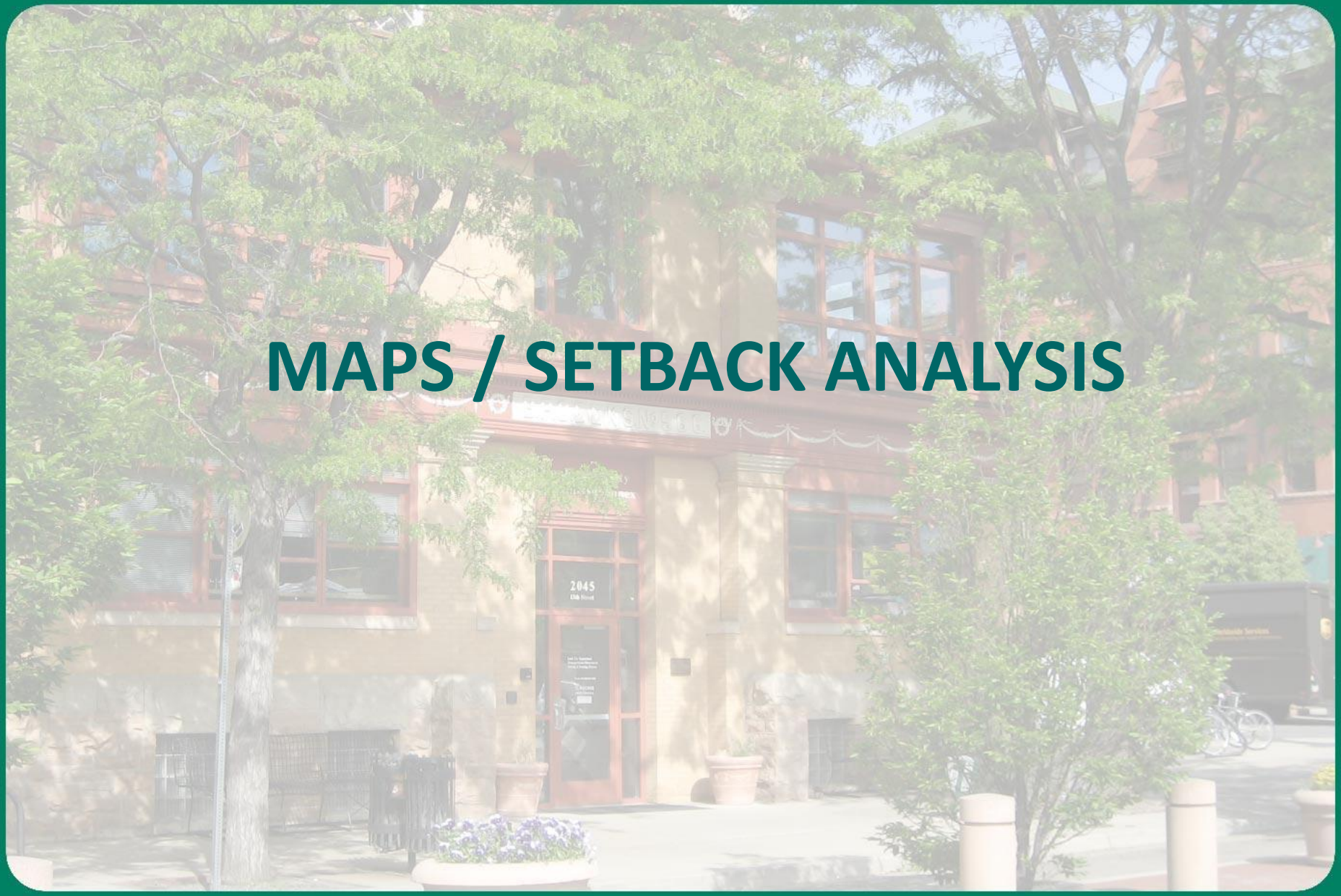
Staff requests that the Board of County Commissioners either:

(1) take final action tonight, or

*** (2) provide direction to staff on the desired changes to the latest draft and table the subject docket to December 13, 2012 at 4:00 p.m. for final action at that time.**

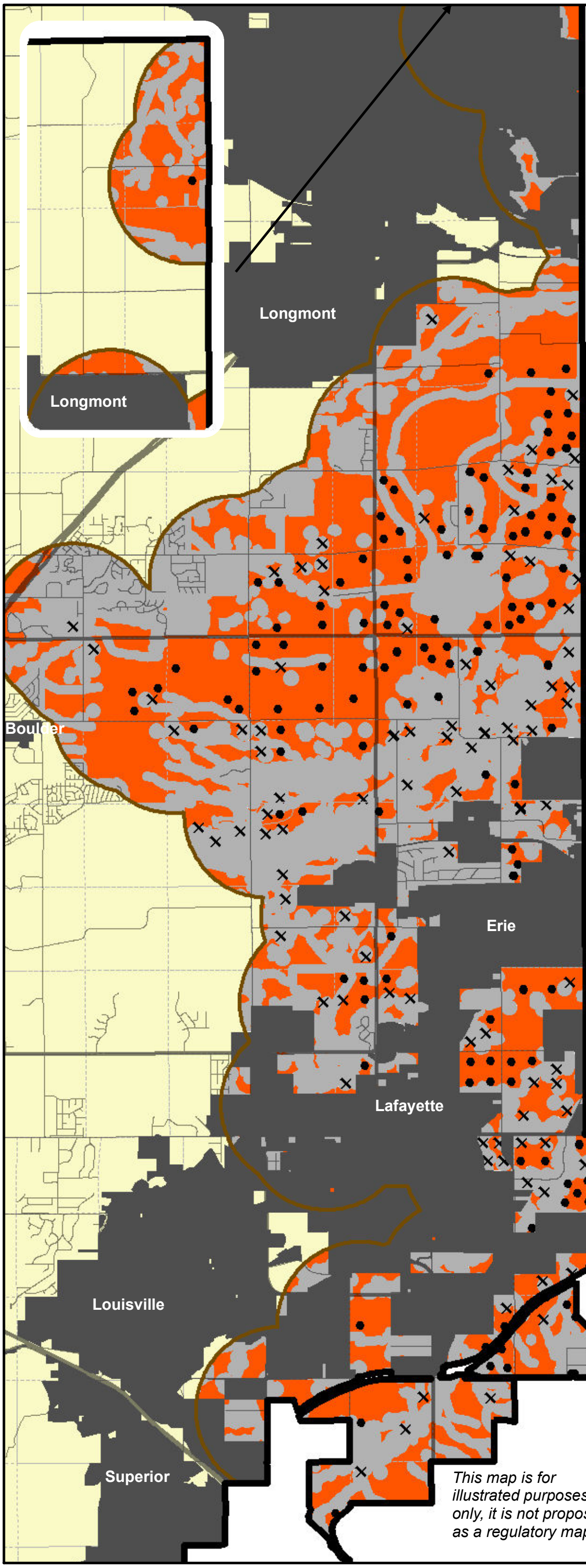
- **Transportation Roadway Impact Study - Dec. 6**
- **Encana letter received Dec. 4**
- **COGCC letter (pending)**

MAPS / SETBACK ANALYSIS



Boulder County
Land Use Department

Attachment B1 Development Plan Review as Proposed in Draft Regulations with 350' Occupied Building and 300' Surface Water Setback



Area Eligibility for Expedited Review

- Eligible. 14,047 acres (43%)
- Not Eligible. 18,290 acres (57%)

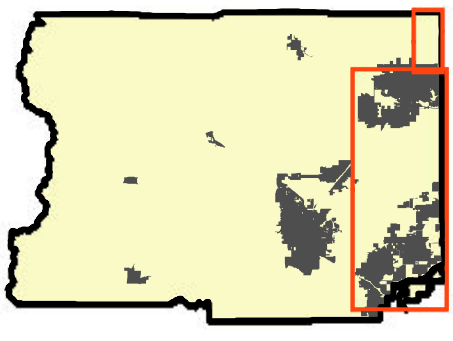
Production Well Sites

- • Within Area Eligible for Expedited Review. 128 (58%).
- × Not Within Area Eligible for Expedited Review. 91 (42%)

Siting Criteria

350' from occupied structures
300' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



This map is for illustrated purposes only, it is not proposed as a regulatory map.

0 6,000 Feet
1 inch = 6,000 feet
1 inch = 2,000 yards

North

Boulder County

11/30/2012

Attachment B2 Development Plan Review as Proposed in Draft Regulations with 350' Occupied Building Setback

Area Eligibility for Expedited Review

- Eligible. 11,149 acres (34%)
- Not Eligible. 21,187 acres (66%)

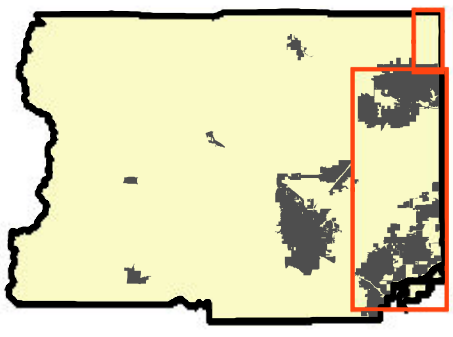
Production Well Sites

- • Within Area Eligible for Expedited Review. 97 (44%)
- × Not Within Area Eligible for Expedited Review. 122 (56%)

Siting Criteria

350' from occupied structures
500' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



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North

Boulder County

11/30/2012

Attachment B3 Development Plan Review as Proposed in Draft Regulations with 500' Occupied Building Setback

Area Eligibility for Expedited Review

- Eligible.10,053 acres (31%)
- Not Eligible. 22,284 acres (69%)

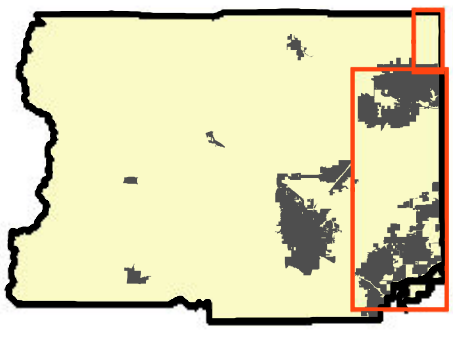
Production Well Sites

- • Within Area Eligible for Expedited Review. 92 (42%)
- × Not Within Area Eligible for Expedited Review. 128 (58%)

Siting Criteria

500' from occupied structures
500' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



Longmont
Longmont
Boulder
Erie
Lafayette
Louisville
Superior

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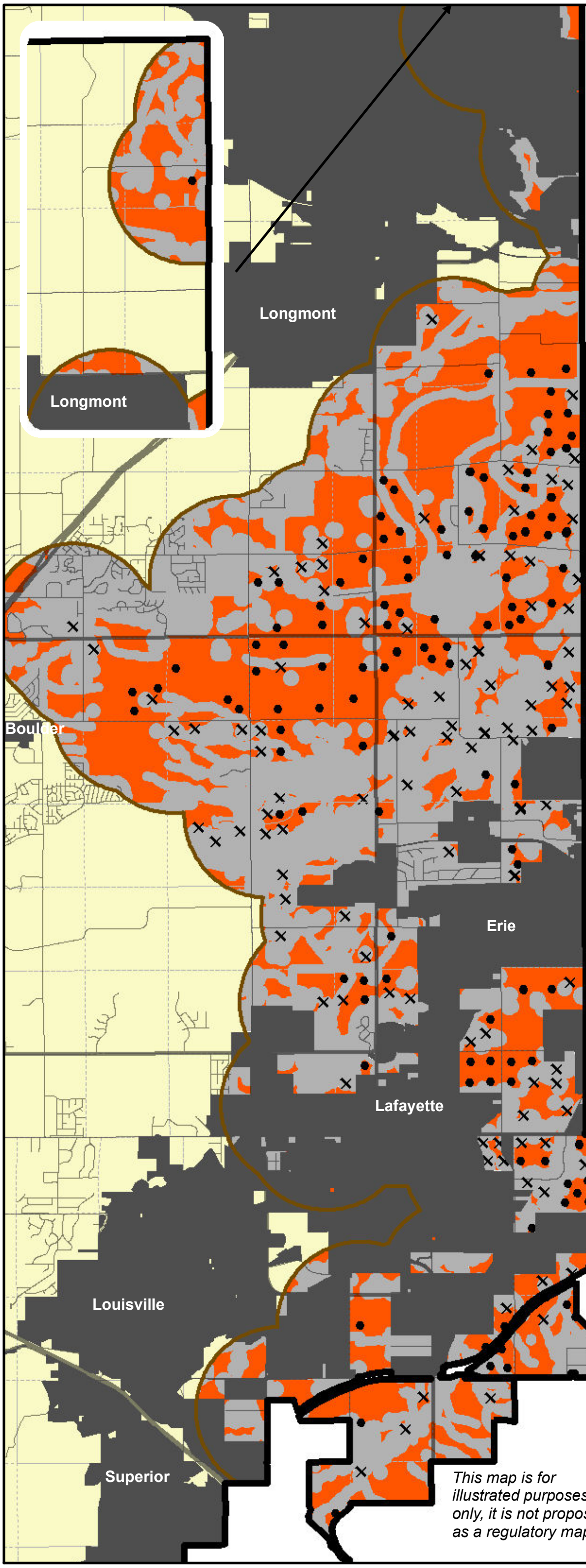
North

Boulder County

11/30/2012

Attachment B3a Development Plan Review as Proposed in Draft Regulations with 500' Occupied Building Setback and 300' Surface Water Setback



Area Eligibility for Expedited Review

- Eligible.11,2667 acres (39%)
- Not Eligible. 19,670 acres (61%)

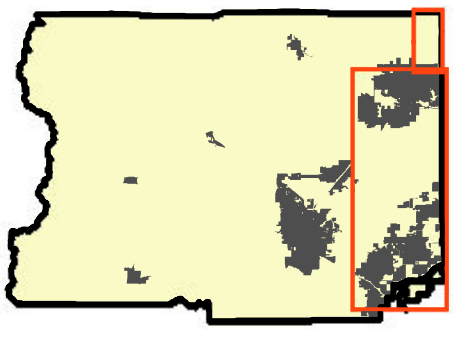
Production Well Sites

- • Within Area Eligible for Expedited Review. 119 (54%)
- × Not Within Area Eligible for Expedited Review. 100 (46%)

Siting Criteria

500' from occupied structures
300' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



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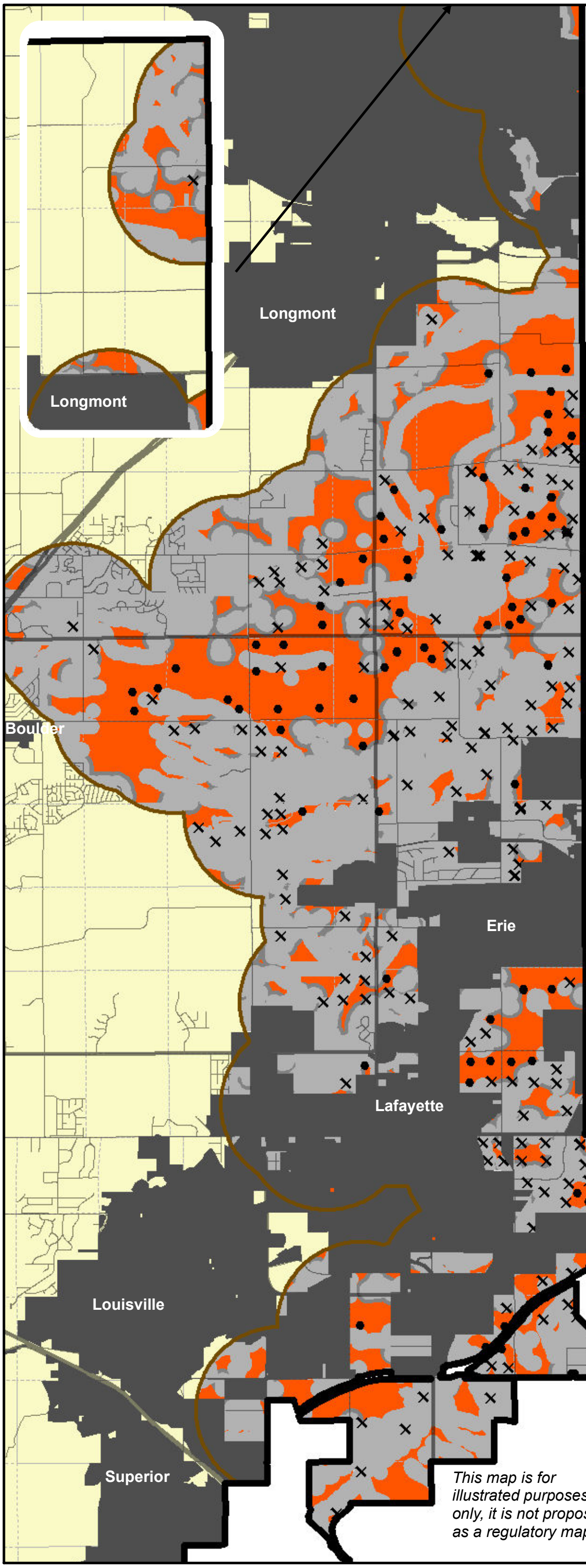
Boulder County

12/4/2012

Attachment B4 Development Plan Review as Proposed in Draft Regulations with 750' Occupied Building Setback



Area Eligibility for Expedited Review

- Eligible. 8170 acres (25%)
- Not Eligible due to 250' increase in Occupied Structure setback. 1883 acres (6%)
- Not Eligible. 22284 acres (69%)

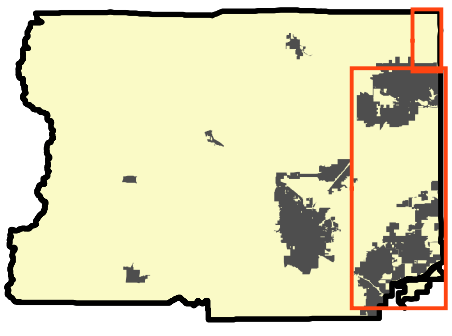
Production Well Sites

- • Within Area Eligible for Expedited Review. 73 (33%)
- × Not Within Area Eligible for Expedited Review. 147 (67%)

Siting Criteria

750' from occupied structures
500' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



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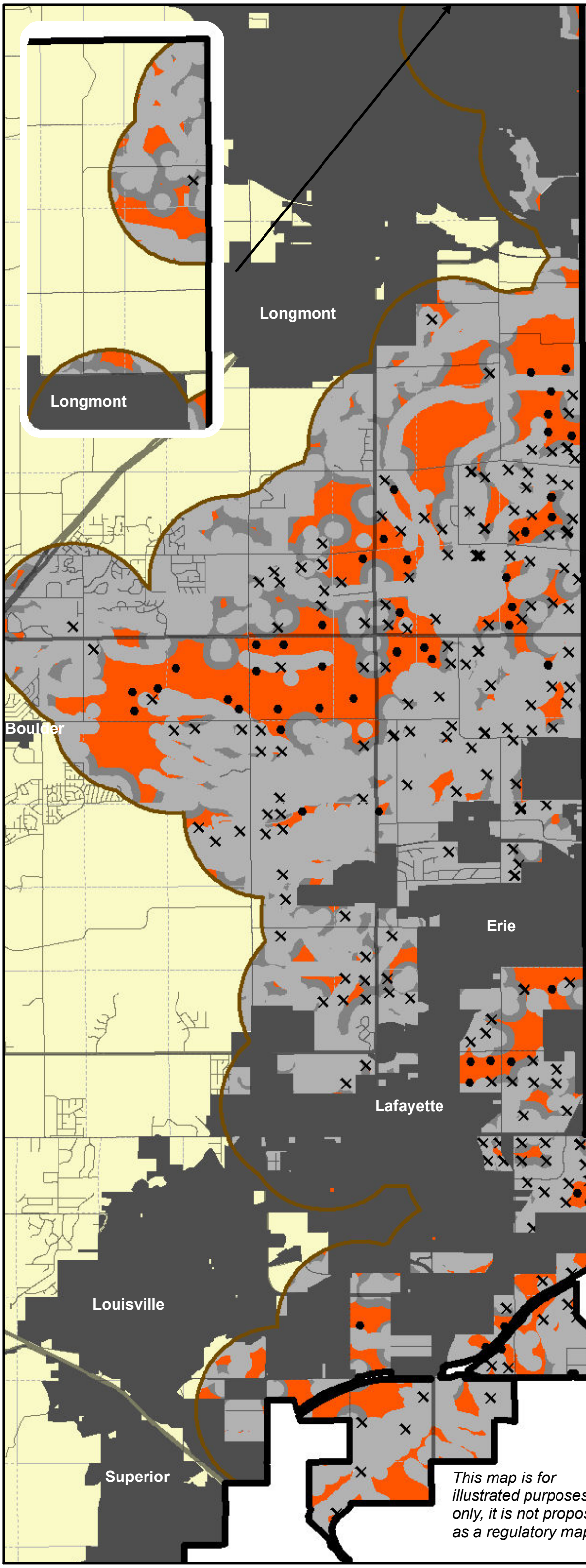
11/30/2012

Attachment B5 Development Plan Review as Proposed in Draft Regulations with 1000' Occupied Building Setback



Area Eligibility for Expedited Review

- Eligible. 6392 acres (20%)
- Not Eligible due to 500' increase in Occupied Structure setback. 3660 acres (11%)
- Not Eligible. 22284 acres (69%)

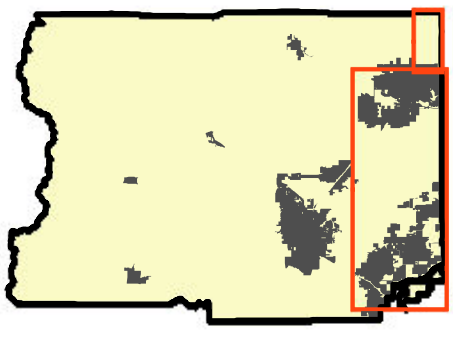
Production Well Sites

- • Within Area Eligible for Expedited Review. 50 (23%)
- × Not Within Area Eligible for Expedited Review. 169 (77%)

Siting Criteria

1000' from occupied structures
500' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



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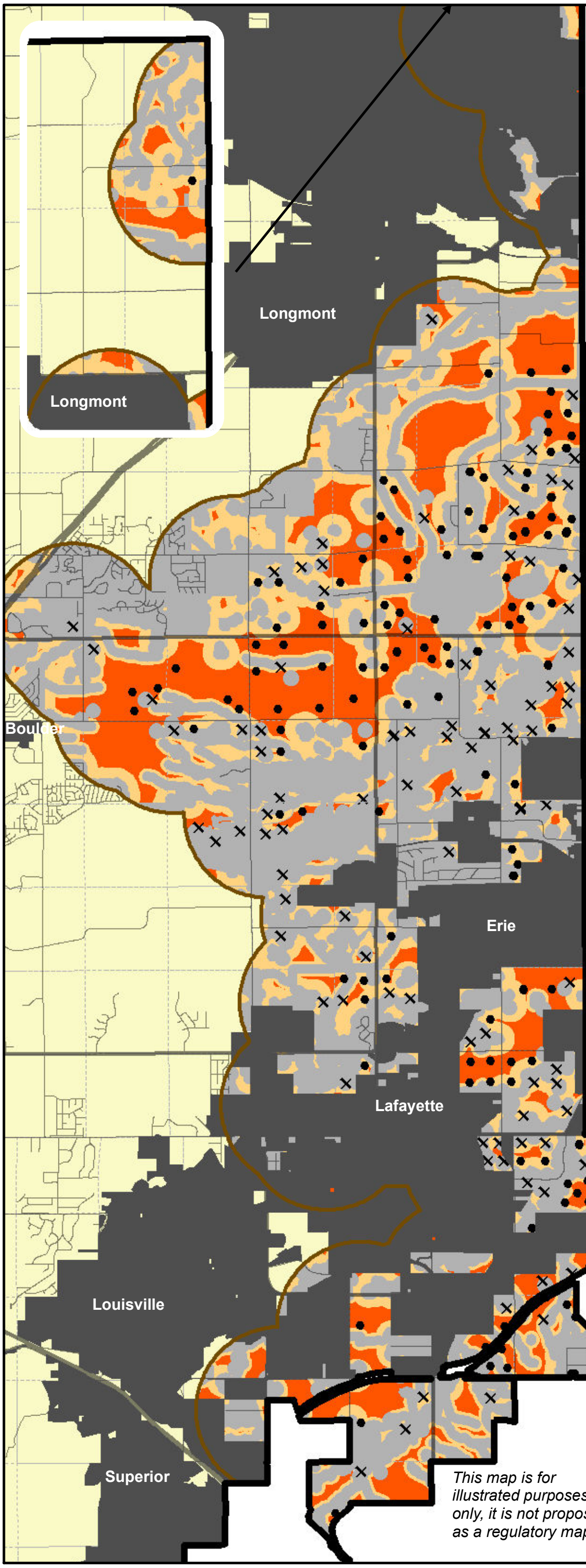
11/30/2012

Attachment B6 Development Plan Review as Proposed in Draft Regulations



Area Eligibility for Expedited Review

- New and Existing Well Sites Eligible. 6392 acres (20%)
- Only Existing Well Sites Eligible. 7654 acres (23%)
- Not Eligible. 18290 acres (57%)

Production Well Sites

- • Within Area Eligible for Expedited Review. 128 (58%)
- × Not Within Area Eligible for Expedited Review. 91 (42%)

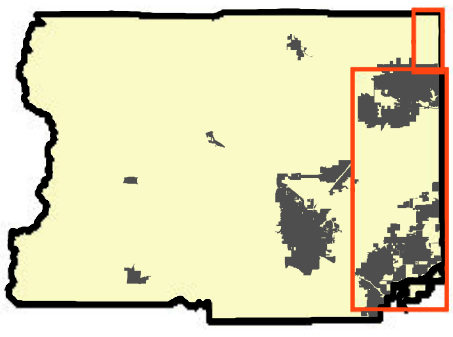
Siting Criteria for New Well Sites

1000' from occupied structures
500' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Siting Criteria for Existing Well Sites

350' from occupied structures
300' from surface water
500' from water wells
Not within platted subdivisions - excluding NUPUD outlots
Not within floodway

Wattenberg Field
Municipalities



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North

Boulder County

11/30/2012

II. PUBLIC HEARING RE: TEMPORARY MORATORIUM

TEMPORARY MORATORIUM

Public Hearing to consider adequacy of the length of the current temporary moratorium on Boulder County's processing of applications for oil and gas development in the unincorporated County (Resolution 2012-16, adopted 2/2/12), in terms of finalizing regulations and developing a plan to administer those new regulations.

ACTION REQUESTED FROM BOCC RE: TEMPORARY MORATORIUM

Staff requests that the Board of County Commissioners either:
(1) take final action tonight, or
***(2) table indefinitely while Staff prepares implementation plan to see if more time is warranted.**

- **Staff can present fee structure and implementation plan in January**
  - ✓ **First finalize regulations so can develop implementation plan**
  - ✓ **Allow opportunity to coordinate with COGCC**

- **Hold public hearing tonight as noticed, or table to later date.**

Boulder County

Boulder County
Land Use Department