

District Court, Boulder County, Colorado
1777 6th St., Boulder, CO 80302

Plaintiff:

PEOPLE OF THE STATE OF COLORADO *ex rel.*
CYNTHIA H. COFFMAN, in her official capacity as
Colorado Attorney General; and THE STATE OF
COLORADO

and

Plaintiff Intervenors:

COLORADO OIL AND GAS ASSOCIATION;
AMERICAN PETROLEUM INSTITUTE

v.

Defendant:

COUNTY OF BOULDER, COLORADO; and THE
BOARD OF COUNTY COMMISSIONERS OF
BOULDER COUNTY.

Attorneys for Defendant:
David Hughes, Deputy County Attorney, #24425
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▲ COURT USE ONLY ▲

Case Number: 2017 CV 30151

Div.: 3

**MOTION FOR EXTENSION OF TIME TO RESPOND TO COLORADO OIL AND
GAS ASSOCIATION'S AND AMERICAN PETROLEUM INSTITUTE'S JOINT
MOTION FOR SUMMARY JUDGMENT AND THE STATE'S MOTION FOR
SUMMARY JUDGMENT**

Defendants, the County of Boulder, Colorado, and the Board of County Commissioners of Boulder County (together “the County”) request that the Court extend the deadline for the County to respond to Colorado Oil and Gas Association’s and American Petroleum Institute’s (“COGA/API”) Joint Motion for Summary Judgment and the State’s Motion for Summary Judgment (together “the Summary Judgement Motions”). Specifically, the County requests that it be given 21 days after the Court’s ruling on the County’s Motion to Dismiss Colorado Oil and Gas Association’s and American Petroleum institute’s Joint Complaint and the County’s Motion to dismiss State of Colorado’s Complaint for Declaratory and Injunctive Relief (together “the Motions to Dismiss”). Alternatively, the County requests that the Court grant a two week extension of time to respond to the Summary Judgment Motions. In support, the County states as follows:

1. Under C.R.C.P. 121 § 1-15, counsel for the County conferred with the State’s counsel, who opposes the County’s request for an extension 21 days beyond the Court’s ruling on the County’s Motions to Dismiss. Counsel for the State **does not** oppose the County’s request for a 14-day extension. Counsel for the County conferred with the COGA/API’s counsel, who opposes the County’s request for an extension 21 days beyond the Court’s ruling on the County’s Motions to Dismiss. Counsel for the COGA/API **does not** oppose the County’s request for a 14-day extension.

2. On March 7, the County filed a motion to dismiss the State’s claims. On March 17, the County filed a motion to dismiss the COGA/API’s claims. Both Motions to Dismiss assert arguments under C.R.C.P. 12(b)(1) that this Court lacks subject matter jurisdiction because the issues are or will likely become moot.

3. The Motions to Dismiss are not fully briefed. The State's response to the motion to dismiss is due March 28, and the COGA/API's response is due April 7.

4. The State and COGA/API filed the Summary Judgement Motions on March 20, 2017. In the Summary Judgement Motions, the State and COGA/API assume that this Court has jurisdiction over the entire matter, bypassing 12(b)(1) issues raised by the County in the Motions to Dismiss, and ask that the Court rule on substantive issues.

5. Mootness is a "threshold jurisdictional matter" that a court should determine before rendering an opinion on the merits. *Tesmer v. Colo. High School Activities Ass'n.*, 140 P3d 249, 252 (Colo. App. 2006); *USAA v. Parker*, 200 P.3d 350, 356 (Colo. 2009). Accordingly, as a procedural matter, the Court should rule on the issues raised in the Motions to Dismiss before ruling on the Motions for Summary Judgement.

6. Moreover, as a practical matter, the County should not be required to expend time and resources briefing a substantive issue that the Court may not have to rule on. If the Court grants the Motions to Dismiss, then all briefing on the summary judgement issues will be irrelevant.

7. For both procedural and practical reasons, the County requests that the Court grant the County 21 days from the date the Court rules on the Motions to Dismiss to respond to the Motions for Summary Judgment.

8. Alternatively, the County requests a two-week extension of time to respond to the Motions for Summary Judgment. Counsel for the County are heavily involved in drafting oil and gas regulations, which County staff will present to the Board of County Commissioners on March 23, 2017. In addition, lead counsel for the County, Deputy County Attorney David Hughes, will be out of the office on a pre-planned vacation during the week of March 27.

Accordingly, the County will need an additional two weeks to adequately respond to the Summary Judgment Motions.

Respectfully submitted this 23rd day of March 2017.

BOULDER COUNTY ATTORNEY

By: *S/David Hughes*

David Hughes, #24425

Deputy County Attorney

Katherine A. Burke, #35716

Assistant County Attorney

Catherine Ruhland, #42426

Assistant County Attorney

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on March 23, 2017, I electronically filed the foregoing **MOTION FOR EXTENSION OF TIME TO RESPOND TO COLORADO OIL AND GAS ASSOCIATION'S AND AMERICAN PETROLEUM INSTITUTE'S JOINT MOTION FOR SUMMARY JUDGMENT AND THE STATE'S MOTION FOR SUMMARY JUDGMENT** via Colorado Courts E-Filing System, who will either serve the same via e-mail or United States mail to the following:

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