

## RESOLUTION 2014-88

### **Amending the Temporary Moratorium Imposed in Resolution 2012-16, as Extended and Amended in 2012-46, 2013-18, 2013-50, 2013-55, and 2014-56, Pertaining to Boulder County's Processing of Oil and Gas Development Applications in the Unincorporated County**

#### Recitals

A. In July 2013, the Board of Commissioners extended the County's temporary moratorium on processing oil and gas applications in the unincorporated county (the "Moratorium") until January 1, 2015, as reflected in Resolution 2013-55.

B. On July 12, 2014, the Board held a status update hearing on the Moratorium. The Board did not extend the length of the Moratorium at that time, but did make various limited amendments to the terms of the Moratorium, as reflected in Resolution 2014-56.

C. In light of the impending expiration date of the Moratorium, the Board held a public hearing in Longmont on November 10, 2014 to take public testimony on whether to extend or otherwise amend the Moratorium (the "Public Hearing").

D. At the beginning of the Public Hearing, prior to public testimony, County staff updated the Board on a number of issues. This update included a synopsis of recent scientific study results and the status of many ongoing studies, most of which are focused on better understanding air and water quality impacts of drilling and production activities. The update also summarized the findings of field inspections of existing oil and gas production sites in the unincorporated area undertaken over the past several months by Boulder County Public Health staff. Staff noted various areas where the County's regulations need further revision to reflect an evolving understanding of the industry's impacts, new and improving technology available to mitigate some of those impacts, and changes to state regulations from recent rulemakings conducted by the Colorado Oil and Gas Conservation Commission ("COGCC") and the Air Quality Control Commission ("AQCC"). In addition, staff noted the ongoing work of the Governor's Task Force on State and Local Regulation of Oil and Gas Operations, whose final recommendations may result in legislative changes, as well as ongoing litigation involving Longmont, Fort Collins, and Broomfield progressing through the state courts, final disposition of which could affect local authority to regulate oil and gas development.

E. Nearly 80 members of the public testified in person at the November 10<sup>th</sup> hearing, with the vast majority in support of extending the Moratorium. In addition, since the June 12, 2014 hearing, the Board has received more than 1,200 written comments from the public, again with the overwhelming majority in support of extending the Moratorium.

F. The Board did not make any decisions on November 10, 2014, deferring deliberation until a public meeting convened November 13, 2014. On this date, the Board considered the substantial public comment emphasizing the serious and profound concerns of citizens regarding the potential health, environmental, and safety hazards presented by future oil and gas development in the County; the additional health, environmental, and safety information that will become available in the near future through scientific study of oil and gas operations; the opportunities for improving County regulations by revisiting all applicable sources of land use authority, including zoning, phasing, and comprehensive planning; and potential legal

changes that could alter and further County regulatory authority related to oil and gas operations. All three commissioners underscored the imperative to complete the studies currently underway that assess the health, environmental, and safety impacts from hydraulic fracturing on people and the environment before the Board can lift the Moratorium.

G. In particular, the Board noted the importance of the National Science Foundation's "AirWaterGas" study, which is focused on oil and gas development in the Rocky Mountain region, led by CU-Boulder, and includes participation from a number of other Colorado universities and federal research institutions such as the National Oceanic and Atmospheric Administration, the National Renewable Energy Laboratory, and the University Center for Atmospheric Research. According to the NSF, the merits of this study "include (1) examination of the effects of natural gas development on water and air resources by analyzing trade-offs between local, regional, and national costs and benefits in environmental, social, and economic domains (social-ecological systems); (2) review of industry practices for hydraulic fracturing, well drilling and casing, and gas collection infrastructure for best management practices recommendations natural gas infrastructure; (3) investigation of the hydrologic processes that determine impacts of natural gas extraction on groundwater withdrawal and contaminant transport in drinking water aquifers and surface waters (water quantity); (4) characterization of the potential risks of fracturing fluid migrating to drinking water aquifers, the injection or discharge of flowback and produced water, and the mitigation of these risks by treatment of the flowback and produced waters (water quality); (5) improved spatial and temporal monitoring of air pollutants by a combination of high-resolution mobile sampling and the use of personal air monitors as an example of "citizen science" feeding data to air quality models that assess the local, regional, and national implications of natural gas development (air quality); and (6) quantitative and qualitative assessment of the health risks, both chemical and non-chemical, associated with water and air exposure." The Board noted that the AirWaterGas Study is not projected to be completed until 2017, and that the County will need a period of time after its publication to review the results and modify its Land Use Code related to oil and gas development accordingly.

H. The Board noted with approval the recommendation from staff to update the emergency notification process operators must follow in the case of a spill or release, based on staff experience responding to recent incidents on existing oil and gas sites within the County.

I. Also as part of the Board's deliberations on November 13, 2014, all three commissioners stressed the need to create a community action plan or "dashboard" to help reduce the county's reliance on carbon-based energy and to foster a community commitment to reducing the amount of fossil fuels consumed in Boulder County.

**NOW THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Boulder County as follows:

1. **Extension of Termination Date.** For the reasons set forth herein, as communicated by the Board at the November 13, 2014 hearing, and based upon previously stated reasons for Resolution 2012-16 and all of its extensions, the Board hereby extends the Moratorium imposed in Resolution 2012-16, as extended and amended in 2012-46, 2013-18, 2013-50, 2013-55, and 2014-56, until close of business on July 1, 2018, as reasonable and necessary to protect the public health, safety, and welfare of the County and prevent irreparable harm.

2. **Emergency Response Procedures for Spills and Releases.** In the event of a spill or release which threatens or has the potential to impact waters of the state, the operator must contact Boulder County emergency dispatch and the Land Use Director immediately.
3. **Updates to County Regulations.** County staff shall continue to analyze whether existing County regulations pertaining to air quality standards and siting and setback regulations for oil and gas operations are sufficient to protect the public health, safety, and welfare and whether amending such regulations pursuant to the County's legal authority is necessary to adequately mitigate the impacts and hazards associated with oil and gas development. Specifically, staff is directed to revisit the use of zoning powers, phasing powers, and comprehensive planning techniques; ensure adequate protection of the floodplain; evaluate the impacts and possible mitigation methods for multi-well pads and similarly intensively developed ancillary facilities; propose all changes necessary to conform County regulations with the most recent state rules from COGCC and AQCC; and assess the risks posed by concrete vaults. In addition, as the scientific community publishes study results – from studies mentioned in the staff recommendation written for the Public Hearing as well as all other studies which inform the ways in which the County can best exercise its regulatory authority – staff is directed to analyze appropriate amendments to County regulations.
4. **Direction to County Sustainability Office.** The Sustainability Office is hereby directed to pursue a plan to increase tools available to county residents to better obtain and measure their carbon emission reduction, with the goal of increasing the commitment of and ability for county residents to take part in more sustainable energy choices.

A motion to this effect was made at the 25 of November, 2014 public meeting by Commissioner Jones, seconded by Commissioner Gardner, and passed by a 2-0 vote of the Board.

*[Signature page follows.]*

ADOPTED on this 25 day of Nov., 2014.

**BOARD OF COUNTY  
COMMISSIONERS OF BOULDER  
COUNTY:**

(Excused)

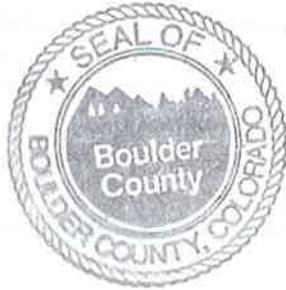
Cindy Domenico, Chair

Deb Gardner

Deb Gardner, Vice Chair

Elise Jones

Elise Jones, Commissioner



ATTEST:

Cecilia G. Lacey  
Clerk to the Board