

RESOLUTION 2015-23

Amending the Temporary Moratorium Imposed in Resolution 2012-16, as Extended and Amended in 2012-46, 2013-18, 2013-50, 2013-55, 2014-56, and 2014-88, Pertaining to Boulder County's Processing of Oil and Gas Development Applications in the Unincorporated County

Recitals

A. Under the current temporary moratorium, if an operator believes certain activity is not subject to the temporary moratorium, the operator must submit a Request for Exemption to the Land Use Director. Work eligible for an administrative exemption from the moratorium may only proceed upon written approval of the Land Use Director. The Director may not issue an approval for seven days following notification to adjacent property owners.

B. Boulder County has begun to receive a number of requests from oil and gas operators to do routine maintenance and repair work on existing oil and gas facilities. This work does not include drilling or hydraulic fracturing techniques; rather, it is work necessary to keep existing equipment and facilities in good repair, which helps minimize or avoid spills, releases, and deterioration of production facilities. Some of this work is regulated by the Colorado Oil and Gas Conservation Commission or other governmental agencies.

C. Given the nature and extent of this routine maintenance and repair work, the current process for requesting an exemption from the moratorium, as well as the subsequent seven-day notice requirement, is unnecessary.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Boulder County that the temporary moratorium imposed in Resolution 2012-16, as extended and amended in Resolutions 2012-46, 2013-18, 2013-50, 2013-55, 2014-56, and 2014-88, pertaining to Boulder County's processing of oil and gas development applications in the unincorporated county, is hereby amended as follows:

1. Section 1.f of Resolution 2014-56 is hereby amended to read:

[...] the Temporary Moratorium does not apply to the following [...]

- f. Work on existing oil and gas facilities which the Land Use Director in his sole discretion deems necessary to either (i) repair facilities impacted by acts of God such as, without limitation, the flooding and severe weather events of September 2013, ~~or~~ (ii) reconfigure or relocate facilities in a manner that better protects public health, safety, and welfare and the environment, or (iii) perform routine maintenance and repairs. In determining whether work is "routine maintenance or repairs," the Director may consider whether the work will require other county permits, such as floodplain development permits. For purposes of this Section, "oil and gas facilities" means the site and associated equipment used for the production, transportation, treatment, and/or storage of oil and gas and waste products; or an individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production; or gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical

injection stations and valve boxes; or any other oil and gas operation which may cause significant degradation. In no case may the Land Use Director approve repairs, reconfiguration, or relocation under this subsection where the work would involve drilling a new well or hydraulic fracturing.

2. Section 2 of Resolution 2014-56 is hereby amended to read:

Request for Exemption. If an oil and gas operator believes certain activity is not subject to the temporary moratorium given the exceptions listed in Section 5 as amended by this Resolution, the operator must submit a request for exemption in writing to the Land Use Director. Unless waived by the Land Use Director for good cause shown, tThe request must include ...

3. Section 3.b of Resolution 2014-56 is hereby amended to read:

b. In considering an exemption request, the Director shall notify adjacent property owners. The Director shall not issue the approval for seven days following such notification and shall consider any comments received by the public. To the extent necessary, the Director may refer requests for administrative exemptions from the moratorium to other agencies. In his sole discretion, the Director may waive this notice requirement for good cause shown (for example, necessary and routine maintenance and repairs not likely to affect adjacent property owners).

4. An amended and restated version of the three sections of Resolution 2014-56 (types of work exempted from the moratorium, the process for requesting an exemption, and process for evaluating exemption requests) is attached hereto as Exhibit A.

A motion to this effect was made at the January 22nd public meeting by Commissioner Jones, seconded by Commissioner Domenico, and passed by a _____ vote of the Board.

[Signature page follows.]

ADOPTED on this 22 day of Jan., 2015.

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



A handwritten signature in blue ink, appearing to read "Deb Gardner", written over a horizontal line.

Deb Gardner, Chair

A handwritten signature in blue ink, appearing to read "Elise Jones", written over a horizontal line.

Elise Jones, Vice Chair

A handwritten signature in blue ink, appearing to read "Cindy Domenico", written over a horizontal line.

Cindy Domenico, Commissioner

ATTEST:

A handwritten signature in blue ink, appearing to read "Cecilia J. Lacey", written over a horizontal line.

Clerk to the Board

Exhibit A

Amended and Restated Categories of Exemption from the Moratorium, Process for Requesting an Exemption, and Process for Evaluating Exemption Requests

1. **Types of Work Exempted.** The Temporary Moratorium does not apply to the following:
 - a. Any complete application for oil or gas exploration, development, or production currently being processed by the Land Use Department, which may continue to be processed and reviewed as provided in the Land Use Code.
 - b. Any application for oil or gas exploration, development, or production already approved by the Land Use Department prior to the effective date of this Resolution where such approval is validly maintained thereafter.
 - c. Development that possesses either a statutory or common law vested right.
 - d. Minor modifications to existing permits.
 - e. Plugging and abandonment of existing facilities, with the exception that associated rerouting of flowlines, gathering lines, or other pipelines will be subject to section 4-514.E of the Land Use Code, unless the Director waives one or more of the requirements of that section as inapplicable in light of the nature and extent of the proposed work.
 - f. Work on existing oil and gas facilities which the Land Use Director in his sole discretion deems necessary to either (i) repair facilities impacted by acts of God such as, without limitation, the flooding and severe weather events of September 2013, (ii) reconfigure or relocate facilities in a manner that better protects public health, safety, and welfare and the environment, or (iii) perform routine maintenance and repairs. In determining whether work is “routine maintenance or repairs,” the Director may consider whether the work will require other county permits, such as floodplain development permits. For purposes of this Section, “oil and gas facilities” means the site and associated equipment used for the production, transportation, treatment, and/or storage of oil and gas and waste products; or an individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production; or gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes; or any other oil and gas operation which may cause significant degradation. In no case may the Land Use Director approve repairs, reconfiguration, or relocation under this subsection where the work would involve drilling a new well or hydraulic fracturing.

2. **Request for Exemption.** If an oil and gas operator believes certain activity is not subject to the temporary moratorium given the exceptions listed in Section 5 as amended by this Resolution, the operator must submit a request for exemption in writing to the Land Use Director. Unless waived by the Land Use Director for good cause shown, the request must include at a minimum:
 - a. a site plan showing the existing and planned location of the facilities;
 - b. a description of the desired work;
 - c. the reason(s) why the work is not subject to the moratorium including any benefit to public health, safety, and welfare and the environment;
 - d. the time and dates when the work would occur;
 - e. the duration of the work;
 - f. any mitigating measures to reduce impacts to neighbors and other affected parties;
 - g. a list of all parties that will receive notice from the operator prior to commencement of work;
 - h. documentation that the operator can obtain and maintain all other required local, state, or federal permits, including without limitation county Floodplain Development Permits and any permits required by COGCC, CDPHE, and the U.S. Army Corps of Engineers.
3. **Process for Evaluating Exemption Request.** Work eligible for an administrative exemption from the moratorium may only proceed upon written approval of the Land Use Director.
 - a. In evaluating a request for an exemption, the Director will use the Standard DPR Approval Standards in section 12-703 of the Boulder County Land Use Code as well as the pipeline regulations in 4-514.E as a guide. Where two or more of the standards in 12-703 or 4-514.E conflict when applied to the proposed work, the Director shall analyze the applicability and importance of each of the conflicting standards under the specific facts of the application and make a reasonable attempt to balance the conflicting standards in reaching a decision.
 - b. In considering an exemption request, the Director shall notify adjacent property owners. The Director shall not issue the approval for seven days following such notification and shall consider any comments received by the public. To the extent necessary, the Director may refer requests for administrative exemptions from the moratorium to other agencies. In his sole discretion, the Director may waive this notice requirement for good cause shown (for example, necessary and routine maintenance and repairs not likely to affect adjacent property owners).
 - c. Where appropriate given the nature and extent of the proposed work, the Director may impose reasonable conditions of approval to mitigate impacts, using sections 12-703, 12-800, and 4-514.E, as a guide.