

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO**

IN THE MATTER OF THE APPLICATION OF ) CAUSE NO. 1  
CRESTONE RESOURCES OPERATING LLC FOR )  
AN ORDER TO: 1) ESTABLISH AND APPROVE A )  
RULE 216 COMPREHENSIVE DRILLING PLAN ) DOCKET NO. 170500189  
FOR SECTIONS 1, 2, 3, 10, 11 AND 12, TOWNSHIP )  
1 NORTH, RANGE 69 WEST, 6<sup>TH</sup> P.M. AND )  
SECTIONS 25, 26, 27, 34, 35 AND 36, TOWNSHIP ) TYPE: GENERAL  
2 NORTH, RANGE 69 WEST, 6<sup>TH</sup> P.M. FOR THE ) ADMINISTRATIVE  
COMPREHENSIVE DEVELOPMENT AND )  
OPERATION OF THE CODELL AND NIOBRARA )  
FORMATIONS, WATTENBERG FIELD, BOULDER )  
COUNTY, COLORADO, AND (2) TO APPROVE A )  
RULE 502.b. VARIANCE TO COMMISSION RULE )  
303. )

BOULDER COUNTY’S COMMENTS TO CONCEPTUAL AND PRELIMINARY  
COMPREHENSIVE DRILLING PLAN ELEMENTS

The following comments are submitted on behalf of Boulder County by County staff members. For ease of reference, staff submitting these comments will be referred to below as “the County.” However, these comments are not the result of a full review of any kind, including a review under the Boulder County Land Use Code (“the Code”) by the Board of County Commissioners, which will be required even if the CDP is approved by the COGCC. For purposes of the CDP process only, staff has compiled preliminary, summary comments on Crestone Resources Operating LLC’s Conceptual and Preliminary Comprehensive Plan Elements (“Plan”) to identify affected resources, potential impacts, and deficiencies in the Plan or in the information provided. As such, these comments should not be considered complete and the County reserves the right to supplement or amend them at any time.

The value of a Rule 216 CDP lies in the ability of the public to receive in-depth information, provide comment and shape proposals, all across a broader geographic area than afforded by typical state-level oil and gas planning. Crestone’s application is the first time Rule 216 is being used in the developed areas of the Front Range and therefore should be carefully evaluated in the context of residential development and held to the highest standard so it can be used as an effective and useful tool. The process to date and Crestone’s first submission fail to realize the potential benefits of comprehensive planning for the reasons set out below.

The County has several overall statements, which are followed by more specific comments.

First, Crestone has failed to meet the threshold requirement for any of the proposals contained in the CDP: it has not provided proof that it owns any mineral rights in the CDP, much less under any of the proposed sites. Its cursory statement of its percentage ownership is insufficient to demonstrate that it has the right to drill on any surface land in the CDP and what the scope and parameters of those rights are. Moreover, even if Crestone can prove its right to use a given surface to extract the minerals underneath it, it must demonstrate its right to use that surface to install enough wells to drill minerals from hundreds or thousands of additional acres. Crestone's next draft should not be considered complete without this information.

Second, the Plan proposes large-scale and intensive oil and gas development inappropriately located close to residences, valuable agricultural lands, hazard areas, sensitive wildlife and plant habitat, riparian habitat corridors, water bodies, wetlands, and recreational areas. Such sizeable industrial activity is generally not compatible with residential development and those resources. Moreover, the Plan fails to acknowledge that it proposes to initially impact approximately 100 acres of land all together (both county-owned open space and land subject to county conservation easements), which has been purchased directly for the purpose of preservation, is in active agricultural use, or contains sensitive ecological resources. Contrary to Crestone's statement at page 9 that "much of the CDP is preserved from development to retain the rural character of the CDP," these lands were purchased not to retain the rural character of the CDP, but to meet the goals of the county and county residents to preserve valuable agricultural land, wildlife habitat, water resources, and other natural resources and protect open space lands from development. Even after the production stage, the proposed pads will effectively take land out of agricultural production and destroy ecological resources for decades beyond the end of the well's lifespans and resultant impacts will extend well beyond the pad sites.

Third, information in the Plan is inadequate on virtually every level and, consequently, impacts cannot be adequately identified. For example, Crestone alludes to important information but has not produced it, including the report of Crestone's unidentified wildlife consultant and the contents of its consultation with and responses received from state agencies such as Colorado Parks and Wildlife. Numerous statements in the Plan are inconsistent with each other and raise questions and confusion, such as repeated references to tankless plans although numerous tanks are identified in other portions of the Plan. The County notes that the Plan twice refers to the operator as "Extraction," indicating that the Plan has not been carefully vetted. Specific additional issues are listed below. Given these significant deficiencies in the information provided in the first draft, the COGCC should consider the Plan inadequate for the preliminary stage and require the issues identified in these and other comments to be fully addressed in the next draft.

Fourth, the County is particularly concerned about Crestone's proposed use of fee-owned Boulder County Open Space lands for its drilling sites. These Open Space lands were purchased with county residents' tax dollars for the purpose of preserving agricultural, environmental and

recreational resources. County residents did not vote to tax themselves hundreds of millions of dollars to see the open space values destroyed by large-scale oil and gas development.

Fifth, the Plan fails to meet the intent and spirit of a CDP. Crestone's proposal of six well pads scattered haphazardly throughout the CDP, which fragments the CDP into three areas of development, indicates that it has failed to plan in a way that avoids and minimizes impacts to the CDP area as a whole. For example, if Crestone were to drill in two directions (north and south) from each pad, it could decrease the number of pad sites and therefore the number of areas disturbed. And if those pads were located along major roadways that are already impacted by traffic noise and tend to be farther away from residential development, their overall impacts would be reduced. Additionally, consolidation of pad sites could eliminate excessive and unnecessary pipeline mileage. Because the proposal is for all development within the entire Plan area, Crestone's incomplete ownership and control of minerals in the CDP area should not be a limiting factor in consideration or establishment of the most efficient and least impactful pad locations.

Finally, the County has serious and on-going concerns with Crestone's interpretation of the CDP development process set forth by the COGCC. As stated in its letter to the COGCC director dated October 10, 2017, the meetings convened by Crestone during the stakeholder engagement period were not public because only landowners within a half-mile of allegedly preliminary proposed well sites were invited to attend the only in-person meeting. Traffic, dust, air quality, noise and light impacts will all extend further than half a mile from the large sites proposed, as noted by numerous members of the public at the meetings held this far. Moreover, the same kinds of impacts of construction for the extensive proposed pipeline system were ignored in this limitation on participants, meaning people foreseeably impacted by pipeline construction were not able to provide feedback or ask questions. Crestone hired security guards to prevent others with interest in the proceedings from attending these meetings. As a result, State elected officials were excluded from the meeting until they were permitted to attend under unspecified criteria. The initial telephone town hall was held the day after the in-person meeting, meaning anyone who was unwell or out of town would miss both meetings. After Boulder County pressured COGCC to require it, Crestone hastily convened a second telephone town hall for all CDP residents to attend, the notice of which was received two days before the meeting, which was inadequate. Crestone's manner of scheduling and organizing its meetings demonstrated a lack of commitment to public input on its plans and a grave misunderstanding of the expectations and needs of the community in which it seeks to operate. Especially given Crestone's stated aim of "collaboration with our neighbors," and to provide adequate due process, COGCC should require Crestone to hold additional meetings fully open to the public, with sufficient notice, in the second scheduled public input period.

In addition to the overarching concerns expressed above, specific deficiencies in the Plan include the following. This is not an exhaustive list, and there should be no inference that even a satisfactory response to each of the following would render the Plan adequate or approvable.

## I. Failures to Use Best Available Data

1. The Plan fails to make use of County mapping data provided to Crestone at the conceptual stage, including several County-identified Critical Wildlife Habitat areas, the wetlands and ponds in Section 36, the post-flood adjusted channel for Boulder Creek, or the extensive list of County-identified plant and animal species of special concern. Furthermore, the Plan fails to use up-to-date wildlife information and ignores important wildlife communities. For example, the Plan ignores a recent active Bald Eagle nest in Section 36, the required setbacks from which extend through Section 36 and its proposed pad and into Section 35.
2. The Plan fails to identify the numerous Planned Unit Developments within the CDP area: Oxford Farm NUPUD, Happy Jack Farm NUPUD, Harsch Heights, Caldwell Farms NUPUD, Schell NUPUD, Crystal Views NUPUD, Lookout Estates, McConnell TDRPUD, Tedesco NUPUD, Southern Exposure.
3. The Plan fails to identify the Howell Ditch company as an additional party that must be included in the CDP process.
4. The Plan proposes a pad site in Sec. 11 which is wholly within the properly measured floodway (as opposed to floodplain). Per 2011 amendments to the Colorado Water Conservation Board standards, the floodway is defined as the area of six-inch water rise, which, when depicted using GIS and flood mapping software, engulfs the entirety of the proposed pad. Even under the older floodway standards based on a one-foot water rise, a portion of the pad is nonetheless in the floodway.
5. The Plan fails to make maximum use of areas of existing development and disturbance that have more compatible background noise profiles and land uses, including oil and gas activities. The locations and existing character of such areas are apparent from mapping and site visits.

## II. Failures to Provide Required Information from the COGCC Plan Elements Document

1. The Plan fails to “identify any known or anticipated additional variance requests,” as required by the COGCC information matrix, although it states that variances from Rules 303 and the 1000 series will be requested.

## III. Deficiencies in the Preliminary Submission

1. The Plan fails to justify the siting of several proposed pads inappropriately close to homes, recreational sites, wetlands, water bodies, riparian habitat connectors, agriculturally important lands, sensitive wildlife areas, and the floodplain/floodway.

2. The Plan fails to describe the manner and actual timing of seismic studies and subsurface mapping that are inappropriately proposed to begin *before* the CDP is finalized and considered by the COGCC.
3. The Plan alludes to but provides no information on the infrastructure required for third-party gas gathering activities.
4. The Plan fails to explain how the proposed pipeline system will be constructed and in what order.
5. The Plan inaccurately asserts that there will not be “storage tanks,” when fresh water holding tanks, completion tanks, and three-sided waste tanks and are called for in the narrative. Crestone fails to show these tanks on the pad schematics.
6. The Plan fails to identify water sources or means of transporting water to the sites.
7. The Plan fails to adequately address protection of sensitive plant communities from both surface and sub-surface facilities.
8. The Plan fails to identify the transportation method for moving produced water off the well sites.
9. The Plan fails to explain the noise impacts of temporary fans and liquid knockouts used by the third-party gas gatherer.
10. The Plan fails to explain how the purportedly tankless system will respond to a downstream upset condition.
11. The Plan fails to explain how downhole accumulation of fluids will be prevented.
12. The Plan fails to identify whether sound insulation will be used on pumps and compressors.
13. The Plan fails to quantify or describe the truck trips required for transporting waste.
14. The Plan fails to identify whether drilling mud will be water or oil based.
15. The Plan fails to address stormwater management.
16. The Plan fails to demonstrate emergency response planning that addresses known and foreseeable hazards, actions for loss of containment, responders and response systems, public warning systems and evacuation protocols.
17. The Plan fails to state when and how the “other parties” identified on page 14 have been or will be contacted.

18. The Plan fails to include in its construction, drilling, and completions timetable any flexibility to address seasonal wildlife or agricultural concerns.
19. The Plan does not indicate whether the Liberty Quiet Fleet system will be used.
20. The Plan fails to define whether proposed pipelines will be sub-surface or above-ground.
21. The Plan fails to provide an estimate of the tons of hydrocarbons to be emitted per year by the proposed facilities.
22. The Plan fails to identify how shutdown schedules will be designed to avoid contributing to ozone non-attainment in season.
23. The Plan fails to identify how livestock will be safely fenced out of facilities and how access roads will be gated to contain livestock, all without interruption to their grazing and other activities.
24. The Plan fails to identify what materials will be used to construct or repair roads and how dust will be mitigated from those roads.
25. The Plan fails to identify which existing wells belong to Crestone and will be slated for plugging and abandonment or when in the project timetable that will occur.
26. The Plan proposes excessive pipeline reaches across open and preserved lands, due to inefficient placement of pads, inadequate consolidation, and insufficient use of existing rights-of-way.
27. The Plan fails to demonstrate state authorization to use state highways for proposed traffic and access points.
28. The Plan fails to demonstrate how the project will accommodate agricultural irrigation activities and equipment.
29. The Plan proposes a large number of wellbores passing through a known sub-surface mining area in Section 12 and fails to identify this risk or justify the placement.
30. The Plan inaccurately identifies “local roads” as belonging to CDOT rather than Boulder County or Erie.
31. The Plan fails to explain its intention, or any incentive provided, to use existing pipeline structures, either by Crestone or its third-party gatherer.
32. The Plan fails to demonstrate space for storage of top soil for re-use on well sites.

33. The Plan fails to produce information sought or obtained from any source regarding endangered plant species, including from the US Fish and Wildlife Service or CPW and its State Wildlife Action Plan Rare Plants Appendix.
34. The Plan proposes drilling windows within half a mile of significant and sensitive bird nesting sites during the critical summer period.
35. The Plan proposes to use the minimal wildlife information provided to plan for five to seven years in the future. Due to the transient nature of sensitive species' nesting, roosting and breeding sites, such information must be updated each year.
36. The Plan proposes to store cuttings, E&P, universal and hazardous waste in open and three-sided containers. Open storage poses numerous threats to air quality, wildlife, soil and groundwater and more. Moreover, Crestone's odor specialist, Dr. Adam Bakhtari at Scentroid, clearly stated that open-container storage of drilling cuttings is the primary source of intense odor complaints from surrounding properties.
37. The Plan states that, upon abandonment, only "non-essential" equipment will be removed from the site. All equipment must be removed from any abandoned site unless otherwise specifically agreed in writing by the surface owner. Moreover, 90 days to accomplish equipment removal is unacceptably long.
38. The Plan depicts a pipeline leaving the CDP area and heading north within Boulder County but does not show or describe the route or destination of that line. This proposed line is unrelated to development within the CDP and no such line can be approved as part of the CDP.