

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

IN THE MATTER OF CHANGES TO THE
RULES OF PRACTICE AND PROCEDURE
OF THE OIL & GAS CONSERVATION
COMMISSION OF THE STATE OF
COLORADO

CAUSE NO. 1R

DOCKET NO. 180100120

TYPE: RULEMAKING

AFFILIATED LOCAL GOVERNMENTS' PREHEARING STATEMENT

Boulder County, the City of Lafayette, and the City of Longmont, participating as the Affiliated Local Governments (the "ALG"), by and through each party's respective undersigned counsel, hereby files its Prehearing Statement in this matter.

The ALG supports the COGCC's effort to increase the Oil and Gas Conservation Levy ("Conservation Levy") demonstrated in the draft Oil and Gas Conservation Levy rules issued December 15, 2017 (the "Draft Rules") and urges the Commission to raise the Conservation Levy to the full 1.7 mills allowed by statute. Recent projections of significant revenue shortfalls at the COGCC compounded with increases in the production of oil and natural gas across the state highlight the critical importance of a Conservation Levy rate set in a way that allows the COGCC to foster responsible development of Colorado's oil and gas natural resources while protecting public health and the environment. The comments provided below and the alternative rule language attached seek to further strengthen the Draft Rules and the COGCC's ability to function at its highest capacity by increasing the Conservation Levy to one and seven tenths mill on the dollar. Pursuant to Colorado Revised Statutes, §34-60-122(1)(a), the COGCC has the authority to impose a Conservation Levy of one and seven tenths of a dollar to investigate, prevent, monitor, or mitigate conditions that threaten to cause, or that actually cause, a significant adverse environmental impact on any air, water, soil, or biological resource. Thus, the COGCC should take advantage of that opportunity through a Conservation Levy of one and seven tenths of a mill on the dollar to protect the citizens and environment of Colorado.

The ALG requests 30 minutes to present evidence and argument at the rulemaking hearing. The three local governments constituting the ALG have voluntarily aggregated their party status and are submitting a single pre-hearing statement, but request time sufficient to address their individual and combined positions.

- I. COGCC has the authority to raise the Conservation Levy and the duty to inspect and mitigate any conditions that threaten public health and safety.
 - a. The Colorado Oil and Gas Conservation Act directs the Commission to set a conservation mill levy in an amount not to exceed one and seven tenths mill on the dollar. This mill levy is then deposited into the Oil and Gas Conservation and Environmental Response Fund ("Conservation Fund"). Within this Conservation

Fund, there exists an environmental response account where penalties collected from any operator in violation of COGCC rules are deposited (the "Account"). C.R.S. §34-60-122(1)(a),(5).

- b. The Commission may use the Conservation Fund for staffing, overhead, enforcement, and payment of environmental response costs and for paying expenses in connection with the interstate oil and gas compact commission, *see* C.R.S. §34-60-124(10), but it is also available for the protection of public health and safety and environmental mitigation.
- c. Although the Commission must first use the funds in the Account, when the Account is depleted the Commission may then use the Conservation Fund to:
 - i. Investigate, prevent, monitor, or mitigate conditions that cause, or that actually cause, a significant adverse environmental impact on any air, water, soil, or biological resource;
 - ii. Gather background or baseline data on any air, water, soil, or biological resource that the Commission determines may be so impacted by the conduct of oil and gas operations; and
 - iii. Investigate alleged violations of any provision of this article, any rule or order of the Commission, or any permit where the alleged violation threatens to cause or actually causes a significant adverse environmental impact.

C.R.S. §34-60-121.

- d. There can be no argument that COGCC needs more resources to conduct integrity and safety inspections, to prevent or mitigate existing threats to public health and the environment, and to collect, evaluate, and host more data related to oil and gas operations. Therefore, the Conservation Fund should be as fully funded as possible to allow the COGCC to better meet the protective part of its function.

II. In the unlikely event that raising the Conservation Levy resulted in more money than current operations require, those funds could allow for numerous projects that would be protective of public health, safety and the environment.

a. Safety and Integrity Inspections

- i. With tens of thousands of wells in Colorado, and a ratio of 2,000 wells per inspector as of 2015, COGCC currently cannot keep up with necessary safety inspections.
- ii. In the past 12 months, there have been over a dozen fires and explosions involving oil and gas facilities on the front range, at least three of which

resulted in severe injuries or death, demonstrating the urgent need for greater safety oversight.

- iii. There can be no argument that making more funds available to hire inspectors is not a worthy endeavor.

b. Plugging and Abandoning Orphan Wells

- i. COGCC has identified approximately 4,000 orphan wells in the state and funds currently available in the Account and the Conservation Fund do not allow it to address more than a small number per year. Any available funds that can enhance the Conservation Fund could be used to help manage this significant problem.

c. Adequate Environmental Response Fund

- i. The COGCC could use any additional Conservation Fund monies to supplement the insufficient bonds and insurance provided by operators.

d. Technical Working Group on Oil and Gas Safety Training

- i. One of Governor Hickenlooper's August 2017 seven directives on oil and gas issues was to create a technical working group to improve safety training.
- ii. Any additional funds available in the Account or Conservation Fund could assist in the establishment and sustainability of the working group in order to make this effort worthwhile and ensure its integration with necessary agencies and operators.

e. Ambient Methane Leak Detection Pilot Program

- i. Governor Hickenlooper also called for exploration of an ambient methane leak detection pilot program as part of his seven point plan following the Firestone tragedy.
- ii. Additional Conservation Fund monies could be used to develop and implement this pilot program.

f. Colorado Leadership

- i. Colorado is among the top ten states for production of crude oil and natural gas and the number of spacing and drilling applications continues to grow each month.

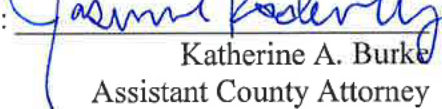
- ii. As a leader in oil and gas production, Colorado should also be a leader in understanding and monitoring the impact of production of oil and natural gas on public health and the environment.
 - iii. If there were additional funds available in the Conservation Fund, they would give COGCC the opportunity to take this lead on investigating, monitoring, mitigating, and preventing the impact of oil and gas development on public health and the environment, in connection with its mission to foster the responsible development of Colorado's oil and gas natural resources in a manner consistent with the protection of public health, safety and welfare, and with the prevention and mitigation of adverse environmental impacts.
- g. Gather Baseline Data and Best Management Practices
- i. Accurate and complete background or baseline data on impacts of oil and gas development on public health and safety and the environment is imperative to define COGCC's needs in meeting its duty to protect those values. The COGCC could use any additional Conservation Fund monies to fund independent studies that gather background or baseline data on impacts of mineral development.
 - ii. Commissioner Overturn has specifically requested that the Commission look at and develop standards for best management practices using the newest technologies. Any additional Conservation Fund monies could be used to study and integrate best management practices and best available technologies into COGCC rules and practices.
- h. Comprehensive Flowline Mapping
- i. The ALG requested comprehensive mapping of flowlines in the recent COGCC Rulemaking. COGCC staff asserts they do not have the resources to host this data. Additional funds could be used to bring on the resources necessary to provide this service and better manage flowline data in an effort to protect public safety, health, and the environment.

For all of these reasons, the ALG urges the Commission to raise the Conservation Levy to 1.7 mills and has attached alternative proposed rule language to that effect.

DATED this 26th day of January, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on January 26, 2018, I caused the above **AFFILIATED LOCAL GOVERNMENTS' PREHEARING STATEMENT** to be electronically filed and served as follows:

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ATTACHMENT A

ALTERNATIVE RULE LANGUAGE

310. COGCC Form 8. OIL AND GAS CONSERVATION LEVY

On or before March 1, June 1, September 1 and December 1 of each year, every producer or purchaser, whichever disburses funds directly to each and every person owning a working interest, a royalty interest, an overriding royalty interest, a production payment and other similar interests from the sale of oil or natural gas subject to the charge imposed by §34-60-122(1) (a) C.R.S., 1973, as amended, **will** file a return with the Director showing by operator, the volume of oil, gas or condensate produced or purchased during the preceding calendar quarter, including the total consideration due or received at the point of delivery. No filing **will** be required when the charge imposed is zero mill (\$0.0000) per dollar value.

The levy **will** be an amount fixed by order of the Commission. The levy amount may, from time to time, be reduced or increased to meet the expenses chargeable against the oil and gas conservation and environmental response fund. The present charge imposed as of **April 1, 2018**, is **one and seven tenths of a mill (\$0.0017) per dollar value**.