

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF DELTA, STATE OF COLORADO

RESOLUTION NO. 2019-R - 026

**RESOLUTION ESTABLISHING AN INTERIM PROCESS FOR REVIEW OF OIL AND GAS
PROJECTS WITHIN DELTA COUNTY WHILE DELTA COUNTY WORKS TO DEVELOP AND
ADOPT NEW OIL AND GAS REGULATIONS**

WHEREAS, on April 16, 2019 the Governor of the State of Colorado signed Senate Bill 181 into law thereby changing how oil and gas is regulated by the State, and granting local governments broader regulatory control over oil and gas activities, and

WHEREAS, the Delta County Board of County Commissioners began updating the County's land use regulations in 2018, with the intent of updating the oil and gas regulations as part of this process. Senate Bill 181 changed the conversation and trajectory of where the County was headed.

WHEREAS, the State is undertaking rule-making to revamp state regulations for oil and gas. The State will set a new regulatory floor. The County can choose to regulate higher than the new State regulations based on the local government regulatory control granted in Senate Bill 181.

WHEREAS, more time is needed for the County to participate in the State rule making process, and for the state to finalize their new regulations. Delta County is prepared to then develop new oil and gas regulations that take advantage of the local regulatory authority granted to local governments by Senate Bill 181.

WHEREAS, the Delta County Board of County Commissioners supports responsible development of Delta County's oil and gas resources. Delta County Commissioners also support the responsible development of renewable energy resources. The Commissioners support the protection of public safety, health, welfare, and the environment and the creation of jobs from responsible development of energy sources. Delta County intends to regulate the oil and gas industry, addressing gaps or localized needs not addressed by the State, but does not intend to create a duplicative regulatory environment.

WHEREAS, the Delta County Board of County Commissioners recently repealed the oil and gas performance standards in the Regulations of Specific Development

because they felt the regulations no longer served their intended purpose and the needs of the County.

WHEREAS, Delta County is committed to exercising the newly acquired local control over oil and gas surface impacts by developing regulations in compliance with the new mandates of Senate Bill 181. This includes developing regulations that avoid, minimize, or mitigate adverse impacts that cannot be avoided as required by Senate Bill 181.

WHEREAS, the Delta County Commissioners cannot ban oil and gas. Senate Bill 181 does not give Delta County this authority. The County will look to exercise its full authority in the siting of oil and gas related facilities and in addressing the surface impacts from oil and gas development in new regulations to be adopted in the future.

WHEREAS, the Delta County Commissioners are committed to:

- Actively participating in the Colorado Oil and Gas Commission rule-making process to ensure Delta County's concerns are taken into consideration during the development of new state regulations.
- Collaborating with our neighboring local governments, including Gunnison County and Mesa County, to ensure that impacts to Delta County from development in adjacent counties are addressed. Delta County is committed to requesting and working to develop formal agreements with Gunnison and Mesa County.
- Participating in conversations with other counties specifically regarding coordination with other Piceance Basin counties.
- Continued opposition to any proposed leasing of oil and gas on the North Fork Valley floor.
- Development of improved communication tools and processes so that Delta County residents have an opportunity to be heard.
- Development of improved notification processes at the local, state, and federal level to ensure community awareness of opportunities to participate.
- Providing more information to Delta County Residents to help them educate themselves on issues around oil and gas development.
- Development of more predictable approaches for how Delta County will engage with and exercise its influence on decision making processes with the Bureau of Land Management, United States Forest Service, and applicable State agencies.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delta County that the County does hereby adopt an interim oil and gas process designed to take advantage of local government participation in State review of oil and gas applications while the County works to develop new oil and gas regulations:

Interim Oil and Gas Process

1. Notification to COGCC for Consultation on all applications submitted in Delta County

COGCC Regulation 306.b.(1) provides for a local government with a local government designee to request consultation with COGCC on any permit. This consultation can occur with both COGCC and CDPHE, and is based on the local government's concern for the location of public health, safety, welfare, or impacts to the environment.

Based on the consultation, COGCC can require conditions of approval to address the issues raised. Delta County will request consultation on all oil and gas related applications submitted to COGCC.

2. Request review under Objective Criteria

The COGCC has developed new criteria that they are using to evaluate oil and gas permits while they work to transition the COGCC rules and regulations under SB 181. Pursuant to SB 19-181, the object criteria allows the COGCC Director to "delay the final determination regarding a permit application" if the Director determines, "pursuant to objective criteria ... that the permit requires additional analysis to ensure the protection of public health, safety, welfare or the environment or requires additional local government or state agency consultation." Applications that meet the objective criteria undergo stronger scrutiny than the standard COGCC review process.

Delta County will request all applications that are within Delta County or within 1500' of the county line into Gunnison or Mesa County be reviewed per the objective criteria.

The objective criteria gives Delta County a new opportunity to engage with the State not previously available for oil and gas projects.

3. Public Comment Facilitation

The County will take the following steps to help facilitate public participation:

- The COGCC public comment period is relatively short. Upon request of the local government, the comment period can be extended. Delta County will request an extension for each application to allow for more time for public comment.
- The County receives automatic notification when new applications are submitted to COGCC. It does not appear the public does. To improve awareness and to ensure the public can participate in the public comment process without having to monitor the COGCC website daily, the County will notify the public using web notifications. The County will also establish an opt in email list serv.
- The County will send out a written notice to property owners within 1000 feet of a proposed state permit to the best of the County's ability. This notice will include instructions on how to submit comments to the State.
- The state public comment period is short, even with an approved time extension. If there is a meeting of the Planning Commission or Board of County

Commissioners within the allowed comment window, the COGCC application will be put on the agenda for a public input session. The Board of County Commissioners will hold a special meeting if necessary to provide the opportunity for public input on the COGCC application. Minutes from this public input session will be included in the County's comments as "public comments" submitted to the COGCC.

- COGCC staff has emphasized that "quantity" of comments is not as effective, and want to encourage the County and the public to be specific. Form letters do not carry any more weight if submitted by 200 people, or 1 person if they do not include specific requests that fall within the regulatory structure. The quality of the comment is what matters most. To help the public generate meaningful input that can help the COGCC in their review, the County will host a series of trainings for the public on making public comments. This training will be designed to help the public participate not only in the COGCC process, but generally in Delta County land use regulatory processes too.
- COGCC gives heavy weight to local government comments. The County can help elevate comments from the public. To achieve this, the County will forward public comments received as an attachment to the County's comments. If comments are arriving as a form letter, one copy of the form letter, and an estimate of how many people submitted it will be forwarded.

4. Oil and Gas Consultation Criteria

Comments to the COGCC and review of oil and gas permits will focus on, but are not limited to the following:

Review Criteria	Emphasis	Examples:
Local Government Designee Role	<ul style="list-style-type: none">• Request Consultation• Request Public Comment Extension Periods• Continued onsite monitoring• Continued notification	
Accident Prevention & Spill	<ul style="list-style-type: none">• Utilize the <u>COGCC Objective Criteria Toolbox</u>.• Provide local knowledge to COGCC on sensitive areas where accidents could have more impacts such as location to	<ul style="list-style-type: none">• Recommendation of open ditches that could be piped.• Communication with Ditch Companies to ensure they are involved in process• Speed limits, limitations on hours of

	<p>sensitive infrastructure/water resources.</p> <ul style="list-style-type: none">• Identify steps that can be taken to ensure avoidance, minimize, or mitigation as appropriate.• Review emergency plans exist with up to date contact information for emergency services.• Verify Delta County LGD is on notification list.• Help identify additional notifications that would ensure adequate response such as ditch company contact information to be included in emergency plans.• Notification to Delta County LGD of incidents in Mesa County and Gunnison County.	<p>operations.</p> <ul style="list-style-type: none">• Lining of containment areas• Runoff Controls• Auto-shutoffs• Clean-up plans• Leak detection
Identification and avoidance of geologic hazards	<ul style="list-style-type: none">• Review known geologic hazards.• Request additional field survey work/site visits if there are known geologic hazards.• Identify steps that can be taken to help ensure avoidance, minimization, or mitigation as appropriate.	<ul style="list-style-type: none">• Field verification• Increased setbacks
Prevention of water and	<ul style="list-style-type: none">• Utilize the <u>COGCC</u>	<ul style="list-style-type: none">• Lined containment

air quality degradation	<p><u>Objective</u> <u>CriteriaToolbox</u>.</p> <ul style="list-style-type: none">• Provide local knowledge regarding agricultural water resources in addition to surface and ground water resources.• Review existing water quality data and request additional monitoring if appropriate.• Identify steps that can be taken to help with avoidance, minimization, or mitigation as appropriate.	<ul style="list-style-type: none">• Bradenhead testing• Plugging procedures• Runoff controls• Remote shutoffs• Leak Detection• Metered Truck loading• Emissions control devices
Minimize impacts to roads & impacts from traffic	<ul style="list-style-type: none">• Utilize the <u>COGCC Objective</u> <u>CriteriaToolbox</u>.• Request date/hour limitations on truck movement on State Highway System and County Roads• Request Traffic Impact Study• Request compliance with County roadway access permits	<ul style="list-style-type: none">• Signage• Traffic Controls• Route Planning• Access• Timing
Protection of Agricultural Infrastructure & Agriculture	<ul style="list-style-type: none">• Utilize the <u>COGCC Objective</u> <u>CriteriaToolbox</u>.• Provide local knowledge of agricultural infrastructure (ditch locations, diversion structures, pipelines, etc)• Request setbacks base	<ul style="list-style-type: none">• Limits on land disturbance• Setbacks• Alternative location• Operation timing

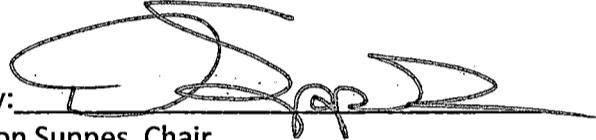
	<ul style="list-style-type: none">don type of infrastructure• No disruption to ag operations• Damage to be repaired if any• Minimize impacts to agricultural operations• Notification of ditch companies, permittees, nearby ag operations that share common roads/drainages• Inclusion of ditch companies in emergency notifications	
Emergency Response including Hazmat	<ul style="list-style-type: none">• Utilize the <u>COGCC Objective Criteria Toolbox</u>.• Updated emergency plan on file• Onsite training/orientation with fire, EMS• Security of site• Onsite hazmat response capacity• Route Planning	<ul style="list-style-type: none">• Local Responder Coordination• Fire Fighting/Hazmat equipment staging• NFPA Code 30 compliance
Wildlife	<ul style="list-style-type: none">• Utilize the <u>COGCC Objective Criteria Toolbox</u>.• Minimize/reduce impacts• Support CPW recommendations• Ensure landscape approach	<ul style="list-style-type: none">• Timing restrictions• Sound mitigation• Biological monitoring• Use of existing infrastructure• Minimize disturbance
Bonding/Surety	<ul style="list-style-type: none">• Review bonding/surety to ensure that all damages that can be bonded by COGCC are.	

5. Heavy Haul Permit or County Impact Fee

Evaluate the heavy haul permit system and well permit fee used in other counties to determine if either of these approaches can address road impacts and other potential costs to Delta County from industry. This fee would be established to offset immediate impacts to Delta County such as roads and emergency service, capture revenues in the first year of operations, and fund long-term impacts.

ADOPTED this 17th day of September, 2019.

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: 
Don Suppes, Chair

Mike Lane
Mike Lane, District 1

J. Mark Roeber
Mark Roeber, District 3

ATTEST:

Teri A. Stephenson
Teri Stephenson
Delta County Clerk and Recorder

