



Protecting people and their environment from irresponsible oil and gas development in the Delta County region of Colorado

Testimony of Jim Ramey, Director, Citizens for a Healthy Community
Before the Colorado Oil & Gas Conservation Commission
On the Proposed Ground Water Sampling Rule (Proposed Rule 609)
November 14, 2012

My name is Jim Ramey and I'm the Director of Citizens for a Healthy Community, a Delta County organization formed to protect our community from irresponsible oil and gas development. Citizens for a Healthy Community's members and supporters include farmers, ranchers, vineyard and winery owners, sportsmen and anglers, small business owners, and other concerned citizens impacted by oil and gas development.

Agriculture, and more recently agricultural-related tourism (or "agritourism"), have developed into significant components of our local economy. Delta County produces \$45 million in agricultural products annually while employing 1,100 people on its farms, ranches, vineyards, and orchards. According to the USDA, Delta County has nearly twice as many organic farms as any other county in Colorado. The area is also home to the West Elks American Viticultural Association's 12 wineries, and the highest-altitude vineyards in the Northern Hemisphere.

The complex network of springs, wells, streams, rivers, and irrigation ditches that provide water to the people, farms, and vineyards of the North Fork Valley in Delta County is quite simply astounding. But it's the entire hydrological system – including both ground and surface waters – that is so critically important to the North Fork's agricultural and other related businesses. Residents of Delta County rely on clean water– free from contaminants and toxins –for their lives and livelihoods. The importance of abundant and clean water to our way of life cannot be understated.

As natural gas development has proliferated in the Upper North Fork Valley in recent years, local residents have grown concerned about associated water quality issues. In fact, about 120 permitted domestic water wells are located less than one mile away from land that has recently been eyed for oil and gas development.¹ This land nominated for development also includes two of the Town of Paonia's springs that provide drinking water for about 3,300 residents.² In

¹ NFRIA-WSERC Conservation Center. Water Resources Summary for BLM August 2012 Lease Sale, North Fork Watershed. Feb. 5, 2012. Table 5. Domestic Wells within 1 Mile of Nominated Parcels. At p. 29. Available online at http://theconservationcenter.org/wp-content/uploads/2012/04/Water-Resources_Textonly1.pdf.

² Town of Paonia. Letter to U.S. Bureau of Land Management. Re: Proposed Oil and Gas Lease Sale – August 2012. Jan. 24, 2012.

addition, “most of the nominated tracts are located both uphill and hydraulically up gradient from numerous domestic water supply sources.”³

It is with this perspective in mind that Citizens for a Healthy Community would like to thank the Colorado Oil and Gas Conservation Commission (COGCC) for recognizing the importance of requiring baseline water quality sampling and monitoring by initiating this rulemaking. Water quality sampling and monitoring will give residents impacted by development, and the public, critical information, especially when complaints of contamination follow nearby drilling.

Expanding upon the current voluntary baseline water sampling program is a common sense step for the Commission, but the currently proposed rule leaves room for improvement. Therefore, Citizens for a Healthy Community has the following concerns and requested changes regarding the proposed Rule 609:

1. The proposed rule revision must be consistent with the Commission’s statutory duty under **HB 07-1341** to protect “public health, safety, and welfare, including protection of the environment.”⁴ For far too long, industry has acted like a bully in these rulemakings, categorically dismissing the need for proper regulation, threatening to pack up their operations and take their business elsewhere. For example, the Colorado Petroleum Association’s (CPA) preliminary prehearing statement says “the CPA and its members believe there is neither a rational basis nor a demonstrated need for a new statewide groundwater sampling and monitoring rule.” However, a recent analysis of COGCC’s own records found that 43% of operator spills have caused and are continuing to cause groundwater impacts and contamination in Weld County.⁵ It would be helpful for industry to admit, once and for all, that oil and gas development causes impacts to water – water that is so crucial to Coloradans – and that proper regulation is needed.

Industry’s contention that there’s a lack of scientific proof of impacts from drilling to groundwater, and perhaps more importantly to public health, does not absolve this Commission from its obligation to protect public health and the environment. Rather, if scientific uncertainties exist, the COGCC should err on the side of caution and help to facilitate the necessary scientific studies to determine the required regulations and mitigation practices that are needed to fully protect public health and the environment. State officials frequently say that Colorado has the most protective oil and gas regulations in the nation. If officials want to continue to say this, improvements are necessary in the groundwater monitoring rule, and we have a very long way to go on setbacks.

2. The results of water sampling should be required to be made public by posting them on the COGCC web site. If it’s the intent of this Commission to make this information

³ NFRIA-WSERC “Water Resources Summary” at 5.

⁴ *C.R.S. 34-60-102(1)(a)(I)*

⁵ Clean Water Action, Sierra Club Rocky Mountain Chapter. Letter to Ms. Tisha Schuller, Colorado Oil and Gas Association. Feb. 27, 2012. Available online at <http://www.citizensforahealthycommunity.org/wp-content/uploads/2012/11/SC-CWA-to-COGA-2-27-2012.pdf>. Note: the study examined COGCC records from Jan. 3, 2008 to Jan. 5, 2012 in Weld County, Colorado.

public, the rule should expressly say so.

3. In the case of denial of access to preferred sampling locations, the operator should be required to make a good faith effort to sample at least one other proximate water well or spring, and therefore no outright waiver to the requirements of Rule 609 should be granted.
4. The hydrologic cycle is not separated into groundwater and surface waters. The hydrologic setting in the North Fork Valley “is dominated by snowpack atop the Grand Mesa and West Elk Mountains. The rivers, tributaries, ditches, and drinking water springs in the vicinity are dependent on surface runoff from snowmelt.”⁶ Therefore, the rule should be expanded to include sampling and monitoring of surface waters.
5. Citizens for a Healthy Community generally supports the alternate proposal submitted by the Environmental Defense Fund (EDF), if it incorporates our suggested changes and changes regarding hydrologic considerations when selecting sampling locations and if it requires production facilities. We support EDF’s proposals for:
 - a. Increasing the water sources to be sampled to include irrigation wells, livestock wells, municipal or public wells, and commercial wells. Oil and gas development doesn’t discriminate toward certain well types and therefore it makes sense to sample all available water sources.
 - b. Increasing the amount of wells to be sampled to include all wells within ½-mile of the drilling location, and to ensure that one up-gradient well, and two down-gradient wells, will be sampled. These changes will help to make sure that a true baseline is achieved.
 - c. Setting forth a detailed Sampling and Analysis Plan that will provide clear guidance to operators on the specific procedures to follow in conducting sampling and analysis of groundwater sources.

The Groundwater Regulatory Analysis prepared by COGCC for the groundwater sampling and monitoring rule states:

The proposed rule will provide a much more complete groundwater data set that commission staff can use to determine if oil and gas impacts have occurred. This will strengthen our ability to execute our regulatory charge of protecting public health, safety, welfare, and the environment.⁷

We couldn’t agree more with this general principle – that utilizing regulations for mandatory

⁶ NFRIA-WSERC “Water Resources Summary” at 4.

⁷ Colorado Oil and Gas Conservation Commission, Cause 1-R, Docket No. 1211-RM-04, Regulatory Analysis pursuant to §24-4-103(4.5), C.R.S. “Regulatory Analysis Of Proposed Statewide Baseline Groundwater Sampling And Monitoring Rules (Rule 609). At (II)b5.

statewide sampling, monitoring, and the collection and analysis of data – will better position the COGCC to protect “public health, safety, welfare, and the environment.” With this stated admission in-mind, Citizens for a Healthy Community looks forward to working with the Commission to enact a strong groundwater sampling rule, and to the discussions of improving the proposed setback rule. In addition, we urge the COGCC to take on the much needed rulemakings on (1) setbacks from surface water bodies/riparian zones and (2) a mandatory air quality sampling and monitoring program.

Thank you for considering our comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jim Ramey', with a long horizontal flourish extending to the right.

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