



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

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TESTIMONY OF JIM RAMEY, DIRECTOR OF CITIZENS FOR A HEALTHY COMMUNITY BEFORE THE OIL AND GAS CONSERVATION COMMISSION OF THE STATE OF COLORADO REGARDING THE PROPOSED RULE CHANGES AND ADDITIONS TO RULES FOR STATEWIDE SETBACKS, HIGH DENSITY AREAS AND DESIGNATED OUTSIDE ACTIVITY AREAS, AND AESTHETIC AND NOISE CONTROL REGULATIONS

December 11, 2012

**I. Introduction & Background**

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.

**II. Concerns With & Suggested Changes To The Commission's Draft Rule**

We would like to thank the Colorado Oil and Gas Conservation Commission (COGCC) for initiating this rulemaking to address the considerable gap in the Commission's current rules. In addition, I would like to thank the Commission for no longer treating rural areas and urban and suburban areas differently, as was previously the case with the 150-foot and 350-foot setbacks. Protecting people who live in the rural areas of Colorado is just as important as protecting citizens in the suburbs of Denver. While we appreciate the COGCC's attention to the need for this rulemaking, the draft rule on setbacks is very disappointing. We have identified the following areas of concern with, and suggested changes, to the draft rule.

**A. Statement of Basis and Purpose**

In the Statement of Basis and Purpose for the Setbacks Rulemaking, the Commission states:

These Rules are promulgated to protect public health, safety, and welfare ... from the impacts resulting from oil and gas development in Colorado.

However, the draft rule specification for a 350-foot statewide setback (i.e. exception zone) is in direct conflict with what science, experience, and conventional wisdom would prescribe. The

Commission's draft rule proposal falls woefully short of the COGCC's mandate to protect public health and the environment, and is not compatible with the above statement of basis and purpose.

## **B. Protecting Public Health & Safety**

The draft rule fails to meet the Commission's statutory duty under **HB 07-1341** to protect "public health, safety, and welfare, including protection of the environment" (*C.R.S. 34-60-102(1)(a)(I)*). The leading scientific studies that have been conducted on unconventional oil and gas development indicate that a much greater setback is warranted. Most recently, a scholarly journal publication from *The Endocrine Disruption Exchange* (TEDX) discovered concerning findings for human health impacts:

Weekly air sampling for 1 year revealed that the number of non-methane hydrocarbons (or NMHCs) and their concentrations were highest during the initial drilling phase and did not increase during hydraulic fracturing in this closed-loop system. Methylene chloride, a toxic solvent not reported in products used in drilling or hydraulic fracturing, was detected 73% of the time; several times in high concentrations. A literature search of the health effects of the NMHCs revealed that many had multiple health effects, including 30 that affect the endocrine system, which is susceptible to chemical impacts at very low concentrations, far less than government safety standards. Selected polycyclic aromatic hydrocarbons (or PAHs) were at concentrations greater than those at which prenatally exposed children in urban studies had lower developmental and IQ scores.<sup>1</sup>

What is perhaps most troubling is that the sampling site for this study was 0.7 miles away from the well pad of interest.<sup>2</sup> In addition, the study notes that chronic exposure to chemicals linked with oil and gas development, even at lower levels than federal exposure limits, have been shown to have health effects in scientific studies.<sup>3</sup> Furthermore, another recent study found that residents living less than or equal to ½-mile from wells are at greater risk for health effects from natural gas development than are residents living greater than ½-mile from wells.<sup>4</sup>

So, we know that people living less than ½-mile from a well pad are at greater risk, and we know about the health effects of many of the chemicals used in drilling and fracking, yet this Commission has proposed a setback of only 350 feet. The currently proposed 350 foot setback

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<sup>1</sup> Colborn T, Schultz K, Herrick L, and Kwiatkowski C. 2012 (in press). An exploratory study of air quality near natural gas operations. *Hum Ecol Risk Assess*. Available online at

<http://www.endocrinedisruption.com/files/HERA12-137NGAirQualityManuscriptforwebwithfigures.pdf>.

<sup>2</sup> *Ibid*.

<sup>3</sup> The Endocrine Disruption Exchange. "Why worry about air pollution near natural gas operations?" (2012).

Available online at <http://www.endocrinedisruption.com/files/Implications11-13-12.pdf>.

<sup>4</sup> McKenzie, Lisa M., et. al. "Human Health Risk Assessment of Air Emissions from Development of Unconventional Natural Gas Resources." *Science of the Total Environment* (2012), doi:

10.1016/j.scitotenv.2012.02.018. Available online at

<http://cogcc.state.co.us/library/setbackstakeholdergroup/Presentations/Health%20Risk%20Assessment%20of%20Air%20Emissions%20From%20Unconventional%20Natural%20Gas%20-%20HMcKenzie2012.pdf>.

would fail to protect public health, and would subject Coloradans to an unacceptable level of risk associated with oil and gas development.

### **C. Increased Setback Distances & Buffer Zones**

In September, Director Lepore received a letter from the Sierra Club and a number of other community and conservation groups, requesting that the COGCC initiate a rulemaking process on setbacks. This letter was signed by groups from across Colorado, representing citizens from Longmont to Grand Junction, and from Alamosa to Erie. Citizens for a Healthy Community also signed this letter, because we believe that it is so vitally important for you to enact a setback rule that is protective of public health.

The regime of setbacks and buffer zones in the proposed rule needs to be dramatically strengthened. The exception zone of 350 feet from a building unit should be extended to 2,000 feet, plus an additional 100 feet per additional onsite wellbore (hereafter, “2,000 foot standard”), due to the concentration of on-site emissions from aggregated wellbores. The setbacks for the High Occupancy Building Zone and the Designated Outside Activity Area Zone should also be increased to this 2,000 foot standard. The concept of a buffer zone of 1,000 feet should be maintained, but modified to include consultation with building unit owners or residents extending 1,000 feet from the applicable setback distance, depending on the number of anticipated wellbores. For example, an application for permit to drill for a well pad location with an anticipated 5 wellbores concentrated on the same well pad would require a 2,500 foot setback, with the inclusion of consultation with residents in a buffer zone from 2,501 feet to 3,500 feet.

### **D. The “Setback Loophole” Should Be Closed**

The draft rule’s section on Series Safety Regulations, Section 602 (d), states that “Existing wells, not including previously plugged and abandoned wells, are exempt from the provisions of these regulations as they relate to the location of the well.” In other words, by adding previously plugged and abandoned wells to this section, the COGCC has recognized that previously plugged and abandoned wells should be subject to these new regulations. CHC supports the Commission’s closing of this “setback loophole” for plugged and abandoned wells. However, the loophole would still allow any completed well within 350 feet of a residence to be re-entered, re-drilled, and re-completed. The COGCC must not allow for these wells to be re-drilled or re-completed in such close proximity to residences without the express written consent of building unit owners and occupants. To allow such would be in direct contravention with the COGCC’s mandate to protect public health.

We understand that the Commission has a dual mandate – balancing oil and gas development with protecting public health and the environment. But when we are talking about protecting public health, we shouldn’t be using terms like “diminishing returns” and “undue burden on industry.” The people of Colorado need the COGCC to hold industry to a higher standard and to favor protecting citizens over protecting profits.

I'm hopeful that you will thoughtfully consider these recommendations and that you will enact a setback rule that is protective of public health. Thank you for considering our comments and I am happy to answer any questions you may have.

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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