

Notes from Interview Questions for Public Process and Role of COGCC/County
December 17, 2012

Attendees:

La Plata County Planning Department:

Damian Peduto –Director

Courtney Roseberry – County planner, LGD

Drew Simmons – County planner, understudy to Courtney's LGD responsibilities

LWV members:

Marilyn Holland

Deanna Collins

Marilyn Brown

The conversation began with discussion of the notes that Courtney Roseberry had made to two documents we had emailed to her in preparation for the meeting. She had gone to great pains to note references where we could check the COGCC process for permitting oil or gas wells and had answered many of the questions we had posed. They felt that several of our questions were not appropriate for staff response and should be directed to members of the BOCC or Joann Spina. A second document involved the role of the Local Government Designee (LGD) in the process on which Courtney had expanded on each item, adding local detail. These very helpful annotated documents will be made available as soon as we have electronic versions.

The County has a narrow role in O&G issues, as defined in the Land Use Code, which is limited to surface impacts to improved surfaces, such as road location and maintenance, visual mitigation of equipment, etc. The County also has responsibility for managing dust as a nuisance issue, not an air quality issue. Courtney stated that dust is not a major issue in the County because of the clay consistency of our soil.

County has jurisdiction only over unincorporated areas of the County. Municipalities may have their own setback and other rules, which may be different from the County's and non-private (non-fee) land below the S. Ute traditional reservation line is governed completely differently Tribe/BIA/EPA. Municipalities also have the option for a LGD, but none in La Plata County has designated that position. The Local Government Designee (LGD) position has been in existence in LaPlata County, filled by Courtney, for about 3 years. COGCC is in the process of drafting new expanded LGD responsibilities, in connection with the appointment of two new LGLs (Local Government Liaisons).

The COGCC is also in the process of rule-making now so many things are up in the air, including how much flexibility counties will have to address their diverse local situations. La Plata County is waiting for guidance as to how much flexibility they will have in promulgating tighter requirements than COGCC has, especially in the issue of setbacks. La Plata County currently has more stringent regulations than the State in setbacks, visual mitigation and vegetation restoration. The County Attorney's Office has sent an attorney to COGCC rule-making deliberations to interject desires of La Plata County, one of the more experienced

counties in oil and gas drilling. If a landowner wants a variance from current rules, the only thing they can do is to get involved in the rulemaking process.

If drillers decide to drill more wells on the pad of an existing well which had met an earlier lesser setback measurement, but houses had been built later and are now closer to old well pad than the current setback of 450 feet, County still wants the drilling company to use existing well pad for the additional wells.

No attempt has been made by the county to coordinate requirements between the COGCC/county, the S. Ute Tribe, New Mexico authorities or the municipalities within La Plata County (Durango, Bayfield, Ignacio).

Questions concerning oil & gas are centralized and coordinated by the Planning Department with Courtney, as LGD, the contact. She maintains a notebook of all Form 42s submitted by drillers covering requests for drilling and fracking. The notebook is open for public viewing in the Planning Department (basement of County Courthouse) during all office hours.

What are realtors or title companies required to tell buyers of residential/commercial properties concerning mineral rights and oil and gas drilling processes? Peduto and Roseberry suggested we contact realtors for this answer as well as what lawyers might be knowledgeable about these issues. LGD noted that she frequently advises callers to contact a lawyer regarding these matters but cannot suggest specific lawyers. We agreed Don Ricedorff or Chuck Owens, a lawyer, both of Wells Group, would be good contacts. Since County advises people to hire an attorney concerning O&G questions about regulations, but doesn't recommend attorneys, Director Peduto feels it would be helpful to have a list of attorneys involved in O&G; League would be a good organization to do this.

Courtney indicated she is aware that COGCC has infrequently approved the use of 'foam' or other agents, rather than water in fracking applications. She doesn't know the chemical composition of 'foam'.

The County does not have authority concerning spills caused by O&G production and is not the first to hear about spills; CO Department of Public Health and Environment (CDPHE) has control over unrefined product* spills.

In general, local public response to the conduct of local regulatory processes has been neutral.

Marilyn Holland
Marilyn Brown
Deanna Collins
12-16-2012

* Includes oil, condensate, produced water, pipeline breaks, diluent, oilfield wastes; refined products = diesel, gasoline, sulfur, solvents