



## An Update on the Oil and Gas Task Force

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By: [Jim Martin](#)

We're about to enter a new year, an even-numbered year. That means the second session of the Seventieth General Assembly will be gavelled to order soon after the new year dawns. It also means we'll soon be getting a sense of the initiative measures we may confront come November 8, 2016.

This is a good time to reflect back on where we were two short years ago. At the time, a number of individuals and organizations were actively shopping a series of proposed initiatives. Several of those initiatives appeared to have the organizational and financial support to make it to the ballot; a common theme among them was that they would have mandated that oil and gas projects be set back 2,000 feet from occupied dwellings. One would have inserted that provision into the state constitution!

The effect of those measures – had any been adopted by the voters – would have been to dramatically increase the challenge of developing oil and gas resources in northeastern Colorado. In fact, many companies feared it would be nearly impossible to find drilling locations within their properties that didn't violate the 2,000-foot setback. The impact to industry – and to your work – would have been incalculable.

We will never know whether any of those initiatives would have been adopted by a majority of voters, or whether they would have survived judicial review. We do know that business and industry leaders engaged with a wide number of others to find a way to head off that uncertainty.

That led to a series of seemingly never-ending negotiations between a small number of people who represented both sides of the debate over “local control” – the argument that local governments can regulate many aspects of oil and gas development. An ever-widening circle of people on both sides of the issue worked to find a negotiated solution as the 2014 legislative session was winding down. As things dragged out past the session, the Governor and the legislative leadership even held out hope that a negotiated solution could be codified in a rare Special Session of the General Assembly.

In the end, it was “close but no cigar.” While there was broad agreement that any local authority would have to be subject to existing preemption law, there was no agreement on other things,

especially giving local governments the authority to establish setbacks greater than the COGCC's even if the local governments' authority was strictly limited by statute.

So what next? The Governor refused to give up and continued to reach out to all sides in the debate. Ultimately, he secured agreement to establish a Task Force that would tackle the issues and try to come up with a set of policy and legislative recommendations. He appointed 21 members to the Task Force. They were widely representative of the state, and they represented three groups: civic leaders, the industry, and local government and the conservation community.

The Task Force met on seven separate occasions (often for two days), at locations across the state; every meeting was open to the public. At all but the last meeting, they sponsored a public comment period and heard from hundreds of people. The Task Force members raised a number of issues, and engaged in a robust discussion (perhaps an understatement).

In late February 2015, at their last meeting, the Task Force adopted 9 recommendations with support from at least 2/3 of the members (many with unanimous support). They forwarded those recommendations on to the Governor, along with a minority report.

Some of the majority recommendations received immediate support from policy makers while others are still in process. The General Assembly agreed to increase staffing at both the COGCC and the CDPHE for inspectors, enforcement specialists, and other positions. The General Assembly also endorsed the idea of establishing a citizen hotline at CDPHE so that citizens with complaints about health issues could contact agency personnel and get a response from the agency. CDPHE is still in a data gathering mode, so the recommendation for a health effects study was not ready to proceed, but it certainly will be on the agenda when the next legislative session convenes.

More important, the Task Force gave majority support to two recommendations that are designed to promote collaboration between local governments and operators.

Recommendation 17 focuses on proposed locations for large scale oil and gas facilities within urban areas. It would require operators to consult with the local government before finalizing a location for a large scale facility in an urban mitigation zone (which is already defined by the OGCC). The goal would be to reach agreement on a location along with appropriate mitigation, and the recommendation also provides for mediation if the parties agree to that.

Recommendation 20 is intended to encourage collaboration between operators and municipalities that want to better coordinate oil and gas development within their borders as part of their planning process. Under this recommendation, municipalities that request it could get from publicly traded companies information about approved and pending permit applications, as well as the kind of information about proven but undeveloped reserves that public companies provide to the Securities and Exchange Commission. Of course, this kind of information could change often, and the recommendation recognizes that. But ideally, it will enhance the kind of collaboration that already is occurring between operators and many municipalities.

Obviously, some parts of these proposals will affect how you do your work, especially in urban

areas. However, the task force members worked hard to find a workable compromise that all sides could support.

The OGCC is moving forward on a rulemaking to implement Recommendations 17 and 20. The hearings currently are scheduled in Denver for November 16-17 and December 7-8.

For more information on the Oil and Gas Task Force, please contact [Jim Martin](#).