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FOR IMMEDIATE RELEASE:

Wednesday, January 9, 2013

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Colorado Oil & Gas Association's statement regarding the Colorado Oil and Gas Conservation Commission's setback rulemaking

Setback regulation is a complex issue and requires an understanding of land use as well as surface and private property mineral rights, and after months of stakeholder meetings and three days of hearings, tonight the Colorado Oil and Gas Conservation Commission (COGCC) nearly finalized its oil and gas setback rule. This setback rulemaking hearing will be continued the week of the 21st when the COGCC will vote on the new proposed rule as amended tonight.

"We do not believe the new proposed setback rule properly acknowledges the complexities and the impacts to the diverse array of citizen stakeholders such as the farmer, the rancher, mineral rights owner, business owner, home developers, and the many others that are directly involved. Setbacks are much more than just a simple measurement of distance, but encompass the notice, engagement, and mitigation measures involved in responsible oil and gas development," said Doug Flanders, Director of Policy and External Affairs, Colorado Oil & Gas Association (COGA).

COGA supported the Anadarko, Encana, Noble, and PDC Energy Coalition (Coalition) Alternate Rule Proposal which considered a more holistic approach to setback regulation and pragmatically addressed the real-world concerns of communities by enacting significant, new requirements. This approach would have:

- More than doubled the statewide minimum setback distance from occupied structures from 150 to 350 feet, subject to surface use agreements or memoranda of understandings between an operator and surface owner or a local government;
- Increased the minimum setback from high-occupancy facilities to 750 feet, subject to the same respect for contractual agreements;
- Established an Urban Mitigation Zone policy; and
- Respected the right of land owners to negotiate private contracts with operators on how to best utilize their property - a right of the private surface owner under Colorado law - without requiring the consent of adjacent land owners.

"The current regulations and COGA's support of the Coalition's alternate plan provide flexibility for an efficient use of land and drilling resources when there are multiple

interests involved with the siting of an oil and gas well,” Flanders added. “However, this new proposed setback rule will ultimately result in more interference with surface use and development.”

These new proposed COGCC regulations, as well as the environmental coalition 1000 foot setback proposal would have the unintended consequence of increased urban sprawl by forcing developers to waste land within development footprints to accommodate increased setbacks from oil and gas wells by reducing the flexibility for co-locating or centralizing facilities, increasing surface footprint. They increase economic burden and reduce certainty to access the targeted mineral resource. While in some cases horizontal wells, which only account for 2% of active wells in Colorado, can access minerals from afar, in reality the subsurface easements that would need to be acquired to fill the gap are not always accessible for the operator. These new setbacks will limit the current negotiation process with the surface owner in deciding the mutually best location of wells

In addition to increased costs for well construction and production, this new proposed rule or the 1000 foot alternate proposal will have a significant impact on the many important stakeholders that play a large role in the economic success of this state. These proposals will lead to an increase in the amount of agricultural production negatively affected by these increased setback distances. A 350 foot setback distance impacts 8.8 agricultural acres, however a 500 foot radius impacts 18 acres and 1000 foot setback impacts 72 acres of agriculture production.

For home developers, the loss of actual revenue from the loss of impacted lots is dramatic as setbacks are increased. As an example of the impact of a 500 foot setback, a typical 700-home lot development with a cost of \$50,000 per lot, with just three oil and gas well locations, would result in the lost sales of 183 lots for a total cost of \$9,150,000. However, the 1000 foot setback proposal by the environmental groups will cost home developers \$28,750,000 by losing 575 lots.

Lastly, private property mineral rights owned by Coloradoans, either as individuals or through state and local governments, may be more difficult to access, and in some cases may no longer be viable options for extraction. To many, royalties from these mineral rights mean college tuition, healthcare and improved quality of life.

Yet, the financial ramifications of this rule are not limited to royalties. Losses from property, severance, state sales, and commission taxes will result in millions of dollars that will never arrive to state and local coffers. This means less oil and gas revenue for the operations of the Department of Natural Resources and the COGCC, education, water projects, and many local services.

“We hope that policy makers will recognize the numerous economic repercussions that these increased setbacks will have on all stakeholders, including the oil and gas industry, farmers, ranchers, developers, and all Colorado taxpayers,” Flanders stated. “Energy is the cornerstone of prosperity, and we are all heavily dependent upon the benefits of affordable, accessible, reliable energy. The current contentious dialogue about oil and gas development exposes a great disconnect between our reliance on oil and gas resources and our willingness to support its production,” Flanders concluded.

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