



December 30, 2014

Dear Resident of Timnath:

There is a great deal of interest and concern about oil and gas development in and near the Town of Timnath, including the proposed well near the Timnath Ranch subdivision. Because our town is located in the Denver Julesburg Basin, one of the most active and prolific oil and gas basins in Colorado, drilling is a reality in our region and is an issue our community needs to better understand. The top priority of the Town Council in addressing this issue is protecting the health, safety and welfare of our citizens. It is also important to preserve the quality of life and support the growing economy that are so important to our community and our future.

The proposed wells are not within Timnath's limits, and, accordingly, the Town does not have regulatory authority over the site. However, the Town Council is committed to taking all protective measures within Timnath's authority, such as installing additional air and water quality monitors, as well as mitigation of traffic, noise, visual and other impacts.

In an effort to inform the Town Council and residents on the issues associated with oil and gas development, the Town Council is sponsoring an educational work session on oil and gas from **7:00 to 9:00 PM on Thursday, January 8, at the Bethke Elementary School, All Purpose Room** located at 5100 School House Dr. We will have presentations by staff from the Town, the Colorado Oil and Gas Conservation Commission, and Petersen Energy, the company that has applied for the permit to drill adjacent to the Town's boundaries.

The topics that will be covered include:

- The basics of oil and gas, including the technology of drilling, the distinction between and rights associated with surface and mineral rights, how long drilling has been occurring in Colorado, and more.
- The legal and regulatory framework: Which governmental agencies have authority? What is the Town's authority? What rights do residents have? What rights does the permit applicant have?
- The plans for the wells proposed near Timnath Ranch with resources available for additional education.

***Residents will be encouraged to write down questions during these presentations and submit them.*** Resident questions and questions from the Council will be answered following the presentations. The question and answer period will be followed by a public comment period where residents of Timnath will have the opportunity to comment.

This is an important issue about which there is a great deal of emotion, concern, and some misinformation. The goal of this meeting will be to answer your questions, address your concerns, and clarify any misinformation that is being communicated. In that vein, attached is a series of answers to frequently asked questions on the topic. Please review these prior to the meeting.

**What:** Town of Timnath Oil and Gas Education Forum

**Where:** Bethke Elementary School All Purpose Room, 5100 School House Drive

**When:** Thursday, January 8, 7:00-9:00 PM

We hope you will join us on January 8 so we can all learn and be better equipped to address this issue.

Sincerely,



Mayor Jill Grossman-Belisle

Mayor Pro Tem Bryan Voronin

Councilmember Bill Neal

Councilmember Paul Steinway

Councilmember Aaron Pearson



The Town of Timnath is located in the Denver Julesberg Basin, one of the most active and sizable oil and gas basins in Colorado. Oil and gas development, therefore, is an issue the Town must understand and proactively address. We are doing so by strengthening our own oil and gas ordinance and by helping shape development that is in and around our community.

Our top priority in addressing this issue is protecting the health, safety and welfare of our citizens, as well as preserving the quality of life and supporting the growing economy that are so important to our community and our future.

Oil and gas development is a controversial and emotional issue. In approaching the issue, it is important that we first educate ourselves. What are the facts? What authority does the Town have? How can my voice be heard? Answers to these and other questions are provided below, along with additional sources where helpful information is provided.

### **Frequently Asked Questions**

1. *Why can't the Town of Timnath just stop oil and gas drilling in our community?*

The proposed wells are not within Timnath's limits, and, accordingly, the Town does not have regulatory authority over the site. However, Town Council is committed to taking all protective measures within Timnath's authority, such as installing additional air and water quality monitors, as well as mitigation of traffic, noise, visual and other impacts.

The proposed well sites are in Larimer County, adjacent to the Town of Timnath, and just like the owner of surface rights on a given parcel of land has the right to build a structure such as a house on it, the owner of underground minerals also has a property right to develop those minerals. In some cases, the surface owner and the mineral owner are the same, but it is common to see the surface property owned by one person and the minerals another. This is called a split estate.

Colorado law recognizes the right of the mineral owner to have access to their property in order to develop their mineral interest. The law states that mineral rights owners must have "reasonable use" of the surface property to have access to their minerals.

**Private Causes of Action Associated with Ban:** If Timnath were to ban oil and gas drilling in our community, we would be prohibiting mineral owners from being able to develop their property. This would be characterized as a constitutional "taking" of a citizen's property by government, and would give rise to a legal cause of action against the Town that would likely result in costly litigation and damages that would have to be paid from the Town to damaged mineral rights owners

**Lack of Authority to Impose Ban:** The Colorado Oil and Gas Conservation Act, passed by the state legislature in 1951, gave the State of Colorado primary authority over oil and gas operations, and the Colorado Court system has upheld this designation

on numerous occasions. Because the State of Colorado has established a framework that authorizes both drilling and fracking, any local ban on fracking is preempted by this state law and is accordingly invalid and unenforceable. Fort Collins, Longmont and other municipalities have tried to ban fracking in their communities and the courts have routinely struck those ordinances down on the ground that they conflict with the operation of the state statute and impede the state's interest and jurisdiction in oil and gas development. If Timnath were to adopt an ordinance banning fracking or drilling, the courts would summarily overturn the ordinance as they have in every other jurisdiction that has made such an attempt.

2. *Why can't Timnath vote to place a five-year emergency moratorium on fracking, like Fort Collins did?*

The law on this issue is equally clear; a ban on fracking, whether permanent or for an extended period, would be governed by the rules referenced above, and would likely be struck down in the court system, as was Fort Collins' moratorium.

3. *An oil or gas well shouldn't be so close to a school. Why can't Timnath require the wells to be drilled further away?*

State regulations determine how far a well must be from a home or a school. These rules, which were recently updated, require a well to be no less than 1,000 feet from high occupancy buildings such as schools. The wells proposed near Timnath are more than 2,000 feet away from Bethke Elementary and thus comply with state regulations. The proposed well sites are not in the Town of Timnath, so the Town has no regulatory authority over their specific location. The Colorado Oil and Gas Conservation Commission (COGCC) does, however, impose requirements on the wells to ensure the protection of the students and teachers at the school, as well as nearby residents. For more information on the COGCC rules, visit [cogcc.state.co.us](http://cogcc.state.co.us).

4. *What gives oil and gas companies the right to drill?*

The person owning the underground minerals has a property right in those minerals and thus a right to develop them (see question #1). It is not a free and unrestricted right, however. Because the right to drill can impact the surface owner, a variety of laws and regulations have been adopted to govern how the mineral owner can access his property so the surface owner is also protected.

5. *What rights do we have as citizens and property owners?*

You, as a surface or mineral property owner, have the right to ensure that all the laws and regulations on drilling are followed, as well as to provide comments to the Colorado Oil and Gas Conservation Commission (COGCC) on proposed well siting and drilling permit applications. You also have the right to report any suspected spills or other complaints directly to the COGCC for investigation by calling 888-235-1101.

In addition, there are Colorado rules, regulations and statutes governing oil and gas development and you have the right to participate in the state legislative and judicial processes to ensure these laws are followed.

6. *Who, then, is responsible for protecting the citizens?*

The Colorado Oil and Gas Conservation Commission (COGCC) is the lead governmental agency responsible for regulating oil and gas drilling, including the responsibility to protect the public from any environmental or health risk from drilling. The COGCC has an extensive set of regulations governing setback requirements, groundwater protection, air emissions, and more. For more information on rules and regulations, visit [cogcc.state.co.us](http://cogcc.state.co.us). The COGCC also cooperates and coordinates with the Colorado Department of Public Health and Environment (CDPHE) in developing, administering and enforcing rules to protect the public health and environment.

Counties and municipalities also play a role. Some counties have adopted oil and gas regulations although Larimer County has not. Municipalities have no jurisdiction to regulate wells outside their boundaries, but they do have authority to regulate oil and gas production within their boundaries. This authority is primarily focused on transportation and land use issues associated with wells within a given municipality's boundaries. A municipality's or county's rules cannot, however, conflict with or impede the state rules and regulations.

Please remember, that the site under question is not within the Town limits, and, accordingly, Timnath does not have regulatory authority over the site.

7. *What is the scope of authority and role of the Town of Timnath?*

Although the proposed wells are outside of Timnath's boundaries, there are additional measures the Town will take, such as installing additional air and water quality monitors, as well as mitigation of traffic, noise, visual and other impacts. The top priority of the Town Council is protecting the health, safety and welfare of our citizens, while supporting the quality of life and growing economy that are so important to our community and our future.

Additionally, Timnath is in the process of strengthening our own ordinance governing oil and gas development, so that we are prepared if an application to drill is proposed within Town boundaries. We have retained experts to help us identify ways that we can protect our citizens while not conflicting with or impeding state rules and regulations.

While our regulatory authority as a municipality is limited, Timnath is also a mineral rights owner, and this gives us the opportunity for more say in connection with the wells that have been proposed. Being a minerals owner gives us the ability to enter into an agreement with the well operator that will require further mitigation of noise, appearance, and other impacts of the well on the residents of Timnath than would be possible if the Town did not own such mineral rights.

8. Will Timnath receive revenue from oil and gas development of the Town's mineral rights? How will it be spent?

Yes. How much depends on how much the wells produce and current commodities prices. The money we receive will go towards serving the needs of the residents of the Town, as do all of Timnath's revenues.

9. Doesn't this create a conflict of interest for the Town?

No. Our number one concern and goal is to protect the health, safety and wellbeing of our residents. The fact that we are a mineral rights owner does not change or limit objective; it actually helps us meet that goal because of the additional leverage it gives us with the operator.

10. Why doesn't Timnath just annex the property where the well is going to be located so it can have more regulatory authority?

There are three conditions under which property can be annexed to a municipality.

- If the landowner requests it and if nearby property owners support that request;
- The town unilaterally annexes the property, but that can only happen if 1) the property to be annexed is an enclave, surrounded on all sides by the municipality (and a right-of-way doesn't satisfy this requirement) and 2) the town has fully surrounded the enclave; or
- The property is owned by the municipality.

The property where the wells are going to be located does not meet any of these conditions. The property owner has not requested annexation, the property is not owned by the Town, and the property is not surrounded by the Town on all sides. While Timnath is on the north, west and south, the property to the east is in the Town of Windsor's boundaries. The Town is willing to work with the property owner on annexation in an effort to achieve better oversight authority, but the Town cannot force the annexation.

11. The well operator wants permission from Timnath to use our roads. Why not just deny them that permission and force them to go away?

Just like surface properties, the owners of underground minerals also have the right to develop those minerals. We cannot deny access to property, but we can and will enter into an access agreement (discussed below) with the operator which gives us additional leverage to mitigate any traffic concerns and other impacts of the wells.

12. How much truck traffic will this well create and what roads will they use?

We have requested specific truck traffic counts from the operator and will update these FAQ's when we have that information. They will be using County Road 1 and the trucks will travel south. They have agreed to not use Harmony Road. These conditions will become part of the access permit the Town will issue.

13. Will the proposed wells be fracked? What is fracking and how does it work?

Yes, according to the operator, the proposed wells will be vertically, not horizontally drilled, and hydraulically fractured. Fracking of a vertical well is generally not a continuous operation throughout the life of the well, but rather an isolated, short-term event directly below the wellbore at the time the wells are initially drilled. Additionally, the fracking zone associated with the proposed wells is located underneath more than one mile of bedrock.

According to the Colorado Oil and Gas Conservation Commission (COGCC), fracking is the process of creating small cracks, or fractures, in underground geological formations to allow oil or natural gas to flow into the wellbore and thereby increase production. To fracture the formation, special fracturing fluids are injected down the well bore and into the formation. These fluids typically consist of water, sand, and chemical additives. The pressure created by injecting the fluid opens the fractures.

Approximately 99.5% of the fracking fluid volume is water and sand. Other typical ingredients include friction reducers, gelling agents and biocides. Within 60 days of using any chemicals, the well operator is required to report those chemicals to FracFocus, the national hydraulic fracturing chemical registry. FracFocus is managed by the Ground Water Protection Council and Interstate Oil and Gas Compact Commission, two organizations whose missions both revolve around conservation and environmental protection. Their website is [www.fracfocus.org](http://www.fracfocus.org).

The COGCC website contains a series of helpful answers to frequently asked questions about fracking, the chemicals used, the safety of the chemicals and more on the following web pages:

[cogcc.state.co.us/Announcements/Hot\\_Topics/Hydraulic Fracturing/Frequent Questions about Hydraulic%20Fracturing.pdf](http://cogcc.state.co.us/Announcements/Hot_Topics/Hydraulic_Fracturing/Frequent_Questions_about_Hydraulic%20Fracturing.pdf)

[cogcc.state.co.us/Library/HydroFracStronger/COGCC Response To STRONGER 06132011.pdf](http://cogcc.state.co.us/Library/HydroFracStronger/COGCC_Response_To_STRONGER_06132011.pdf)

14. Does fracking cause earthquakes?

According to the Colorado Oil and Gas Conservation Commission, tens of thousands of oil and gas wells in Colorado have been fracked without notable geological impacts. The state turns to the Colorado Geological Survey, the Colorado School of Mines and the University of Colorado for the latest information on this issue. More information is available at: [www.coloradogeologicalsurvey.org/geologic-hazards/earthquakes/triggered-induced-earthquakes](http://www.coloradogeologicalsurvey.org/geologic-hazards/earthquakes/triggered-induced-earthquakes)

15. How safe is oil and gas drilling?

Oil and gas drilling is not new to Colorado or to the region around Timnath in the Denver Julesburg basin. The first oil exploration well in the basin was drilled in 1881. Two wells

have been drilled within the Timnath Town limits; one in 1957 and the other in 1973. Today, there are more than 50,000 oil and gas wells across the state.

The Colorado Oil and Gas Conservation Commission (COGCC) is the lead agency in charge of regulating oil and gas activity. That agency has in place a comprehensive set of rules and regulations designed specifically to protect the public, including setback requirements, restrictions on air emissions, groundwater protection provisions, operations monitoring and enforcement of violations. These rules were recently updated and, according to the COGCC, are now among the most stringent, if not the most stringent, of any state in the country.

Additionally, the University of Colorado at Boulder recently conducted a first-of-its-kind analysis of chemicals found in fracking fluid samples collected in five states. The study found these substances were no more toxic than chemicals commonly found in homes: [www.colorado.edu/news/releases/2014/11/12/major-class-fracking-chemicals-no-more-toxic-common-household-substances#sthash.nVnwnN0Y.dpuf](http://www.colorado.edu/news/releases/2014/11/12/major-class-fracking-chemicals-no-more-toxic-common-household-substances#sthash.nVnwnN0Y.dpuf)

16. How is groundwater protected?

In Colorado, about a mile of bedrock generally separates oil and gas formations from groundwater aquifers. In addition to this physical separation, the Colorado Oil and Gas Conservation Commission requires all wells to be cased with multiple layers of steel and cement to isolate aquifers from the chemicals used for fracking. The steel casing and surrounding layers of cement protect any drinking water aquifer that a wellbore may penetrate. Surface casing is required to extend 50 feet below the base of the deepest freshwater aquifer to protect it from fluids associated with oil and gas development. In addition, all drinking water for Timnath originates from Horsetooth Reservoir, as there are no known underground fresh water aquifers in the vicinity of the proposed wellhead sites or wellbores.

17. What if there's a spill at one of the well sites?

State law requires the Colorado Oil and Gas Conservation Commission (COGCC) to notify the Colorado Department of Public Health and Environment (CDPHE) of any spill that threatens to impact any water of the state. Additionally, baseline water sampling is required to collect data before any drilling operation to document pre-drilling conditions of a water well. Suspected spills, and other complaints, can be reported directly to the COGCC by calling 888-235-1101. The COGCC is required to publicly report notice of all drilling rules violations on its website: [cogcc.state.co.us/COGIS/DrillingPermits.asp](http://cogcc.state.co.us/COGIS/DrillingPermits.asp).

18. How will we know the results of the environmental monitoring?

The Colorado Oil and Gas Conservation Commission (COGCC) conducts regular inspections of all well sites and its findings are made public on at [cogcc.state.co.us](http://cogcc.state.co.us). Timnath is also considering installing additional air and water quality monitors on Town property near the site to further protect the community.



19. Who do I send comments to if I am concerned about a particular well application?

Comments on specific well applications should be submitted to the Colorado Oil and Gas Conservation Commission (COGCC). Online comment forms can be found at [cogcc.state.co.us/COGIS/DrillingPermits.asp](http://cogcc.state.co.us/COGIS/DrillingPermits.asp).

Instructions for submitting online comments are available at:

[cogcc.state.co.us/COGIS Help/Comment Instruction Overview11082013.pdf](http://cogcc.state.co.us/COGIS/Help/Comment_Instruction_Overview11082013.pdf).

Comments may also be submitted via phone (303-894-2100), e-mail ([dnr\\_dnr.ogcc@state.co.us](mailto:dnr_dnr.ogcc@state.co.us)), or letter (1120 Lincoln St, Suite 801, Denver, CO 80203).

To facilitate comment submission, the document numbers for the wellhead site and associated wellbores proposed in Larimer County adjacent to Timnath are:

[400719123](#) (Form 2A: Oil and Gas Site Location Assessment Permit)

[400744175](#) (Form 2: Wellbore Permit to Drill)

[400744095](#) (Form 2: Wellbore Permit to Drill)

[400715273](#) (Form 2: Wellbore Permit to Drill)

[400715270](#) (Form 2: Wellbore Permit to Drill)

[400715268](#) (Form 2: Wellbore Permit to Drill)

[400715266](#) (Form 2: Wellbore Permit to Drill)

The document numbers above will help you locate information and submit online public comments on the pending permit applications with the COGCC "eForms" website.

**Additional Sources of Information**

The Colorado Oil and Gas Conservation Commission is the lead regulator of oil and gas drilling in Colorado. Their website ([cogcc.state.co.us](http://cogcc.state.co.us)) has extensive information about the regulation of the oil and gas industry.

[cogcc.state.co.us/Announcements/Hot\\_Topics/Hydraulic\\_Fracturing/Hydra\\_Frac\\_topics.html](http://cogcc.state.co.us/Announcements/Hot_Topics/Hydraulic_Fracturing/Hydra_Frac_topics.html) is a site specifically dedicated to answering questions and providing information about fracking. It includes links to a number of informational resources, including [www.fracfocus.org](http://www.fracfocus.org), a chemical registry website of the Ground Water Protection Council and Interstate Oil and Gas Compact Commission. It too has extensive information about how fracking works, its impact on groundwater, and more.