



Regional Operator Agreement Update

City Council Meeting August 2019

ROA Timeline

- Approached in March of 2018 by Extraction Oil & Gas regarding proposed facilities in Commerce City.
- Received feedback from council in May 2018 on the approach to take with operators
 - Direction for staff to proceed forward in negotiating maximum protections through an Regional Operating Agreement
- This approach was re-affirmed in September 2018
- Council authorized Ordinance 2183 in November 2018, which
 - Established guidelines for a Regional Operator Agreement
 - Established the requirement for a 21 day public comment period prior to execution
 - Authorized the Community Development Director as the approval entity for an ROA
- SB19-181 was introduced on March 1 2019, and signed by governor on April 16, 2019
- Outline of remaining items of ROA negotiations presented to Council March 2019, and direction to proceed forward was given

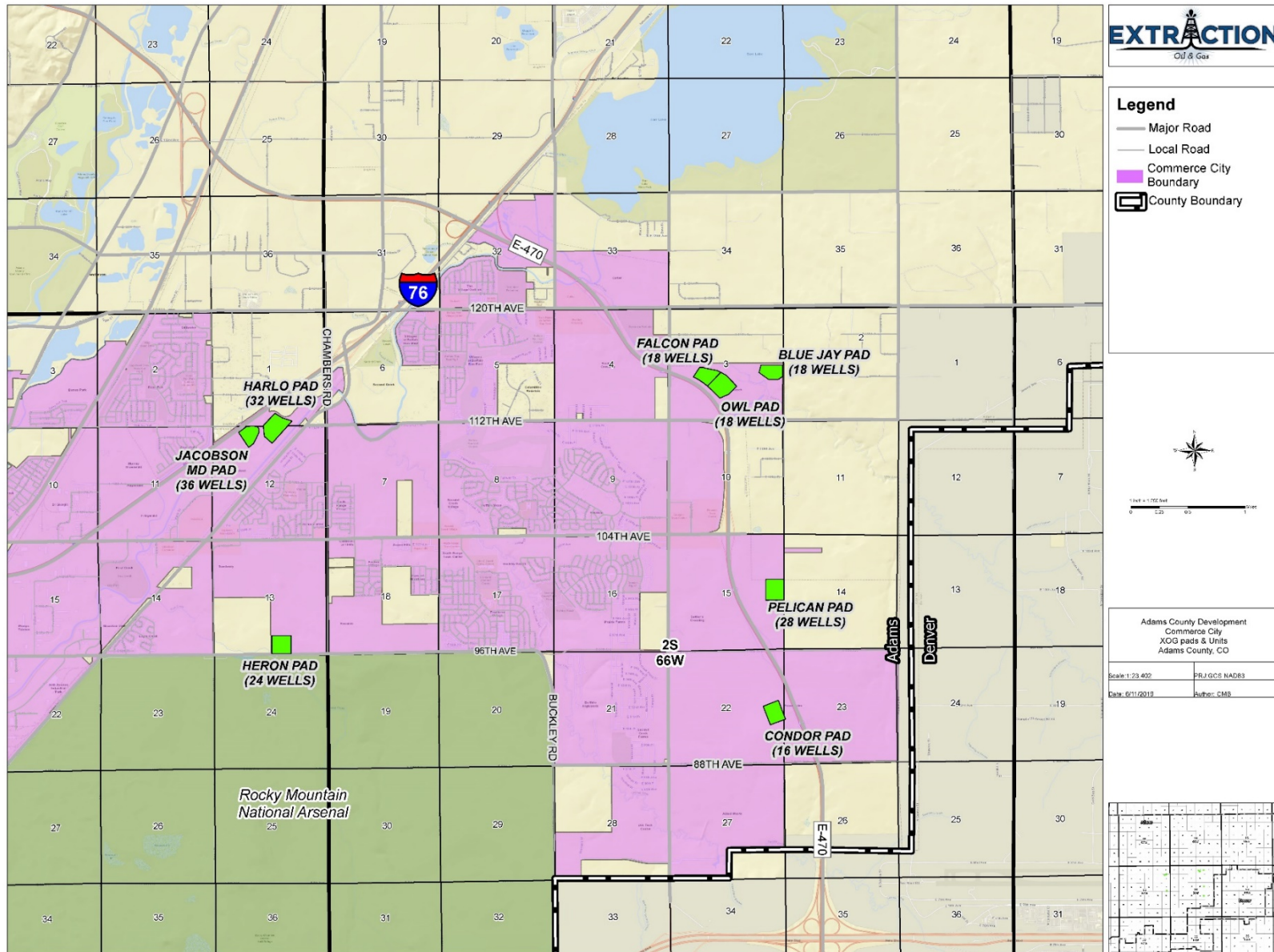
ROA Structure

- The ROA is composed of 16 articles, and contains 26 pages
- The document contains 7 exhibits, which adds an additional 47 pages and contains the following:
 - List of well sites
 - Best Management Practices (BMP's)
 - Insurance Requirements
 - Plugged & Abandoned Wells
 - Proposed COA's for state permits
 - Draft schedule of operations
 - Emergency response equipment and training purchases
- BMP's are the most significant exhibit (24 pages), which
 - Detail specific protections that apply to all sites in the agreement, including air quality, water quality, safety, visual mitigation, noise mitigation, and emergency response considerations.
- The ROA applies to sites proposed by Extraction Oil and Gas, and not facilities proposed by other operators in the city
- ROA contains many provisions that local governments are now authorized to regulate in code, rather than negotiation through SB-181
 - LDC 21-3216(11)(a): An ROA shall not waive or exempt the operator from any applicable law, regulation, or standard

The ROA...

- *Does* provide greater protections than *current* COGCC regulations
 - BMP exhibit contained within the ROA has large number of public health, safety & environmental protections
- *Does* establish application requirements, enforcement provisions, emergency response equipment and training purchases, insurance requirements, above and beyond LDC requirements.
 - All requirements of the LDC still apply
- Exhibit A *does* indicate which sites the agreement & BMP's would apply to
- Does *not* provide Extraction with vested rights, or the approval of any individual well site
 - Approval of a separate Oil and Gas Permit is required for all sites prior to drilling (approved administratively)
 - As part of the ROA, pipelines are required under the Best Management Practices Exhibit (B), which requires conditional use permit approval through City Council
 - All locations currently proposed in exhibit A will have to go through a zoning, conditional use permit, or PUD amendment process (which require council approval)

Exhibit A Map



ROA Key Terms

- The following terms are identified as some of the key provisions of the agreement. It is not intended to be an all encompassing overview, and does not include every provision in the contract
- Article II – Agreement may be terminated by either party with 6 months notice (within first 4 years)
- Article III – Applicable code defined as city regulations at the time an Oil and Gas Permit is submitted
- Article V – Requirement for individual Oil & Gas Permit & submittal materials
- Article VI – If less than $\frac{1}{4}$ mile from residential, drilling and hydraulic fracturing cannot occur simultaneously on one site
- Article VI – ROA does not approve well sites, and administrative / council denial of any OGP, rezone, or CUP would terminate agreement for all sites where no wells have been drilled
- Article VII – BMP's (Exhibit B) applies to all sites
- Article VIII – Operator may not protest city code changes in the future. BMP's apply even if the COGCC does not adopt them as COA's (Conditions of approval)
- Article IX – City will not protest Extraction's State Applications, but still has the ability to comment
- Article X – No drilling may commence later than December 31, 2024

ROA Key Terms

- Article XII - \$3M bond or LOC required for emergency cleanup, bankruptcy, or other situation deemed necessary by city
- Article XIII – City has authority to inspect all sites at any time. City will receive \$500/well/year for inspection costs, and \$250/well/year for ongoing air quality monitoring from operator
- Article XIV – Enforcement provisions. City has the ability to enforce these provisions through hearing before community development director. Director also has discretion to determine what is practicable.
- Article XV – Potential successors bound to ROA & BMP's. Force Majeur – if operator claims inability to complete a BMP, they are not relieved, but have to provide a comparable alternative within 180 days
- Exhibit C – Required to carry commercial general liability, auto, workers comp, umbrella/excess liability, and environmental liability insurance
- Exhibit D – 9 wells plugged & abandoned within city limits, and an additional 34 wells in growth boundary (not plugged & abandoned until time of annexation)
- Exhibit F – Anticipated 1st wells drilled in 2021. Rig will move from pad to pad approximately every 6 months with final drilling to commence by Q3 2024. Two pads will not be drilled simultaneously
- Exhibit G – Extraction providing \$560,000 for purchase of essential emergency response equipment and training

Focus Group Feedback

- Per council request, meeting was held on Wednesday, July 24th.
- Members of the previous focus group provided specific comments on the draft ROA
- Some specific comments were:
 - Strengthen language in section 14.1 to make fully clear that city has the authority to enforce terms and provisions of the ROA and BMP's
 - Additional analysis and elaboration on the fee amounts for inspections and air quality monitoring. Are they adequate to provide the expected cost of these services?
 - Strengthen language in section 7.2 regarding future technologies, and 14.7 as it relates to "maximum extent practicable"
- Some general comments were:
 - Some members felt the city should be getting a higher percentage of tax revenue from Oil and Gas operations
 - Several members felt that signing an ROA prior to the state conducting its rulemakings would be premature, and therefore the ROA should not be approved.
 - Other members felt the ROA contained a good framework for resource extraction in the city, and sets the bar high for Oil and Gas operators.

ROA Next Steps

- The comment period was open for 21 days between July 8th – July 29th
 - In accordance with LDC Section 21-3216(11)(g)
- The city received a total of 384 comments during the comment period
- Staff is currently in the process of reviewing all feedback and public comments that were received during the period
 - Evaluating the ability for comments that can practically be incorporated into the agreement
 - Additional negotiations may occur with Extraction to include the practical revisions that were recommended from the comments
- Additional presentation will be scheduled with Council prior to final execution of the agreement
 - Once staff has had adequate time to review all public comments and incorporate them into the agreement (after August 19th monthly update)
 - Will detail how comments received were incorporated into a revised agreement
 - Will detail next steps



Questions

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City Council Meeting August 2019

Senate Bill 181 impacts on Local Governments

- Expressly **authorizes local regulation of well pad locations** through land use regulations including the siting of oil and gas locations and facilities
- Expressly **modifies state pre-emption** by explicitly authorizing local government regulation that is more stringent than state standards
 - *i.e. State standards become minimum requirements*
- Expressly **authorizes local governments to impose fees** for cost of monitoring & penalties for violations of local land use regulations
- Requires Operators to obtain a **local permit prior** to receiving a state permit

Senate Bill 181 impacts on Local Governments

- **Local government authority expressly expanded** to include the regulation of the surface use of oil and gas operations in a reasonable manner:
 - Location and siting of O&G facilities and locations
 - Impacts on government facilities and services
 - Water quality and source, noise, vibration, odor, light dust, emergency preparedness, security, traffic, transportation impacts
 - Financial securities, indemnification and insurance
 - All other nuisance-type effects of O&G development
 - Inspect all O&G facilities
 - Impose fees for both the direct and indirect costs of monitoring and inspections programs to address impacts and enforce local regs
 - Receive technical assistance from the COGCC