



**"A joyful heart is the inevitable result of a heart burning with love."**

**– Mother Teresa**

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## **County and state butt heads over drilling regulations**

By [Lindsey Harrison](#)

On Jan. 23, the Colorado Senate introduced a bill that would give the state of Colorado the sole right to regulate oil and gas operations in Colorado, but some local governments like El Paso County have already developed local regulations.

Senate Bill 12-088 states: "The regulation of oil and gas operations is a matter of statewide concern. The commission (the Colorado Oil and Gas Conservation Commission) has exclusive jurisdiction to regulate oil and gas operations, and local regulation of oil and gas operations is preempted by state law."

The bill surfaced during the last few weeks of the four-month moratorium the El Paso County Board of County Commissioners placed on oil and gas operations in the county. With the moratorium, the county had more time to draft its own regulations.

The county's development services department presented a draft of the proposed regulations to the county planning commission Jan 4; the commission unanimously approved it.

Still, the county has no jurisdiction over some areas of drilling, according to state law. "Some of the things people wanted us to do, we simply don't have the authority to do," said George Monsson, assistant county attorney. "We can't regulate technical drilling and pumping. We can't ban fracking. We can't regulate the materials in the fracking fluids. We can't limit how water is used. Those are all state functions."

However, water is a huge concern for residents, said Craig Dossey, development services project manager. "We want to see evidence that they (oil and gas companies) have a legal right to use the water," Dossey said. "It can be a water court decree or water resource report and commitment letter. Something that says if it's domestic water, it has been legally approved for industrial use. We also want to know the source of the water, an estimate of how much is going to be used and when they're going to use it."

Monsson said legally both the COGCC and local governments have the ability to enforce regulations. "The state has the Colorado Oil and Gas Conservation Act and the county has the Land Use Control Enabling Act," he said. "The bottom line is, if there is a conflict between state and local rules, the state rules will apply. However, this conflict needs to be an operational conflict."

Dossey spoke up for the need for county regulations.

The COGCC had previously argued against some areas the county wanted to regulate, he said. "The COGCC said that requiring 68 water samples over a 40-year well life seemed excessive, which is subjective," Dossey said. "They said that notifying well owners within a mile of a drilling site instead of 500 feet was too much, which is subjective."

Many residents were also concerned about roadways used for drilling operations. "These operations have to use county roads," Dossey said. "We want to know when they're going to use them, how they're going to use them, what the size of the rig they'll be using is, if we'll need traffic control measures – and so forth." In the current draft of the proposed regulations, Dossey said the county included an oil and gas mitigation agreement, which includes improvements to the roads and any reconstruction necessary during or after the operations. The goal is to leave the roads in the same, if not better, condition after the oil and gas operations are completed, he said.

"We're going to do whatever we can to protect our water first and our roads second," said Dennis Hisey, county commissioner. "The commissioners are all in agreement that our water is the key thing we need to protect."

Hisey said there is talk that another state bill will be introduced to give more power to local governments. "I think in the end, we're going to end up somewhere in between the two extremes of lots of control and no control," he said. "As far as the legislation that is being proposed now (SB 12), I think they're carrying it too far.

"I think that if they try to take all control away from us, there will be a court case; and, depending on what

they take away from us, we can win. I think we have control over certain aspects, and they can't take that away from us in one form or another.”

In a separate interview, Sandra Martin, president of the nonprofit organization Protect Our Wells, said, “I was surprised to hear about that legislation and the other bill proposing more local government control. I'm not sure either will get any traction.

“There is strength in numbers. This is going to be a hard-fought battle. Where we were hoping the county could do something for us, it looks like that isn't going to be possible.”

“You have interest groups on both sides of the coin,” said Darryl Glenn, county commissioner. “The people on the oil and gas side are trying to take away the control from the county, and environmentalists on the other side are doing the opposite. We (commissioners) have to sit back and see how everything pans out and what our role in this is. If the bill passes and they say we have no stake in this (oil and gas operations), our hands are tied.”

**Editor's note:** Comments from Hisey, Glenn, Monsson and Dorsey were taken from the Dec. 29 BOCC work session and the Jan. 4 county planning commission meeting.

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