



March 21, 2016

Honorable Members of the State, Veterans and Military Affairs Committee  
200 East Colfax  
Denver, CO 80203

RE: Opposition to HB16-1355

Dear Representatives,

Vital for Colorado and its 56,000 members urge you to oppose House Bill 1355.

Vital for Colorado is a coalition of business, civic, and economic development leaders, along with tens of thousands of individuals across the state. Our mission is to support and promote the benefits of energy production in Colorado, highlight energy resource extraction as a critical part of Colorado's state economy, and support a rational, well-regulated, and competitive regulatory environment that allows energy production in the state to thrive responsibly.

House Bill 1355 could disenfranchise thousands of Colorado families by restricting access to their investments. The bill opens the door for local governments to ban responsible energy development, which would, in effect, rob Colorado mineral rights owners of their private property.

Over the past two years, Coloradans across the state weighed in on how best to regulate our oil and natural gas industry. From the Governor's Oil and Gas Task Force to the Colorado Oil and Gas Conservation Commission's statewide outreach efforts, we've heard from all sides and the state has crafted a balanced and reasonable approach that preserves our communities, our private property rights and our economy. That's the Colorado way.

Unfortunately, this legislation will inject undue politics into this regulatory role that could steamroll those mineral rights owners, who are in the minority.

We're asking that you let the process work and protect the financial investments of these Coloradans by voting against HB-1355.

Sincerely,

A handwritten signature in black ink that reads "Peter T. Moore".

Peter Moore, Chairman

March 21, 2016

Dear Legislators,

For several years, local governments have been struggling with how to address the challenges that emerge when oil and gas development is proposed in residential areas. Our communities are working to limit impacts of oil and gas development on our air and water quality, traffic, and nuisance issues like noise and dust.

Local governments have siting authority for all industrial operations, including oil and gas development. However, in recent years, the oil and gas industry and state agencies have argued that regulating oil and gas operations, including multi-well pads and tank batteries, is the sole purview of the state, not local governments. They claim that the oil and gas industry, one of the most powerful in the world, could not prosper if local communities adopted their own measures to the limit impacts of oil and gas industrial development.

Our communities routinely regulate all manner of industrial activities under our land use authority. In fact no other industry enjoys this special treatment. The mining industry, land developers, and home builders are all subject to local building codes and zoning restrictions. These industries are thriving and prospering in Colorado.

Local government officials have a duty to protect public health, safety and welfare. Our constituents expect their local governments to have a role when it comes to siting industrial land uses in their communities. The impacts of oil and gas development may include: increased heavy-truck traffic, air pollution, loud machinery at all hours, spills of noxious chemicals, and the threat of surface and groundwater pollution. Local governments, working with the Colorado Oil and Gas Conservation Commission and the oil and gas industry, must work to balance oil and gas development with other land uses.

Representatives Foote and Ryden and Senators Jones and Ulibarri have brought HB 16-1355 to clarify that local governments have the authority to site oil and gas operations. This legislation is a reasonable, small step forward to clarifying this process and ensuring local governments can weigh in on behalf of their citizens.

We thank the legislators for their work on this issue and urge you to support the legislation when it comes before you.

Sincerely,

Adams County Board of Commissioners  
Boulder County Board of Commissioners  
Pitkin County Board of Commissioners  
Boulder City Council  
Longmont City Council

Nancy Jackson, Arapahoe County Commissioner  
Bette Erickson, City & County of Broomfield Councilor  
Stan Jezierski, City & County of Broomfield Councilor  
Kevin Kreeger, City & County of Broomfield Councilor  
Sam Taylor, City & County of Broomfield Councilor  
Sharon Tessier, City & County of Broomfield Councilor  
Jason McEldowney, Commerce City Councilor  
Paul Lopez, Denver City Councilor  
Kathy Chandler-Henry, Eagle County Commissioner  
Jeanne McQueeney, Eagle County Commissioner  
Jill Ryan, Eagle County Commissioner  
Jennifer Carroll, Erie Town Trustee  
Ross Cunniff, Ft. Collins City Councilor  
Bob Overbeck, Ft. Collins City Councilor  
Kristin Stephens, Ft. Collins City Councilor  
Bennett Boeschstein, Grand Junction City Councilor  
Christine Berg, Mayor, City of Lafayette  
Gwen Lachelt, La Plata County Commissioner  
Bob Muckle, Mayor, City of Louisville  
Matthew Martinez, Monte Vista City Councilor  
Mark Brazell, Park County Commissioner  
Jason Anderson, Saguache County Commissioner  
Karn Stiegelmeier, Summit County Commissioner  
Jacque Phillips, Thornton City Councilor  
Val Vigil, Thornton City Councilor  
John S. Vázquez, Mayor, Town of Windsor  
Emma Pinter, Westminster City Councilor  
Maria DeCambra, Westminster City Councilor  
Tresi Houpt, Former Garfield County Commissioner & Colorado Oil and Conservation  
Commissioner



To: Members of the State, Veterans, & Military Affairs Committee  
From: Kim Stevens, Environment Colorado Director

Re: **Support HB1355, local control for oil and gas facilities**

March 21, 2016

Dear Representative,

On behalf of Environment Colorado's citizen members, I am writing to ask you to ***support HB 1355 in Committee this Monday***. HB1355 would give local communities the power to dictate when and where oil and gas operations take place, and potentially add additional protections against fracking operations.

Fracking is a significant and growing threat to our air, water, health and land here in Colorado. The industry has drilled more than 22,000 new wells in the state since 2005, with wide-ranging impacts:

- Drilling has led to hundreds of incidents of documented surface and groundwater contamination – including 7,500 gallons of oil spilled from a storage tank into the Cache La Poudre river last June.
- Fracking has consumed more than 19 billion gallons of Colorado water since 2005.
- Fracking has damaged Colorado landscapes. Drilling-related construction – including well pads, access roads and pipelines have transformed more than 105,000 acres of Colorado's land into industrial zones. That's more than one-third of the land in the state's park system.
- Fracking produces billions of gallons of wastewater, more than 3 billion gallons in Colorado in 2014 alone. Injection disposal of that wastewater can cause earthquakes. In fact, state officials halted wastewater injections near Greely due to increased earthquake activity.
- Researchers from the Colorado School of Public Health have found toxic air pollutants, including benzene, in higher concentrations near fracking well sites.

In light of this growing damage, it is no surprise that Colorado communities are seeking to protect their communities. The public deserves a comprehensive, statewide solution to this problem. In the meantime, Environment Colorado supports local communities seeking to protect their water and their health from fracking. For these reasons, Environment Colorado calls upon

the legislature to support HB1355, giving local communities the power to dictate when and where drilling occurs in their borders.

Please do not hesitate to contact me by email ([kim@environmentcolorado.org](mailto:kim@environmentcolorado.org)) or by phone (303-573-3871 x 312) with any questions about this legislation or other environmental issues. I look forward to continuing our work together to protect Colorado's environment.

Sincerely,

Kim Stevens, State Director  
Environment Colorado  
1543 Wazee St, ste 400  
Denver, CO 80202  
303-573-3871  
[www.environmentcolorado.org](http://www.environmentcolorado.org)

**Gwen Lachelt**  
La Plata County Commissioner  
1101 East 2<sup>nd</sup> Avenue  
Durango, Colorado 81301  
970-382-6215

March 21, 2016

Madame Chairwoman and Members of the House State,  
Veterans, & Military Affairs Committee,

My name is Gwen Lachelt, I am a La Plata County commissioner. I live in Durango, Colorado. I would love to have been able to present my testimony in person today but my schedule this week doesn't permit me the time to make the 350-mile trip to Denver.

La Plata County is no stranger to oil and gas development. Over the past 30 years, approximately 3,500 coalbed methane/natural gas wells, have been drilled in my county.

La Plata County was a leader in developing local oil and gas regulations to govern the land use impacts of oil and gas development. Even when the oil and gas industry challenged La Plata County's authority to regulate the land use impacts of oil and gas development in the early 1990s, the Colorado Supreme Court upheld the right of local governments to regulate this land use.

La Plata County has long held that siting of oil and gas operations is a land use. For this reason, I strongly support HB 1355 as I believe the proposed bill strengthens local authority to site operations in concert with the Colorado Oil & Gas Conservation Commission (COGCC), and those directly affected by oil and gas development.

I also support lifting the prohibition of counties to regulate oil and gas development through 1041 powers. 1041 powers can

provide local governments with an effective tool to address the cumulative economic and environmental issues associated with oil and gas activities. La Plata County has the authority to determine the location of every other industry activity within our jurisdiction, with the exception of oil and gas.

Having the ability to determine where oil and gas development occurs will lead to less conflict. As elected officials, one of our key responsibilities is to reduce conflict and seek balance. Balancing the interests of those directly affected by oil and gas operations with those who have the right to develop the mineral estate, has been one of the toughest issues facing elected officials in Colorado for 30 years. Less conflict between and amongst neighbors, less conflict between neighbors and oil and gas operators, less conflict between neighbors and the COGCC is critical to protecting the health, safety and welfare of those you and I have been elected to serve.

I served as co-chair of the Governor's Oil & Gas Task Force where we grappled with these conflicts every day for six months. This proposed legislation, if adopted, will go a long way toward setting Colorado on a path that helps to prevent and minimize the impacts of oil and gas development on communities.

I urge your support of House Bill 1355.

Thank you.

From the desk of:  
**Joshua M. Zygielbaum**  
City Councilman | Thornton, Colorado.

March 17<sup>th</sup>, 2016

Madam Chair and Honorable Members of Committee,

Thank you for receiving my written testimony. I write today in support of House Bill 1355. I write as a fellow elected official, who, like you, is charged with serving the best interests of my community.

The City of Thornton is Colorado's 6th largest city and, by charter, Thornton is also a home rule city. Citizens have input surrounding almost every aspect that impacts their daily lives. This includes the development of neighborhoods, retail outlets and industrial zones. Citizens even have input on more controversial issues such as locations of marijuana dispensaries and liquor stores. This input allows the city to develop in a manner that best suits the citizens and the community. The one area where land-use oversight is stripped away surrounds the oil and gas industry. Citizens have zero control over the location of pads, drilling, storage tanks, pipelines, or anything else related to the extraction of oil and natural gas.

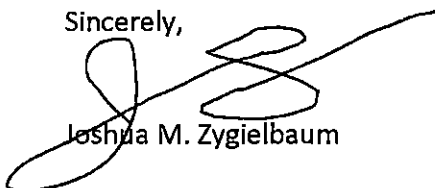
I will not dispute that oil and gas is an important and vital part of Colorado's present economy. It provides thousands of well paying jobs, which in turn adds capital into the local market. However, there are many other industries that do so as well, including power, telecomm, manufacturing, and agriculture, to name a few. All of these other industries are as vital as oil and gas is to Colorado's economy. The municipality and the citizens have the ability to regulate land-use to ensure that these many other areas of commerce are located appropriately to meet the community's needs. The authority to make the same decisions surrounding oil and gas has been removed from local control and given to a state agency, thereby creating an unjust inconsistency across industry and regulation.

With any other industry, the residents, especially in a home rule municipality like Thornton, are stakeholders who have the ability to discuss where businesses locate so that they flourish and positively impact the daily lives of citizens. As the one exception, oil and gas permits are approved by a state body that is unaware of the issues facing a local community. They are unaware of short term goals or future development planning that has taken place. This body also ignores existing zoning regulations set by the city, as if they do not exist. The Colorado Constitution provides municipalities with the right of local control and it is imperative that citizens be given the opportunity to determine the outlook of their own community.

I support HB1355 as it restores in full the right to local control and allows for citizens to determine the best way to incorporate vital industries into their community. HB1355 provides consistency across industry, promotes fair competition, and gives the right of choice back to the citizens.

One elected official to another, I ask that you join me in supporting HB1355 as written and encourage you to give choice back to your constituents and your voters.

Sincerely,



Joshua M. Zygielbaum

March 20, 2016,

Representative Foote

P.O. Box 469

Lafayette, Colorado 80026

Dear Representative Foote and the House State Affairs Committee,

Thank you for the opportunity to provide written testimony regarding the fracking operations taking place near my home.

I reside north of State Highway 66 and just east of County Line Road 1. Although I have a Longmont address, I actually live in Weld County. I have lived at my present address for ten years. Encana began drilling on three sites, two immediately to the north of my property and one immediately to the south of my property, in approximately January 2014.

Because Colorado "pooling" laws allow property to be fracked without a property owner's consent, during the initial twelve months of drilling, I contacted Encana or Colorado Oil & Gas Conservation Commission (COGCC) only twice, once concerning repeated trespassing on a private road shared by three residences, and once concerning damage to a gate caused by a trespassing company hired by Encana. I made no other complaints during the initial twelve months of operation despite noise, dust, diesel fumes, night lighting, and vibrations.

By February 2015, I had developed health issues and clinical insomnia which I attributed to the drilling and fracking operation. I called Encana to complain about the dust and noise and to ask how much longer the neighborhood was going to be disrupted. I was not given a timeline for when the disturbances

would end. Therefore, I called COGCC regarding my noise and dust complaints. Shortly thereafter, I was contacted by COGCC and told Encana had been told that they had to control the dust. I was also told that wind conditions were too strong to obtain an accurate reading on the noise level, but that Encana had agreed to an "independent" sound survey. Although the neighborhood had been racked with noise preceding the survey period, during the time the equipment was on my property, I heard no excessive noise coming from the drilling site. A cynical person might think that Encana readily agreed to the sound survey because they knew they would not be performing work that would cause excessive noise during the time the equipment was in place. Some months later, I was told by an Encana employee that he had placed the sound equipment on my property which also calls into question the "independence" of the survey.

Following another complaint to COGCC regarding air pollution, a representative of COGCC came to my property with equipment that he said could detect air pollution. After running the equipment, I was assured no air pollution was detected. When I questioned the findings, I was told that the camera had showed heavy diesel fumes but no pollution. When I asked if heavy diesel fumes were not evidence of air pollution, I was informed that COGCC does not recognize diesel fumes as air pollution because diesel fumes are covered by the EPA not COGCC.

I am uncertain of the exact date but at some point I called COGCC to complain that for several nights the neighborhood had been lit up like night lighting in a sport's stadium. More specifically, a north facing wall of my home, enclosed by a high patio wall, was lit up with a huge circle of light many feet in diameter. COGCC sent a representative out to the site nearest my home and later informed me that "all lighting was directed towards the ground and inwards" and no citation would be issued. At no time did COGCC evaluate the lighting situation during nighttime hours to ascertain the validity of my complaint. However, thereafter, the lighting was redirected northward where no housing exists.

At another time, Encana telephoned residents of the area to inform them that Encana would be conducting work 24/7 for five days and resident could expect noise and night lighting during that time period. I called COGCC to inform

them that Encana had removed their sound barrier equipment so no sound barrier was currently in place. Shortly thereafter, COGCC contacted me to tell me that Encana had been informed that they could not proceed until the sound barrier equipment was replaced and that lights had to be directed away from the residential area.

My neighborhood includes protected wet lands. While walking down the road towards the drilling site, I noticed a large amount of liquid was running down the ditch alongside the road, flowing under the road, and flooding the wetlands. When I followed the flow, I found that it was coming from an area covered with a heavy tarp that was fixed in place. Coming out from the tarp was a giant hose running to what looked like a giant above ground swimming pool. Also coming from the area was the fluid running into the wetlands. Being uncertain as to character of the fluid, I called COGCC to alert them to the problem. I was later informed that there was a hydrant under the tarp that was leaking fresh water. I was also informed that this was not Encana's problem but rather the water company's problem. I was told this although it was obvious that no water had been leaking from the hydrant before Encana attached its hose and, regardless as to who was ultimately to blame, a large amount of water had been wasted as no one was obviously checking the connection.

Since oil prices have dropped, activity at the drilling sites have slowed considerably. However, what activity does occur appears to be primarily during the nighttime hours. My bedroom faces the drilling site and the headlights from the trucks shine into my bedroom windows disturbing my sleep. Although it should be obvious to the truck drivers that the headlights shine directly onto my house, no effort is made to turn the trucks in the opposite direction so they face away from residences and no effort is made to turn the headlights out while the trucks are being filled.

During my discussions with COGCC I was told that it was likely that there was little oversight of the drilling operations as there was a shortage of inspectors. During a discussion with a Weld County representative I was told that no credence was given to recent studies linking health problems to proximity to drilling sites and County representatives preferred to wait for a study that was to be completed "in a year or so." My health has deteriorated during the two years Encana has been drilling and fracking near my property. It is frustrating

to realize that the government now waits for harm to occur rather than insuring the safety of drilling and fracking operations before they are allowed to operate.

Thank you for the opportunity to submit this testimony.

Very truly yours,

Sarah Alcorn Sharp  
161 Henson Drive  
Longmont, Colorado 80504

HB16-1355 Written Testimony  
Anastasia McCune

I am writing in response to a message Josh Zygielbaum posted about HB1355. I am not able to attend in person on Monday to testify in support, so am writing instead.

I live in northern Thornton with my husband and 3 children. Our community has been in uproar since news broke of the proposed fracking site by Synergy Resources in the Wadley Farms neighborhood, a large-lot residential neighborhood with no fire hydrants in a pocket of unincorporated Adams County surrounded by Thornton. This site would be about a mile from my own home. The list of concerns is lengthy, some of which include.

- significant water and air pollution
- increased health risks, which are documented in more and more peer reviewed studies every day
- significant traffic increase (thousands of truck trips on school bus routes)
- transport of hazardous materials on residential roads
- lack of preparedness and resources for emergency responders and school districts to respond to or evacuate in the event of an explosion or fire
- significant decrease in property values
- The fact that oil and gas operators are required to carry only \$1 million in liability insurance. My friend who is a caterer has to carry \$1 million, this is woefully inadequate for large scale industrial operations

The concerns are not for Wadley only, as there are multiple other large-scale facilities that already have permits for northern Adams County, close enough to homes and schools to cause further community outcry. If you'd like a map, please visit <http://accdan.org/upcoming-oil-gas-adco.html>.

In preparing to speak before the Adams County Commissioners about my concerns at a community hearing in January, I spent time on the COGCC website reading reports about spills and accidents in Weld County, since those same operators are trying to come into Adams County. I felt it was the stuff of nightmares, the stars being oil, gas, and 'produced' water that comes back up from the wells, which contains known carcinogenics and naturally occurring radioactive material from deep within the Earth. This produced water is so toxic the best thing people can think of to do with it is to pump it back into the ground.

I read about small and large spills, leaks that went undetected for an unknown amount of time, on cropland, rangeland, 10 feet away from some livestock, 50 feet away from wetlands or a stream, just a few hundred feet from houses. Different cases differ, but many are similar to one I chose to use give as an example to the Adams County Commissioners... while removing a produced water tank, it was noticed that the tank was leaking. The contaminated soil and water was tested and found to have exceedingly high levels of stuff like radon and benzene. They called in the

environmental engineers to excavate and vacuum up the soil and water (an area of 50x70 feet, to a depth of 8 feet) and ship it off to a landfill in the town of Ault. They hit groundwater during the excavation and tested that too, which also had pollutant levels beyond State limits. Then they backfilled the hole with dirt and chemicals meant to help remediate, and scheduled ongoing monitoring for spots and groundwater still having pollutant levels too high. Then, filed for a 'no further action' on the case with COGCC. The twist is that the tank had been sitting there for several years, owned by another company, until the new company bought the site and removed the tank and discovered the leak.... so it had sat, leaking, for how long?

CRED, funded by Anadarko and Noble Energy, tries to comfort us saying that Colorado has some of the 'strictest regulations' in the industry while showing us pictures of the High Rockies at sunset. That may be true, but take a walk through the COGCC website and read some of what must be thousands of reports like the one I described, which are clearly just business as usual. I am not convinced that the 'strictest regulations' and the state of the industry are sufficient. If the best we can do is vacuum up a spill, send it to the landfill and make it their problem, and then just monitor the contaminated groundwater, while the cows 10 feet away still eat the grass and maybe still enter the food supply... well, it's unacceptable to allow these sites near to populated areas.

I've heard numerous operators tout things like 'closed-loop' systems that sound like they'll be capturing all the VOCs coming out of the wells, but then I see FLIR camera video of wells owned by those same companies obviously leaking.

I read Facebook posts of a woman in southern Weld county with numerous fracking sites within 1/4 mile of her house reporting that she's developed multiple health problems.

Last weekend we went to the local dirt motorcycle track just east of the town of Dacono, which has multiple fracking facilities on the property, and several other across the street and visible from the property. When we asked at the gate why their prices had gone up since last year, the owner said due to fracking, their water costs had gone up 700%. Without further information the story is anecdotal....

The point is, logic and common sense would indicate that heavy industry like this should be sited with consideration for the surroundings.

This is currently not the case. Synergy can plunk down a 20 well facility that will be 505 feet from a child's bedroom in Wadley Farms, and as a community we are told by (most) of our city and county officials that they really can't do anything, the power rests at the State level.

Allowing municipalities to have land use control over oil and gas to appropriately site these facilities is critical to ensuring the continued health, safety and well-being of our population. I support HB1355 and implore Colorado's elected officials to provide our population a meaningful way to regulate how their community takes shape.

Thank you,  
Anastasia McCune  
Thornton, CO 80241

Dear House State Affairs Committee,

I am struggling to believe what has been a blade in my ribs has continued to be taken so lightly and indifferently by all of your continued neglect in representing Colorado citizens.

I am a son of the American Revolution (2x) and have lived in Colorado since 1964. I now live on a beautiful golf course with full mountain view. My wife of 26 years and I raised two daughters in Hunters Glen over the last 18 years. I have been content in our suburban yet idyllic neighborhood until the news of drilling in Wadley Farms spread.

I have attended meetings with the city, county and state and witnessed first hand the ambivalent and self serving attitude with this matter. How does this remotely qualify some politicians to represent anyone other than the greedy hand of big oil.

I am not naive and I have a firm grasp of how the world turns financially. I understand the impact on jobs. I am not 100% against the whole fossil fuel pursuit. What I am against is violated space and damage to my personal well being only for the sake of money. I am certain that our ancestors would not approve of how unbalanced and cancerous things have become where a man's property values can be ruined by a corporation.

So disappointing to feel patronized and ignored.

I support HB1355.

Do what is right for the majority not the dollar by not approving any new wells until the November ballot initiatives have occurred.

My top issue is with setbacks. 500 feet is ridiculous. Surely you can see that. I pray this doesn't fall on continued deaf and uncaring ears.

Kind Regards,

Christopher Freeborn

13463 Marion Drive (1500 feet from Wadley Farms site)

303.587.5373

All,

I am unable to attend your committees hearing today to testify, so instead I would like to submit my comments for the record:

First, thank you for addressing this pressing issue confronting the north front range communities.

Second, please be advised that neither the Governors O & NG Task Force or the COGCC has remedied the turmoil that is taking place at the O & NG urban interface in Northern Colorado.

Third, the question of O & NG property rights vs. individual homeowners property rights compels the legislature to treat this as a non-partisan issue to be resolved through compromise.

If an O & NG operator can reasonably accommodate local government standards for noise, lighting, emissions, traffic, etc. they should be allowed to drill for and produce their products at just about any location. But what is considered reasonable should be based on factual proven science, and be a local government decision.

In 2012 the Town of Erie in conjunction with the CDPHE conducted air quality monitoring of a drilling and fracking operation in the Town over a four week period. Due to land use access concerns, the closest sampling distance we could obtain was 850 feet. The test findings validated that air quality at that distance downwind from the site did not produce any risks to public health for single or lifetime exposure to these O & NG operations. However the CDPHE would not express that air quality was safe @ less than 850 feet. Therefore, if the Town of Erie had local authority over O & NG site location, based on the aforementioned evidence we would not site a well less than 850 feet from any residential dwelling unit or public building, unless the operator could scientifically prove air quality safety at the proposed distance from population.

In 2014 the Town of Erie experienced the Pratt debacle. I will not go into detail other than to say that had the Town had local authority, we would never have approved this Encana drill site 750 from residents back yards. The noise and vibrations were palpable. I visited the site during drilling operations and was literally made ill by the pounding I felt all over my body and the oscillations felt in my ears, as if my ear drums were being beaten as would a base drum. Subsequent to this incident, working with Encana to find solutions to the noise issue, we learned

that the operator could reduce drill rig noise at the state setback distance from the regulated 70 Dba to 55 Dba. So, if Erie had local authority, we would choose to locate a drill rig

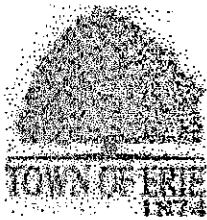
so as to achieve a 55 Dba noise level at the population center, or move the drill site closer to population if the operator could quiet the rig down to the 55 Dba noise level.

That said, if an operator would scientifically prove that all environmental concerns were controlled for a proposed distance from population, then local government would be compelled to approve a site

plan. This is the compromise we should be reaching for. Unfortunately, to date, the industry has been reluctant to prove its environmental safety aspects at distances other than the state approved setbacks.

So you see O & NG could successfully and profitably operate in a local authority environment, but as with any legislation to deal with an issue, especially O & NG, the devils in the details.

Thank you for your consideration, and I am always happy to answer questions about Erie's O & NG experience.



**Mark Gruber**

Mayor Pro tem | Town of Erie

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