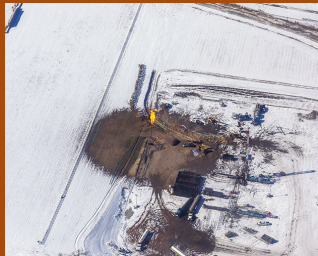


Getting It Right

A Test for Success for the Colorado Oil and Gas Task Force

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25
YEARS

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MISSION STATEMENT

WildEarth Guardians protects and restores the wildlife, wild places, wild rivers, and health of the American West.

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On September 8, 2014, Colorado Governor John Hickenlooper appointed twenty-one Coloradans to be part of a blue ribbon Oil and Gas Task Force. The Task Force was created in response to community members winning local and state ballot measures to directly regulate Colorado's oil and gas industry. The Task Force is tasked with instead providing the Governor, by February 27, 2015, recommendations for new laws and binding rules to regulate the industry.

The driving force for those ballot measures was the overriding need of Coloradans to protect their families and communities from air and water pollution created by the oil and gas industry. Therefore, the success of the Task Force depends entirely on its ability to do the same. If the Task Force fails to provide the level of protections Coloradans demand, community members will simply return to the ballot box and let voters decide for themselves what protections from air and water pollution are needed to keep their families and communities safe from the oil and gas industry.

Therefore, it is important for the Task Force to have clear benchmarks for its success. To that end, WILDEARTH GUARDIANS has sought input from a wide variety of voices and developed a simple and straightforward "Test for Success" for the Task Force. Only by successfully answering these questions positively will the Task Force have succeeded in its appointed goal.

The Ultimate QUESTION

Do the Task Force's recommendations lead to a set of new laws and binding regulations that assure Coloradans that their families and communities will not be put at further risk by air and water pollution from the oil and gas industry?

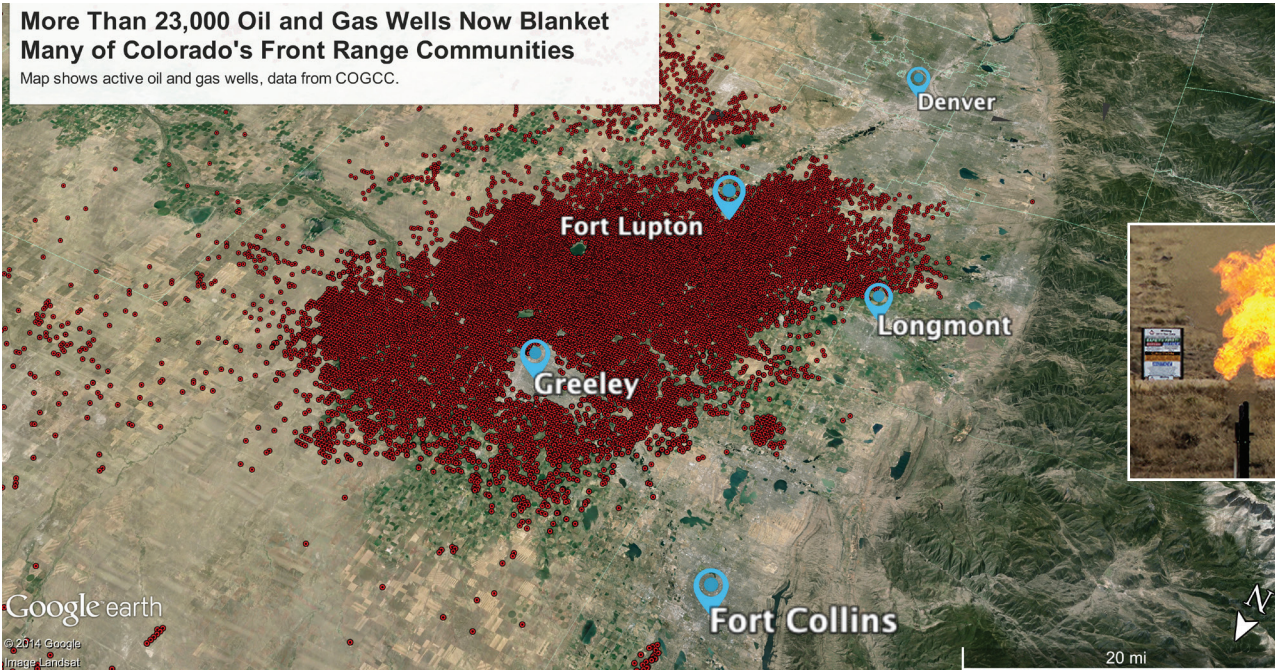
This question will be answered positively if and only if the following four questions are all positively answered.

REPORT CARD

Oil and Gas Task Force Test for Success

PASS	FAIL	
<input type="checkbox"/>	<input type="checkbox"/>	Right to Know?
<input type="checkbox"/>	<input type="checkbox"/>	Safety Triggers?
<input type="checkbox"/>	<input type="checkbox"/>	Bad Actors Banned?
<input type="checkbox"/>	<input type="checkbox"/>	Local Control?

More Than 23,000 Oil and Gas Wells Now Blanket Many of Colorado's Front Range Communities
Map shows active oil and gas wells, data from COGCC.



Right to Know

Do communities, researchers, and health care professionals have the right to know, and are chemical companies required to provide, full disclosure of all of the chemicals used in their oil and gas operations?

At this time, the Colorado oil and gas industry is shrouded in secrecy. Under the guise of “confidential business information,” the industry hides from the public the types and amounts of toxic chemicals it uses to extract oil and gas. Communities are left in the dark about what chemicals are released into their air or pumped through their drinking water aquifers. The oil and gas industry presumes not only a right to pollute, but a right to do so in secret.

“*The oil and gas industry presumes not only a right to pollute, but a right to do so in secret.*”

In fact, families and communities should have a right to know exactly what chemicals are used near their homes, schools, and businesses. The Task Force will only succeed if it requires the oil and gas industry to disclose to nearby communities, to researchers, and to health care professionals the types and amounts of all toxic chemicals it is using. Citizens have a right to know what chemicals are being pumped into the air they breathe in and around their homes. They have a right to know what chemicals are being pumped underground, directly through their aquifers. They have a further right to know the effects of those chemicals, information that can only be provided if independent

“*Doctors faced with treating illnesses caused by exposure to toxic chemicals can only do so effectively if they know what chemicals their patients have been exposed to.*”

researchers are made aware of chemical types and amounts. Finally, doctors faced with treating illnesses possibly caused by exposure to toxic chemicals can do so effectively only if they know what chemicals their patients have been exposed to. Any set of recommendations from the Task Force that does not grant a right to know or does not lead to full disclosure of chemicals used in oil and gas operations will have failed.



ASSOCIATED PRESS



Case in Point

Two of the world’s largest fracking chemical sellers already fully disclose all of the ingredients in their fracking fluids. Baker Hughes Inc. announced in October 2014 that it has been disclosing all of its fracking ingredients since April 2014. Schlumberger Ltd. recently disclosed that it has been doing likewise for years. In comparison, other companies, such as Halliburton Co., continue to claim that the chemicals that they are putting into our air and groundwater are none of our business.

Despite company differences, a recent Department of Energy investigative panel found that mere voluntary disclosure of fracking chemicals by industry led to repeated underreporting of chemical use in the vast majority of instances studied. For this reason, only a mandatory disclosure requirement can truly provide the information needed to keep communities safe.

Safety Triggers

Is the oil and gas industry required to shut down operations when safety triggers are exceeded and air or water quality health standards fail to be fully met?



Numerous oil and gas operations in Colorado have exceeded federal and state air and water quality health-based standards in the past. Remarkably, the State of Colorado generally allows companies to continue exploration and extraction, even while in violation of pollution safety standards.

Air and water quality pollution standards have been set by federal and state regulators at levels scientists believe protect public health. Once these standards are violated, authorities

can no longer honestly assure that our families and communities remain free from exposure to dangerous levels of oil and gas industry chemicals.

Once any air or water quality standard has been exceeded, the State must act immediately to protect families and communities from further exposure to these toxic chemicals. In such situations, state regulators must immediately shut down all oil and gas operations in the area that might be contributing to violations until air and water quality return to safe levels that meet all federal and state standards. This is simply a question of common sense and good government. Any set of recommendations from the Task Force that does not lead to immediate shut downs of oil and gas operations when pollution standards are violated will have failed.

Case in Point

A July 29, 2014 special investigative report by the *Denver Post* found that Colorado oil and gas companies are spilling chemicals at a rate of two spills per day with the public, including local residents, rarely being informed. These spills have released cancer-causing chemicals and include hundreds of spills that have contaminated groundwater and surface water, including agricultural irrigation waters and the Poudre River. Despite 575 spills in Colorado in 2013, a mere 34 spills resulted in penalties, and then at an average fine of only \$34,000.

Best management practices must be required by regulation to reduce the number of spills effectively to zero. Once implemented, in the rare instance chemicals are spilled, operations should be immediately curtailed and local residents should be notified immediately. Companies that spill repeatedly should be denied future permits to drill.

“Oil and gas companies that repeatedly fail to follow regulations and play by the rules cannot be trusted to operate in an industry as dangerous as oil and gas.”



Bad Actors Banned

Is the state required to ban from further exploration and extraction oil and gas companies with a repeated record of violating federal or state regulations?

While some oil and gas exploration and extraction companies try to play by the rules, many do not. Many of those bad actors are repeat offenders that put their profit in front of the safety of our families. Unfortunately, state regulators often turn a blind eye to violations of pollution, safety, and recordkeeping standards. Many companies are driven solely by profits, care little about playing by the rules, and consider nominal fines no more than a cost of doing business.

Oil and gas companies that repeatedly fail to follow regulations and play by the rules cannot be trusted to operate in an industry as dangerous as oil and gas. Small fines irregularly assessed do nothing to deter willful or negligent bad behavior. In our society, we often operate on a three-strikes-and-you're-out principle. That principle should apply to repeat offenders in the oil and gas industry. Any company that is responsible for three violations of health, safety, or recordkeeping standards in a five-year period should be denied future permits for exploration or extraction activities for a five-year period. Any set of recommendations from the Task Force that does not include a three-strikes-and-you're-out provision for assuring that repeat bad actors are prevented from receiving future oil and gas development permits in Colorado will have failed.



Case in Point

According to the Colorado Oil and Gas Information System, the state's oil and gas industry has received more than 80 notices of alleged safety and reporting violations in the last twelve months. The most frequent offender has received 18 such notices during the last year. Many wells have failed mechanical integrity tests, creating threats to groundwater. Drillers have started fires that have threatened oil storage tanks and injured workers, while having inadequate fire safety equipment on site. Oil spills have been improperly cleaned up. Multiple wells have simply been abandoned.

Unfortunately, the Colorado oil and gas industry has clearly demonstrated that some of its members are incapable of responsible self-policing. For these reasons, stronger regulations and effective local oversight are necessary to keep our families and communities safe.

“Colorado oil and gas companies are spilling chemicals at a rate of two spills per day with the public, including local residents, rarely being informed.”



Local Control

Are local communities given a role in overseeing oil and gas operations in their areas and acting when state regulators fail to do so?



The most devastating impacts from oil and gas development are not felt in state offices in Denver. They are experienced in the communities where drilling is taking place. If state regulators had acted expeditiously in the past to protect families and communities in these areas, the impetus for ballot measures would never have arisen.

Local communities impacted by the oil and gas industry must be given the ultimate authority to assure that their communities remain safe, after all, communities retain the right to zone other industrial activities that occur near residential areas. The first

step in providing an assurance of safety comes from industry and agency transparency. All permit application materials and all well, air, and water monitoring data and reports should be provided to the public in a timely fashion on a state website. With this information, local communities can provide a vital back up to state regulators. Where regulators fail to take timely enforcement action against oil and gas operators involved in regulatory violations, persons and communities should be provided with a legal right of action to ensure enforcement of health and safety regulations.

“ *If state regulators had acted in the past to protect families and communities in these areas, the need for ballot measures would never have arisen.* ”

If the Task Force believes the Colorado Constitution must be amended to produce this result, it should surely make that recommendation. Any set of recommendations from the Task Force that does not include provisions assuring agency transparency and local control assuring enforcement of health and safety regulations will have failed.



WILDEARTH GUARDIANS Position on Fracking

Ultimately, WILDEARTH GUARDIANS questions whether fracking can currently be done in a way that protects our families and communities. The only safe fracking would have to result in zero emissions of toxic chemicals, a goal which the oil and gas industry appears helpless to realize. Moreover, there is no scientific doubt that an energy future which includes substantial use of oil and gas hastens us down a path to a global warming disaster. For these reasons, if the above standards cannot be met, GUARDIANS would support a total ban on fracking.



The Task Force, however, has been tasked with developing a consensus position on fracking. In that spirit, GUARDIANS offers this Test for Success, understanding that any deal that does not protect our families and communities from fracking is not a compromise, but a failure.

Conclusion

The Task Force has a single overriding mandate, born of citizens' actions to protect their families and communities from the dangers of the oil and gas industry. That mandate is simply to assure that Colorado's oil and gas laws and regulations, and their effective enforcement, protect Colorado's families and communities from oil and gas exploration and extraction.

For the Task Force to pass this clear test for success, its recommendations must include:

- a right to know and full disclosure from the oil and gas industry,
- safety triggers for pollution violations,
- three strikes and you are out for known repeat bad actors, and
- an ability for local communities to step in when the state fails to enforce its own rules.

WILDEARTH GUARDIANS, in conjunction with concerned citizens, will be reviewing the steps taken by the Task Force to meet these goals and grading the Task Force's recommendations against this Test for Success.

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