

Kerr, Thom

From: Geoff Wilson [gwilson@cml.org]
Sent: Saturday, September 08, 2012 7:58 AM
To: Kerr, Thom
Subject: Setbacks Working Group-CML/CCI comments:Sept.7,2012

Thom-

You have requested written comments from us on the setback issue.

CML and CCI earlier presented formal testimony from Greeley and La Plata County. I will briefly reiterate our position here. CML and CCI do not believe that the current regime of 150/350/500 foot setbacks defined in COGCC rule needs to be changed. The current rule reflects appropriate consideration of the rights of subsurface and surface owners alike, the same balance that local governments regularly seek to achieve locally through exercise of their land use powers.

We attended these meetings, in very large part, because we were interested in whether there is any scientific evidence that the current setback regime does not adequately protect the public health and safety. For us, this dimension of the public trust with which local voters vest their local governments is paramount. After listening to all the testimony in the setback meetings, we are reassured that there does not appear to be any scientific evidence that the current -setbacks need to be increased, *across the board*, for health and safety reasons. On the other hand, testimony indicated that expansion of setbacks across the board to, say, 1000 feet, would materially and adversely affect significant surface owners, including homebuilders and agricultural owners. CML and CCI urge that a more productive focus would be on mitigation measures relating to wells (as many in these meetings have suggested), rather than increasing setbacks across the board.

Consistent with the protocols of the Governor's Task Force on Cooperative Strategies, CML does favor a system nimble enough to address siting issues around *individual* wells at the Form 2 and Form 2A stage of the Commission's permitting process. This includes the farmer who wants the well closer to the house, in order to not interfere with the pivot irrigator, or the municipality that wants to change a proposed location because of a particularly sensitive surface use in the area. Testimony before the task force indicates that that sort of flexibility already exists, but CML and CCI support efforts to make surface owner and local government participation at that stage even more meaningful.

Thank you for the opportunity to comment.

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