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frederickco.gov

Governor Jared Polis
State Capitol Building
Denver, CO 80203
Governorpolis@state.co.us

August 15, 2023

RE: Application of ECMC Financial Assurance Rules to Operator K.P. Kauffman

Governor Jared Polis,

As Mayor of the Town of Frederick, I wanted to notify you about a concerning trend in the Colorado Energy and Carbon Management Commission (ECMC) – formerly the Colorado Oil and Gas Conservation Commission. The financial assurance rules that were adopted just last year are not being properly implemented by ECMC staff. Oil and gas operators are being allowed to post financial assurance that is far less than what the ECMC orphan well fund is paying to plug and reclaim wells. If allowed to continue, this could cost Colorado taxpayers hundreds of millions of dollars in future clean-up costs.

As you are aware, during your first term as Governor the Legislature passed Senate Bill 19-181 and the corresponding reforms to oil and gas rules that placed public health and safety as the priority in the development of oil and gas within the State of Colorado. The legislation, and corresponding agency rules, made Colorado a national leader in the responsible development of oil and gas.

Among other things, Senate Bill 19-181 required financial assurance rulemaking to ensure that every operator is financially capable of fulfilling every obligation including paying to plug, reclaim, and remediate wells that are no longer economic. New rules were written last year that set an expectation that low-producing operators would have to set aside at least \$130,000 per well (over a period of 10-20 years) as security to ensure wells are properly plugged and reclaimed. Unfortunately, these new rules are being poorly implemented which results in risks to Colorado residents.

Frederick is a town of about 16,500 residents that is located on I-25 halfway between Denver and Fort Collins that has been heavily impacted by oil and gas development over several decades. Additionally, Frederick is one of the fastest growing municipalities in Colorado and still has plenty of undeveloped areas within its 15 square miles. Unfortunately, one of the major hurdles for the development of Frederick is historic oil and gas wells. Over the past 40 years, the state has permitted dense oil and gas drilling throughout Frederick. Currently, Frederick has more than 300 wells – the majority of which are no longer producing economic quantities of oil and gas. These wells, and in particular, the wells of K.P. Kauffman, are scattered throughout the

Built on What Matters.

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Town. K.P. Kauffman currently has 107 wells within the Town - 95 of them are considered by the state to be “low producing” or uneconomic.

The Town of Frederick supports responsible oil and gas development. Responsible oil and gas operators, such as Occidental Petroleum, are producing oil and gas but are also actively plugging their low producing wells within Frederick. K.P. Kauffman, on the other hand, behaves as a land speculator rather than an oil and gas operator. It has told our Frederick planning staff, and developers, that it will only plug wells if it is paid large sums of money. K.P. Kauffman is demanding anywhere from \$250,000 to \$500,000 per well for plugging. Their asking price is based, not on the cost to plug and reclaim the well, but on how much additional land can be developed if the well is plugged.

Of even greater concern is the impact of K.P. Kauffman’s wells to existing Frederick residents. Over the past year, there have been at least 17 K.P. Kauffman spills and cleanup (remediation) projects within the Town of Frederick. It is almost always the residents of the Town that discover and report these spills and several remain unresolved to this date. For example:

- The spill that sent oil across the street from Frederick High School was discovered by a resident in March of 2019. It was an open pit for eight months and the remediation has still not been approved by the ECMC staff.
- The Grant Tank battery, and its corresponding wells, surround Legacy Elementary School. The Grant Tank Battery has been an open clean-up site since November 2018. There are several violations tied to this location including the failure of K.P. Kauffman to notify the state and the Town of Frederick about a spill that led to groundwater contamination. The large pit that was left open for more than three years was recently closed but the site has still not been successfully remediated.

With this history, Frederick staff were shocked when, just two weeks ago, ECMC staff agreed with K.P. Kauffman, and reduced its proposed financial assurance burden from \$130,000 / well (based on the analytics prepared by ECMC staff) to only \$40,000 / well. The ECMC staff agreed with K.P. Kauffman’s claim that it can meet reclamation requirements without topsoil and without conducting the work required to remove and reclaim well pads, flowlines, and access roads. Rather than \$100,000 estimated reclamation costs for each well, the ECMC staff agreed with K.P. Kauffman’s offer of a mere \$7,834 per well. If the financial assurance plan is approved, and K.P. Kauffman was to file for bankruptcy, it would leave a shortfall of more than \$90 million to properly plug and reclaim their wells. The proposed K.P. Kauffman financial assurance plan would set a bad precedent for Colorado, and would harm the current and future residents of Frederick. These concessions by the ECMC are in despite of the fact that K.P. Kauffman is under enforcement action wherein the ECMC has levied a fine of \$1.9 million for violations and removed K.P. Kauffman’s certificate of clearance for operation within the State.

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The hearing on K.P. Kauffman's financial assurance plan is scheduled for August 16th-17th. We hope that you will follow this issue as closely as the Town of Frederick, the City of Dacono, and the many other local governments that have K.P. Kauffman wells within their jurisdictions.

Sincerely,



Tracie Crites,
Mayor of the Town of Frederick

