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February 18, 2016

House Committee on State, Veterans, and Military Affairs
c/o Representative Mike Weissman
200 E Colfax Avenue
Denver, CO 80203

Honorable Representative Weissman,

My name is Tracy Kessner, a resident of Louisville, Colorado and a graduate student at CU Boulder in the Masters of the Environment program. I am submitting my public comment to you to be included as material for the record on HB17-1124, Local Government Liable Fracking Ban Oil And Gas Moratorium: Concerning a requirement that a local government that interferes with oil and gas operations compensate persons damaged by the interference. **It is my recommendation that the committee votes NO on HB17-1124 as it seeks to financially penalize local Colorado governments that rightly prioritize the health, safety, and environmental standards of their communities when enacting oil and gas moratoriums.**

The health and safety needs of community members should always be the highest priority of government officials, far above that of corporate financial concerns. Oil and gas well pads sites have sprung up across Colorado with little regard for the health and safety of local residents. By allowing each Colorado community to determine for itself when, where, and if they should allow oil and gas development, local governments put the needs of their residents first. HB17-1124 would financially punish increasingly cash-strapped Colorado communities for prioritizing local needs over enriching industry. Yet, in their turn, oil and gas companies do not provide recompense to communities for the resulting rise in homeowner insurance costs due to

well pad proximity and associated hazards, for the rise in healthcare costs that communities will incur living in areas of dense development, nor will they be required to restore native wildlife to their pre-development levels from the ecosystem damage that follows oil and gas development operations.

Risk to homeowners comes in both physical and financial forms. The physical form of risk is based on the proximity to well pads and their potential hazards. Current setback standards are insufficient to protect residents from potential blowouts and to prevent adverse, long-term health effects. In Colorado, setback distances are currently “500 ft from buildings (such as homes and commercial facilities), 1,000 ft from high-occupancy buildings (schools, day care centers, hospitals, nursing homes, and correctional facilities), 350 ft from outdoor recreational areas (playgrounds and sports fields), and 150 ft from a surface property line.”¹ This distance, does not sufficiently protect residents in case of a blow-out – “When well pressure exceeds the ability of the wellhead valves to control it. Oil and gas “blow wild” at the surface.”² Accidental discharges, spills, and blow-outs are not rare and are a hazard to human health. The most recent blow-out in Colorado was reported on January 20, 2017, near Hudson, CO, forcing the closing of a road in Weld County for two days, spilling an tens of thousands of barrels of hydrocarbons on land south of Greeley.³ Local Colorado governments seeking to protect their residents from such accidents shouldn’t be subject to financial harassment by oil and gas companies. The financial risk to homeowners increases significantly when insurers become less likely to grant loans to properties

¹ Haley, M, M. McCawley, A. Epstein, B. Arrington, and E. Bjerke, (2016) Adequacy of Current State Setbacks for Directional High-Volume Hydraulic Fracturing in the Marcellus, Barnett, and Niobrara Shale Plays. *Environmental Health Perspectives*. 124(9) <https://ehp.niehs.nih.gov/15-10547/>

² Colorado Oil and Gas Conservation Commission website. Glossary of Oil Terms. Retrieved from https://cogcc.state.co.us/COGIS_Help/glossary.htm

³ Finley, B. (2017). Oil well blowout north of Denver near Sand Hills spews hydrocarbons, shutting roads for two days. *Denver Post*. Retrieved from <http://www.denverpost.com/2017/01/23/oil-well-blowout-closes-road-denver-anadarko/>.

near drilling sites. “In 2012, Nationwide Mutual Insurance became the first company to announce it won’t insure damage from fracking. If such policies become the industry norm, property owners may reconsider leasing their mineral rights, banks may hesitate to lend money for homes near drilling sites, title companies may get skittish and homeowners may be exposed to uncomfortably high risks.”⁴ While there is currently debate over whether or not oil and gas development raises or lowers home values across Colorado, there is no debate over the possibility of harm from lax safety practices, shoddy workmanship, leaks, or blow-outs. HB17-1124 means forcing homeowners to accept risks they have no control over.

Health impacts – both in the long- and short-term – are another area that will not be compensated for by oil and gas companies. New research from the Colorado School of Public Health at CU Anschutz shows a correlation between rising childhood cancer cases and proximity to oil and gas development. “The study shows children and young adults between the ages of 5 and 24 with acute lymphocytic leukemia were 4.3 times more likely to live in the densest area of active oil and gas wells than those with other cancers.”⁵ The number of these health impacts will only grow over time as the number of wells increase across Colorado and as more residents are exposed to airborne pollutants as a direct result of oil and gas development. Note that while Federal Laws like the Clean Air Act and the Clean Water Act provides for clean air and water standards across the US, natural gas development is exempt from many of those rules. The particulars are as follows: Clean Air Act: “The oil and gas industry is exempt from critical requirements to assess, monitor, and control hazardous air pollutants.”; Clean Water Act:

⁴ Greene, S. (2013) Drilling and the American Dream: Your perfect home in a Colorado gas patch. Colorado Independent. Retrieved from: <http://www.coloradoindependent.com/144742/drilling-and-the-american-dream-your-perfect-home-in-a-colorado-gas-patch>

⁵ Gill, N. (2017). More research needed to learn why there are more childhood leukemia diagnoses in people living in areas of high-density oil and gas development. CU Anschutz Today. Retrieved from <http://www.cuanschutztoday.org/study-finds-association-proximity-oil-gas-development-childhood-leukemia/>

“exempt from important permitting and pollution control requirements”; Resource Conservation and Recovery Act “Oil and gas waste is exempt from the testing, treatment and disposal provisions that govern the assessment control and clean-up of hazardous waste under this law, and, by extension, from the Comprehensive Environmental Response, Compensation and Liability Act (aka “Superfund”).⁶ These regulations were put in place by the Federal government to protect the American people from industry-caused health. With weakened EPA regulations, the looming repeal of the Affordable Care Act and the removal of pre-existing condition coverage, future Colorado families face chronic illness and medical bankruptcy. HB17-1124 makes that future more, not less, likely to happen.

Risk to Colorado’s wildlife population is encapsulated in the story of the mule deer population decline in the Piceance Basin region. Drilling operations have exploded across the historic breeding and foraging grounds of mule deer all across Colorado, resulting in significant population decline. Research by Colorado Parks and Wildlife has shown that “the cumulative impacts associated with this intense industrialization will dramatically and negatively affect the wildlife resources of the region.”⁷ Additionally, out of the 615 oil and other chemicals spills reported to the Colorado Oil and Gas Conservation Commission in 2015, 90 spills (15%) resulted in water contamination and 61 spills (10%) were within the 500 foot setback from buildings.⁸ Those spills do not just affect human population areas, but also wetlands, livestock, wildlife, soil, and water resources across the state that Coloradoans depend upon for food, water,

⁶ National Resource Defense Council (NRDC). (2013). NRDC Policy Basics: Fracking. Retrieved from: <http://www.nrdc.org/legislation/policy-basics/files/policy-basics-fracking-FS.pdf>

⁷ Andersen, C.R. Jr. et al. (2015). Population Performance of Piceance Basin Mule Deer in Response to Natural Gas Resource Extraction and Mitigation Efforts to Address Human Activity and Habitat Degradation. http://cpw.state.co.us/Documents/Research/Mammals/Publications/AndersonPiceanceDeer_W185-R14_ProgressReport_2014-15.pdf

⁸ Center for Western Priorities. 2015 Colorado Oil and Gas Toxic Release Tracker. Retrieved from: <http://westernpriorities.org/colorado-toxic-release-tracker/>

farming, hunting, and recreation purposes. HB17-1124 penalizes communities for protecting and preserving Colorado's natural resources.

In brief, oil and gas development companies have a fiduciary duty to their stockholders to operate their businesses for the profit of their stakeholders, regardless of the cost to the people impacted by those business operations. This motivating force is in direct contrast to local governments, which have a civic duty to care for the needs of community members. By holding local governments "liable to the mineral interest owner for the value of the mineral interest" and demanding compensation for "oil and gas operators, mineral lessees, and royalty owners for all costs, damages, and losses of fair market value associated with the moratorium", HB17-1124 forces communities to prioritize the economic needs of industry over the wellbeing of Coloradoans.⁹

I exhort you to vote NO on HB17-1124. Promoting the economic interests of oil and gas over protecting Colorado communities is a massive environmental, social, and financial mistake.

Most sincerely yours,

A handwritten signature in black ink, appearing to read "Tracy E. Kessner", written over a large, stylized, hand-drawn scribble or graphic element.

Tracy E. Kessner

⁹ 71st Colorado General Assembly. (2017). House Bill 17-1124. Local Government Liable Fracking Ban Oil And Gas Moratorium. Retrieved from: <http://leg.colorado.gov/bills/hb17-1124>