DISTRICT COURT, LARIMER COUNTY, COLORADO Address: 201 La Porte Avenue, Suite 100 Fort Collins, CO 80521 Phone: (970) 494-3500	
PLAINTIFF COLORADO OIL & GAS ASSOCIATION v. **DEFENDANT** CITY OF FORT COLLINS, COLORADO and **PROPOSED INTERVENORS** CITIZENS FOR A HEALTHY FORT COLLINS, SIERRA CLUB, AND EARTHWORKS ("MEASURE PROPONENTS")	▲ COURT USE ONLY ▲ Case Number: 2013CV31385 Div.: 5B
Attorneys for Measure Proponents Names: Elizabeth Kutch (Student Attorney) Timothy O'Leary (Student Attorney) Gina Tincher (Student Attorney) Kevin J. Lynch (Professor and Supervising Attorney; CO #39873) Address: Environmental Law Clinic University of Denver Sturm College of Law 2255 E. Evans Ave, Suite 335 Denver, CO 80208 Phone: (303) 871-6140 Fax: (303) 871-6847 E-mail: klynch@law.du.edu	

MEASURE PROPONENTS' MOTION TO STAY PROCEEDINGS

Citizens for a Healthy Fort Collins, the Sierra Club, and Earthworks (collectively, "Measure Proponents") request that the Court stay further

proceedings in this case until the Colorado Court of Appeals determines if the Measure Proponents may intervene as defendants.

COLO. R. CIV. P. 121 § 1-15(8) CERTIFICATION

Measure Proponents have conferred with the Plaintiff, Colorado Oil and Gas Association ("COGA") and Defendant City of Fort Collins ("City") on this matter. The Measure Proponents have been advised that COGA opposes the Motion. The City does not take a position on the Motion, though it reserves the right to at a later date.

INTRODUCTION

In 2013, based on growing concerns over the potential effects of fracking, a group of local citizens formed Citizens for a Healthy Fort Collins in order to petition for a ballot measure to temporarily halt hydraulic fracturing within Fort Collins. The ballot measure enacted a five-year moratorium on fracking to allow the City to ensure that this highly invasive industrial process was safe to perform near citizens' homes, businesses, and schools.

On March 27, 2014, this Court denied the Measure Proponents' Motion to Intervene. On April 18, 2014, the Measure Proponents filed a Notice of Appeal with this Court and the Colorado Court of Appeals. The Notice of Appeal shows that intervention should have been granted in this case because: (1) the City of Fort Collins cannot represent the interests of the Measure Proponents who reside outside of the City; (2) the City has already indicated in an official Resolution that it does not support the moratorium and therefore cannot now claim to adequately represent the interests of those who campaigned for the measure; and (3) the Court cannot assume that the City will adequately represent the interests of the Measure Proponents just because COGA says they will. The City has been silent on this matter.

On April 1, 2014, this Court set deadlines for Summary Judgment Motions. However, this case is centered on the question of preemption. Preemption presents mixed questions of law and fact. *See Mt. Emmons Mining Co. v. Crested Butte*, 690 P.2d 231, 238 (Colo. 1984). Courts have rejected a categorical approach to the preemption analysis. *Commerce City v. State*, 40 P.3d 1273, 1282 (Colo. 2002). Therefore, a court must perform an initial inquiry to determine if this is a matter of local, mixed, or state concern. *Id.* at 1280. When making this determination, a court must consider "the totality of the circumstances." *Id.* Such an inquiry requires a fully developed factual record. *See City & Cnty. of Denver v. State*, 788 P.2d 764, 767-68 (Colo. 1990). "Even if the historical facts underlying the mixed question might be undisputed, as long as a reasonable trier of fact nevertheless could draw divergent inferences from application of the legal criteria to the facts, summary judgment should be denied." *Crested Butte*, 690 P.2d at 239.

The Measure Proponents seek to introduce evidence that the Fort Collins fracking moratorium is a matter of local concern. Without the participation of the Measure Proponents, the Court will be unable to fully appreciate the impact that oil and gas development has on individual citizens. This argument differs from that offered by the City. The City has an interest in protecting its home-rule authority but has no interest in protecting the property values, health, and safety of individual citizens.

Similarly, if this Court were to determine that the moratorium is a matter of mixed concern, evidence would still be required to establish whether an operational conflict exists. It is well settled that the Colorado Oil and Gas Conservation Act ("COGCA") does not confer express or implied preemption over all local regulation of oil and gas activities. *See Bd. Cnty. Com'rs, La Plata Cnty. v. Bowen/Edwards*, 830 P.2d 1045, 1057-58 (Colo. 1992). Additionally, the COGCA does not result in field preemption of oil and gas regulation. *Id.* at 1059. Instead, the validity of a local land use regulation is a question of operational conflict preemption; such a conflict arises where "the effectuation of a local interest would materially impede or destroy the state interest." *Id.* That determination "must be resolved on an ad-hoc basis under a fully developed evidentiary record." *Id.* at 1060.

Because the Court has set deadlines for Summary Judgment Motions with limited evidence being before the Court, the Measure Proponents now seek to stay any further proceedings in the District Court until their appeal of the Motion to Intervene can be decided by the Colorado Court of Appeals. Without a stay, Measure Proponents will likely miss the opportunity to help develop the factual record that is required for a preemption analysis because the Court may rule on Summary Judgment Motions before the Court of Appeals grants Measure Proponents' intervention. If this case is decided at the summary judgment stage, the Measure Proponents will be without any recourse to protect their interests.

LEGAL BACKGROUND

I. STAY

When determining if a stay is proper, the court will consider four factors: (1) whether the applicant has shown a likelihood of success on appeal; (2) whether the applicant will suffer irreparable harm absent a stay; (3) whether the other parties will be substantially injured by a stay; and (4) where the public interest lies. *Romero v. City of Fountain*, 307 P.3d 120, 122 (Colo. App. 2011).[1]

[1] Although *Romero* concerns a stay pending denial of a preliminary injunction, the *Romero* test can be analogized to a stay pending appeal of a denial of a motion to intervene. Additionally, in a United States Claims Court case where appellees asked the court to stay the case pending their appeal of denial of intervention, the court

The probability of success that the movant must demonstrate is inversely proportional to the amount of irreparable injury the movant will suffer absent the stay. *Id.* "Simply stated, more of one excuses less of the other." *Id.* at 153.

For the second and third factors, the movant satisfies the irreparable harm requirement by demonstrating "a danger of real, immediate, and irreparable injury that may be prevented by the requested relief." *Id.* at 123. After determining the harm that would be suffered by the movant absent a stay, the court must then weigh that harm against the harm the other parties would suffer if a stay were granted. *Id.*

Finally, as to the public interest factor, the court must consider whether there are public policy considerations that bear on whether a stay should be granted. *Id.*

II. PREEMPTION

To determine if a state statute preempts a home rule city's ordinance, the court must first determine if it is a local, state, or mixed issue. *Voss v. Lundvall Bros., Inc.*, 830 P.2d 1061, 1066 (Colo. 1992). A determination of local, state, or mixed issue "must draw a legal conclusion based on all the facts and circumstances presented by a case." *Id.* If the court deems the matter a local issue, the local municipality's ordinance overrides the state statute. *Id*. However, if deemed a mixed local and state issue, "a home-rule municipal ordinance may coexist with a state statute as long as there is no conflict between the ordinance and the statute, but in the event of a conflict, the state statute supersedes the conflicting provision of the ordinance." *Id.*

FACTUAL BACKGROUND

Hydraulic fracturing ("fracking") is a well stimulation technique that requires the injection of millions of gallons of chemically-laced water into a geologic formation to increase the amount of oil and gas produced. In order to perform the fracking process, vast amounts of water must be transported to the location. This causes various issues for people living near wells including noise, dust, and diesel emissions.[2] *See* Bruce Baizel Aff. ¶ 3; *see also* Ron Throupe, *et al.*, *A Review of Hydro "Fracking" and its Potential Effects on Real Estate*, 21 Real Estate Literature 205, 217-18 (2013). Additionally, Measure Proponents that live near wells that are being

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used a similar test to determine whether the stay was proper. *See Am. Mar. Transp., Inc. v. United States*, 15 Cl. Ct. 360, 361 (1988).

[2] Measure Proponents plan to fully develop the local issues associated with fracking, including using experts that can testify to the impacts fracking has on health, property values, and the environment through their involvement in this case. As noted in the discussion below, fully developing the local issues is necessary to determine if this case involves a matter of state, local, or mixed concerned in order to determine if the local municipality may regulate. *See Voss*, 830 P.2d at 1066.

fracked may also have to deal with soil contamination, toxic emissions, and noxious odors. *See Bruce Baizel* Aff. ¶ 3. Fracking can also cause water contamination and Measure Proponents have already spent money testing their own water and purchasing alternative sources to drink. *See Bruce Baizel* Aff. ¶ 5. These are just a sample of some of the issues that come to bear on small towns like Fort Collins when oil and gas companies decide to conduct exploration and production activities in urban settings. Because fracking now occurs in close proximity to homes and schools, concerns about health, property values, and environmental impacts have become commonplace among Colorado citizens living near the Front Range. *See e.g.*, Elizabeth Giddens Aff. ¶ 6; Ron Holleman Aff. ¶ 9. It is this concern that led over 24,000 citizens in Fort Collins to vote in favor of the moratorium.

On March 27, 2014, the Court denied the Measure Proponents' Motion to Intervene. On April 1, the Court issued an order setting the following expedited schedule for summary judgment deadlines:

April 18 – the Plaintiff's Summary Judgment Motion

May 9 – Defendant's Response/Cross-Motion

May 16 – Plaintiff's Reply/Response to Cross-Motion

May 23 – Defendant's Reply on Cross-Motion

Order Setting Summ. J. Deadlines Apr. 1, 2014. Because the Court has proceeded directly to the summary judgment stage, there is no discovery schedule, no mandatory disclosures, no trial setting, and no expert disclosures. Additionally, in the City's disclosure, it did not disclose any information regarding the local impacts fracking has on communities. The Measure Proponents now seek a stay on these proceedings until the Court of Appeals rules on their appeal of the denial of the Motion to Intervene.

ARGUMENT

Because the Measure Proponents will suffer irreparable harm if this case is decided at the summary judgment stage, a stay is necessary to protect the interests of the Measure Proponents and the public interests discussed below.

I. MEASURE PROPONENTS ARE LIKELY TO SUCCEED ON THE APPEAL OF THE DENIAL OF THEIR MOTION TO INTERVENE

Measure Proponents will likely succeed on their appeal because the City does not and cannot represent non-Fort Collins' residents, the City must represent broad community interests that are not always the same as those of the Measure Proponents, and the City officially opposed the moratorium. Notably, the City has never even claimed to adequately represent the interests of the Measure Proponents.

First, the City lacks the authority to represent the Measure Proponents that live and own property outside the City of Fort Collins. In *Roosevelt v. Beau Monde Co.*, the Colorado Supreme Court allowed residents of Cherry Hills Village to intervene because the City of Englewood could not possibly represent the interests of residents living outside its borders. 384 P.2d 96, 100 (Colo. 1963). In fact, the court held that the trial court had misinterpreted *Denver Chap. of Colo. Motel Assn. v. City and Cnty. of Denver*, 374 P.2d 494 (Colo. 1962), when it determined that the city adequately represents its citizens absent a showing of bad faith, collusion, or fraud. *Id*.

> In stating that certain facts shall be considered as showing inadequacy of representation, it does not follow that inadequacy of representation may not be shown by other facts-such as here, where certain persons who will be affected by the outcome of the litigation are not represented at all, or where the interests of Englewood as a city and those of intervenors are or may be adverse.

Id. at 101. In addition, "[i]t is not the duty or privilege of Englewood's attorney to represent the owners of property located without the city limits." *Id.* Therefore, municipalities do not have the authority to represent or procure counsel for individuals outside of their boundaries. *Id.* at 100.

Here, Measure Proponents include both residents of Fort Collins and also members who reside in other cities. *See* Bruce Baizel Aff. ¶ 2. For example, Kelly Giddens, the founder of Citizens for a Healthy Fort Collins, has children that attend school in Fort Collins, and therefore her family spends a large portion of their time in Fort Collins. Elizabeth Giddens Aff. ¶¶ 3, 9-10. However, Ms. Giddens and her family live in Wellington, CO., and therefore are not residents of Fort Collins. Elizabeth Giddens Aff. ¶ 3. As the City cannot represent non-residents and some Measure Proponents are non-residents, the City cannot possibly provide adequate representation of the Measure Proponents' interests.

Second, the City has a duty to protect the broad interests of the community, which do not align with Measure Proponents' narrow interests in defending their members' health, safety, and property values. *See Utah Ass'n of Cntys v. Clinton*, 255 F.3d 1246, 1255 (10th Cir. 2001). For example, the City urged voters to not enact the fracking moratorium. *See* Resolution 2013-085. This act shows that the City considers all of the interests in the City and balances them, rather than only asserting their citizens' rights to health, safety, and protection of property.

Finally, the City has never even taken a stance on the Measure Proponents' intervention. The City has likewise never claimed it would (or could) adequately defend the interests of the Measure Proponents in the litigation, and therefore the Court cannot presume it will.

II. THE MEASURE PROPONENTS STAND TO SUFFER IRREPARABLE HARM IF THE STAY IS NOT GRANTED

Measure Proponents will suffer irreparable harm if this case continues forward without their participation. Without a stay, Measure Proponents will lose the opportunity to contribute to the case's factual record, which is needed to determine whether this is a local, state or mixed issue. As noted above, the Measure Proponents do not believe the City will adequately represent their local interests before the Court. Missing the opportunity to participate in the case's dispositive determinations will leave the Measure Proponents' without recourse to properly defend the moratorium.

Because the existing parties must submit their briefing for summary judgment by April 18, 2014, it is possible the Court will rule on their motions before the appellate court grants Measure Proponents' intervention. Without Measure Proponents' input on summary judgment, the Court will rule prematurely on dispositive issues without hearing the Measure Proponents' position. Preemption requires both a legal and factual analysis. "To determine that a matter is of local, state, or mixed concern is to draw a legal conclusion *based on the facts and circumstances* of each case." *City of Northglenn v. Ibarra*, 62 P.3d 151, 155 (Colo. 2003)(emphasis added). As citizens that live near proposed fracking wells, it is necessary for the Court to hear Measure Proponents' local concerns regarding their health, safety, and property values in order to properly rule on summary judgment.

According to the current expedited briefing schedule, the Court will determine if the moratorium is of local, mixed, or state concern before the parties develop a factual record. As far as Measure Proponents know, there is no discovery schedule, no trial setting, and therefore no expert disclosures. If the Court does not fully consider the impact fracking will have on the local community, the Court will be in contravention of established Colorado Supreme Court rulings that a determination "must be resolved on an ad-hoc basis under a fully developed evidentiary record." *Bowen/Edwards*, 830 P.2d at 160. In this case, expert testimony regarding the impacts of fracking on local communities is required to properly understand the issues. Experts can testify and provide affidavits regarding both the health effects associated with fracking and the decrease in property values that result from this process. Given the hasty briefing schedule, it is unlikely that the City attorneys have procured the appropriate affidavits in order to fully defend the moratorium. Rather, it seems the City has acquiesced to a truncated summary judgment procedure with little or no factual development, which indicates the City does not plan to diligently defend the moratorium.

Finally, an adverse ruling will leave Measure Proponents without any other recourse to defend the moratorium. If the Court overturns the fracking moratorium while Measure Proponents are appealing intervention, oil and gas development will expose Measure Proponents to danger without allowing them to defend the

moratorium that they sponsored. Specifically, allowing fracking near their homes will expose Measure Proponents to chemicals that are known carcinogens and possible endocrine disruptors. No amount of monetary compensation can replace a family member's health.

III. THE CITY AND COGA SUFFER LITTLE TO NO HARM IF THE STAY IS GRANTED

The City will suffer no harm if the Court grants the motion to stay. COGA will suffer minimal harm if the Court grants the stay. Therefore, the non-moving parties' interest in the litigation moving forward is minimal when compared to the potential harm suffered by Measure Proponents.

A. The City Suffers No Harm if the Stay is Granted

This Court has held that City's interest lies in defending the moratorium. Order Den. Mot. to Intervene, p. 2. In light of this, the City will suffer no harm if a stay is granted. Their interest in defending the moratorium will be protected by the continued absence of fracking pending the Measure Proponents' appeal.

B. COGA and its Members Suffer Minimal Harm if the Stay is Granted

Any harms that COGA might face in this situation are minimal. COGA has not identified any application for a permit to drill or any individual member who is harmed by the moratorium in this case. Thus, any delay caused by this stay would have minimal, if any, effect on COGA's interests. Furthermore, when considering COGA's harm, the Court should balance the various risks that COGA faces in light of a stay.

For instance, if the Court grants the stay and the Measure Proponents lose on appeal, COGA suffers little harm. COGA's main harm will be delay in the adjudication on the merits. However, because COGA has identified no immediate plans to frack within Fort Collins, it appears that a delay in this case would not in fact harm COGA.

Under these circumstances, the risk of harm to the non-moving parties is minimal at best. However, the risk of harm to the Measure Proponents if a stay is not granted is severe. Therefore, the Court should grant this Motion to Stay.

IV. THE PUBLIC INTEREST IN PREVENTION OF ENVIRONMENTAL HARM AND JUDICIAL ECONOMY SUPPORT THE GRANT OF A STAY

The public interest weighs heavily in favor of granting the stay.

After the City Council revoked a previously enacted ordinance banning fracking within the city limits, the citizens of Fort Collins took steps to prevent irreparable environmental and health impacts. *See* City Ord. 32, 2013, attached as Ex. A; *see also* City Ord. 57. 2013, attached as Ex. B. A majority of the voters in Fort Collins voted in favor of the fracking moratorium. They voted this way despite the City Council officially requesting them to vote against the measure. *See* COGA's Ex. 5

to Br. in Supp. of Summ. J. Ex. 5. This request was more than a simple suggestion offered during the course of a City Council meeting. The City's anti-moratorium stance was so strong that they put their position in writing when they issued the official City resolution urging voters to strike down the measure. COGA makes light of this fact stating that despite the City's public opposition to the moratorium, the City can now provide an adequate defense for the measure. This defies logic.

Additionally, there is an interest in judicial economy that supports granting the stay. For example, if the Court denies the stay, and the appellate court grants Measure Proponents' Motion to Intervene, COGA could suffer monetary harm. First, COGA would need to rewrite and re-litigate the Motions for Summary Judgment because they would have to address any arguments made by the Measure Proponents. Therefore, COGA would end up paying their attorneys twice to litigate the same issue. COGA would also incur multiple filing fees if this occurred.

CONCLUSION

The Measure Proponents are likely to succeed on their appeal because the City does not and cannot represent non-Fort Collins' residents, the City must represent broad community interests that are not always the same as those of the Measure Proponents, and the City officially opposed the moratorium.

Furthermore, the Measure Proponents will suffer irreparable injury if this stay is not granted because they will be left without a means to defend the moratorium that protects members from irreversible harm to their health. Conversely, COGA and the City of Fort Collins will not suffer any substantial harm as a result of the stay. Finally, the public interest lies in ensuring the votes of the citizens of Fort Collins are respected and given a zealous defense by those who drafted, supported, and campaigned for the moratorium. Further, judicial economy would be achieved by the stay.

Therefore, the Measure Proponents respectfully request the Court grant this Motion to Stay any further proceedings until the appeal of the denial of the Motion to Intervene is decided.

Respectfully submitted, this 25th day of April, 2014.

/s Kevin Lynch
Kevin Lynch (Professor and
Supervising Attorney, CO Bar No. 39873)
Elizabeth Kutch (Student Attorney)
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Counsel for Intervenors: Citizens for a Healthy Fort Collins, Sierra Club, and Earthworks

This document was filed electronically pursuant to C.R.C.P. 121 § 1-26. The original signed document is on file with the University of Denver Environmental Law Clinic.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2014, a true and correct copy of the above and foregoing **MEASURE PROPONENTS' MOTION TO STAY** was served via the Integrated Colorado Courts E-Filing System (ICCES), on:

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This document was filed electronically pursuant to C.R.C.P. 121 § 1-26. The original signed document is on file with the University of Denver Environmental Law Clinic.

EXHIBIT A

ORDINANCE NO. 032, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CODE OF THE CITY OF FORT COLLINS
TO IMPOSE A BAN ON
HYDRAULIC FRACTURING AND CERTAIN
STORAGE OF WASTE WITHIN THE CITY

WHEREAS, in December 2012, the City Council authorized a moratorium preventing any further drilling for oil and gas in the City until July 31, 2013; and

WHEREAS, since that time, citizens have requested that the City Council consider imposing a ban on hydraulic fracturing in the City; and

WHEREAS, the City Council has determined that in order to preserve the health, safety and welfare of the City residents, hydraulic fracturing should be banned within the City, as well as the storage in open pits of solid or liquid wastes and/or flowback created in connection with the hydraulic fracturing process; and

WHEREAS, the City Council has further determined that in order to respect the rights of existing oil and gas operators in the City, the proposed ban on hydraulic fracturing and storage should not apply to any oil or gas wells or pad sites existing within the City as of February 19, 2013, provided that the operators of such wells and/or pad sites enter into satisfactory agreements with the City to regulate their existing and future operations;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Chapter 12 of the Code of the City of Fort Collins is hereby amended by the addition of a new Article VIII which reads in its entirety as follows:

ARTICLE VIII.
HYDRAULIC FRACTURING

Sec. 12-135. Hydraulic fracturing/open pit storage prohibited.

The use of hydraulic fracturing to extract oil, gas or other hydrocarbons, and the storage in open pits of solid or liquid wastes and/or flowback created in connection with the hydraulic fracturing process is prohibited within the City.

Sec. 12-136. Exemptions.

The prohibitions contained in §12-135 shall not apply to any oil or gas wells or pad sites existing within the City on February 19, 2013, that become the subject of an operator agreement between the operator of the same and the City, as long as such agreement includes strict controls on methane release and, in the judgment of the City Council, adequately protects the public health, safety and welfare.

Introduced, considered favorably on first reading, and ordered published this 19th day of February, A.D. 2013, and to be presented for final passage on the 5th day of March, A.D. 2013.

Karen Weitkunat
Mayor

ATTEST:

Wanda Nelson
City Clerk

Passed and adopted on final reading on the 5th day of March, A.D. 2013.

Karen Weitkunat
Mayor

ATTEST:

Wanda Nelson
City Clerk

EXHIBIT B

ORDINANCE NO. 057, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
TERMINATING THE MORATORIUM IMPOSED BY ORDINANCE NO. 145, 2012
WITH RESPECT TO OIL AND GAS OPERATIONS CONDUCTED
UNDER AN AMENDED OIL AND GAS OPERATOR AGREEMENT BETWEEN THE CITY
AND PROSPECT ENERGY, LLC, AND EXEMPTING SUCH OPERATIONS FROM
THE PROHIBITIONS CONTAINED IN SECTION 12-135 OF THE CITY CODE

WHEREAS, by Ordinance No. 145, 2012, the City Council established a moratorium on the acceptance or processing of land use applications, permit applications and other applications seeking approval to conduct oil and gas extraction or related operations within the City (the Moratorium"); and

WHEREAS, Section 12-135 of the City Code prohibits hydraulic fracturing and open pit storage in the City; and

WHEREAS, by Resolution 2013-024 of the Council of the City of Fort Collins, the City Council approved an Oil and Gas Operator Agreement between the City and Prospect Energy, LLC dated March 19, 2013 that applies to all existing and future operations in the areas that are the subject of the Agreement, and by Resolution 2013-036 the City Council has adopted certain amendments thereto (the "Amended Agreement"); and

WHEREAS, the City Council has determined that the oil and gas operations of Prospect Energy, LLC should be exempted from the Moratorium and the prohibitions contained in Section 12-135 of the City Code as long as such operations are conducted in conformance with the terms and conditions of the Amended Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. The moratorium imposed by Ordinance No. 145, 2012 is hereby terminated with respect to all oil and gas operations conducted in conformance with the terms and conditions of the Amended Agreement.

Section 2. The prohibitions contained in Section 12-135 of the City Code shall not apply to oil and gas operations conducted by Prospect Energy, LLC that are governed by the Amended Agreement as long as Prospect Energy, LLC conducts such operations in conformance with the terms and conditions of the Amended Agreement.

Section 3. That in the event that a conflict exists between the provisions contained in Section 12-135 of the City Code and the provisions of this Ordinance, this Ordinance shall control.

Introduced, considered favorably on first reading, and ordered published this 19th day of March, A.D. 2013, and to be presented for final passage on the 21st day of May, A.D. 2013.

Karen Weitkunat
Mayor

ATTEST:

Wanda Nelson
City Clerk

Passed and adopted on final reading on the 21st day of May, A.D. 2013.

Karen Weitkunat
Mayor

ATTEST:

Wanda Nelson
City Clerk