

DISTRICT COURT, LARIMER COUNTY, COLORADO 201 La Porte Avenue, Suite 100 Fort Collins, Colorado 80521	DATE FILED: March 25, 2014 3:41 PM FILING ID: 4C3ED545EB3CE CASE NUMBER: 2013CV31385
Plaintiff: COLORADO OIL & GAS ASSOCIATION v. Defendant: CITY OF FORT COLLINS, COLORADO	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
Attorneys for Plaintiff Colorado Oil & Gas Association: Name(s): Mark J. Mathews, #23749 John V. McDermott, #11854 Wayne F. Forman, #14082 Michal D. Hoke, #41034 Address: BROWNSTEIN HYATT FARBER SCHRECK, LLP 410 Seventeenth Street, Suite 2200 Denver, Colorado 80202-4437 Phone: 303.223.1100 FAX : 303.223.1111 E-mail: mmathews@bhfs.com; jmcdermott@bhfs.com wforman@bhfs.com; mhoke@bhfs.com	Case Number: 2013CV31385 Div.: 5B
PLAINTIFF'S STATUS REPORT AND CERTIFICATE OF COMPLIANCE WITH RULE 16	

Plaintiff Colorado Oil & Gas Association (“COGA”), through undersigned counsel, provides this status report regarding its efforts to comply with the Court’s Case Management and Scheduling Order, Rule 16.1, C.R.C.P. (Simplified Civil Procedure for Civil Actions) (Feb. 4, 2014), which directed that the case proceed under the simplified procedures of C.R.C.P. 16.1. On March 11, 2014, both parties filed notices pursuant to Rule 16.1(d) electing to be excluded from the requirements of Rule 16.1. As a result, pursuant to Rule 16.1(d), the case is now governed by Rule 16. Accordingly, COGA provides this status report and certification of its compliance with the requirements of Rule 16(b)(3)–(6) rather than with Rule 16.1(h).

COGA certifies that the parties have complied with the requirements of C.R.C.P. 16(b)(3)–(6). Discussions are ongoing regarding whether a modified case management order is necessary. COGA has not set the case for trial, because its obligation to do so under C.R.C.P. 16(b)(4) is excused pursuant to the Court’s Case Management and Scheduling Order, Rule 16.1, C.R.C.P. (Simplified Civil Procedure for Civil Actions) (Feb. 4, 2014), which instructs COGA not to set the case for trial.

The parties have discussed the possibility of ADR, and do not believe that ADR is appropriate in this case because COGA is challenging the legal validity of a City ordinance adopted through a citizen-initiated ballot measure.

COGA and the City have had discussions regarding the likely duration and timing of a trial in this case. The issue is complicated somewhat by the pending Motion to Intervene filed by intervenor applicants Citizens for a Healthy Fort Collins, Sierra Club, and Earthworks. The City has filed an answer to COGA’s complaint, but the intervenor applicants have requested leave to file a motion to dismiss the complaint that challenges, among other things, COGA’s standing. Should the Court grant the intervenor-applicants’ Motion to Intervene, COGA anticipates that the proceedings will be delayed while the motion to dismiss is litigated. Delay may also result from the intervenor applicants’ intent to “present[] arguments to protect the Fracking Moratorium that the City has not raised” and from their efforts to provide “descriptive richness that may otherwise be absent from this case.” Mot. to Intervene at 9 & 10 (Feb. 13, 2014). Accordingly, at this time, COGA is unsure of when it can reasonably expect the case to be ready for trial or how long a trial is likely to last. COGA will file a revised or supplemental Certificate of Compliance once the Court has ruled on the intervenor applicants’ Motion to Intervene.

In addition, based on its inquiry with the Court’s clerk, COGA understands that the Court would also like the parties to set deadlines for expert disclosures pursuant to Rule 26(a)(2). Appropriate timing for these disclosures depends on when the case is likely to be set for trial and, like the trial date, may depend on the Court’s decision regarding the Motion to Intervene. The parties will meet and confer to determine when they anticipate making expert disclosures and COGA will include a proposed deadline in its revised or supplemental Certificate of Compliance.

DATED: March 25, 2013.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of March 2014, I filed the foregoing **PLAINTIFF'S STATUS REPORT AND CERTIFICATE OF COMPLIANCE WITH RULE 16** with the clerk of Court via ICCES which will send notification of such filing to the following:

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