

**COLORADO COURT OF APPEALS**

Court Address: 2 East 14<sup>th</sup> Avenue  
Denver, CO 80203

Appeal from Larimer County District Court  
The Honorable Gregory M. Lammons  
Case No. 2013CV31385

**Appellant:**

**CITY OF FORT COLLINS, COLORADO**

**v.**

**Appellee:**

**COLORADO OIL AND GAS  
ASSOCIATION**

Attorney for Amicus Curiae:

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Case No. 2014CA001991

**MOTION OF NORTHWEST COLORADO COUNCIL OF  
GOVERNMENTS ACTING BY AND THROUGH ITS WATER QUALITY  
QUANTITY COMMITTEE FOR LEAVE TO PARTICIPATE AS AMICUS  
CURIAE IN SUPPORT OF APPELLANT**

COMES NOW, the Northwest Colorado Council of Governments (“NWCCOG”), by and through Torie Jarvis, and pursuant to Colorado Appellate Rules, Rule 29, moves the Court for leave to participate as *amicus curiae* in support of the Appellant in this matter. As support of this motion, NWCCOG states:

1. Description of NWCCOG:

Northwest Colorado Council of Governments (“NWCCOG”) is a voluntary association of county and municipal governments that serves 26 member jurisdictions in a 6-county region of northwest Colorado. NWCCOG appears as *amicus curiae* by and through its Water Quality and Quantity Committee, a subcommittee of NWCCOG whose mission includes the protection and implementation of local government authority to protect water resources.

2. Interest of NWCCOG:

NWCCOG’s interest in this appeal is in protecting local government authority to regulate for public health, safety, and welfare through land use planning. NWCCOG members regularly engage in land use planning and rely on moratoria to institute responsible and prudent regulations that benefit community assets and protect community health, safety, and welfare. NWCCOG local governments, like those throughout Colorado, are continually evaluating what

particular uses of land are compatible with local character and community development goals. Local governments must be responsive to changing economic climates, rapidly changing technologies, and a variety of other factors affecting public health, safety, and welfare in their land use planning. Moratoria are essential to NWCCOG members' ability to responsibly regulate land uses and to respond to these rapid changes because they allow time to pause, plan, study, and develop prudent, responsive land use regulations.

NWCCOG also has an interest in this appeal as an area of the state experiencing dramatically increased development of natural gas. The NWCCOG region is in the southern part of the gas-rich Piceance Basin. Oil and gas development is economically important in the region, as are recreation and tourism. NWCCOG members strive to find balance in their land use planning and regulations to support and encourage the responsible development of these disparate economic sectors.

NWCCOG is concerned that if the district court's decision stands, local governments will be stripped of a major part of their land use planning authority, the ability to enact moratoria, and to reasonably regulate oil and gas development. NWCCOG would intend to use the opportunity of being an *amicus curiae* to help inform this honorable Court of the long-standing and important role of local land

use planning in the oil and gas regulatory scheme and the concerning, broad-reaching legal and public policy ramifications of the district court's decision.

3. Desirability of NWCCOG's participation as *amicus curiae*:

The issues raised in this appeal are essential to Colorado local governments, including those in the NWCCOG region, and to their constituents. If the district court's decision stands, it may create wide-ranging legal and policy implications for local governments throughout Colorado. The ruling may endanger local governments' authority to enact moratoria in response to any concerns for public health, safety, and welfare for any reason. The district court's decision may endanger local government authority to enact any land use regulations to allow for the reasonable, measured development of oil and gas throughout the State. The court's decision also brings into question the well-accepted legal framework for determining how local government regulations may be harmonized with the Colorado Oil and Gas Conservation Act.

NWCCOG seeks to participate as an *amicus curiae* in order to present the court with a local government perspective on the significant issues raised in this appeal.

4. The attorneys for the Appellant consent to the participation of NWCCOG as *amicus curiae* in support of reversal of the District Court decision.

WHEREFORE, NWCCOG submits that it would be in the public interest and the interest of this Honorable Court to allow NWCCOG to appear and file a brief as *amicus curiae* in support of reversing the Court of Appeals decision below. Pursuant to Colorado Appellate Rules, Rule 29, NWCCOG is conditionally filing its brief with this Motion. An Order for the Court permitting such participation is requested.

Respectfully submitted this 6<sup>th</sup> day of February, 2015.

/s/ Torie Jarvis  
Torie Jarvis, #46848  
Attorney for the Northwest Colorado  
Council of Governments