

Oil and Gas Onslaught Poised to Hit Elizabeth and Kiowa - Update

By Susan Shick

Elbert County Commissioners thought better of approving another oil and gas drilling application with contingencies and removed the Agave application from the agenda at the start of their BOCC meeting on August 27. Having failed to secure water from the town of Elizabeth, the application was deemed incomplete. Also, it is not clear that the drilling company had complied with the county's \$245,000 bond agreement to cover road repairs.

If memory serves me, the county approved the Prescott Ranches 32-34 drilling application with a contingency that the water source for that operation needed to be identified. Last week, I contacted Kyle Fenner, the Director of Community Development Services (CDS) and requested that the Prescott Ranches drilling application be placed online at the county website. I also asked if the Prescott Ranches water source was ever identified was there any public announcement. Ms. Fenner would not answer either question and suggested that I submit an ORR through the county attorney to obtain this information. There was no explanation as to why this application, approved by the county in late 2013 or early 2014 is not on the website when the Agave/Haas application is. This is very troubling to me when county officials continue to claim they are working as fast as possible to get more information on the website. The lack of consistency and transparency is cause for concern.

The Agave application calls for the construction of an exploratory drill site to begin in the third or fourth quarter of 2014. Water for drilling and completion operations is planned to be purchased from the town of Elizabeth. Large water trucks will fill up from somewhere within the town limits. County Manager, Ed Ehmman, estimated that 1,014 daily vehicle trips will travel to the drill site from Douglas County, via highway 86, traveling through Elizabeth and Kiowa to the drill site, just east and north of Kiowa.

The Elizabeth Board of Trustees first heard of Agave's design's on Elizabeth's water at their bi-monthly meeting on Tuesday, August 25th. The town board discussed the proposal and having many unanswerable questions, voted to deny the request for bulk water purchase from Agave at this time. Town Administrator Dick Eason suggested that an alternate location for providing water for bulk purchase might be from Crossroads Circle (NAPA Auto and Bender Menders) rather than the in-town location.

The Company:

The Agave application to drill this well has twice been scheduled and then removed from the agenda before the BOCC due to incomplete and inconsistent information, on June 25th and again on August 26th. For me, this calls into question the competency and intent of both county officials and Agave Oil and Gas management and associates. From their 2014 website, the company says, "Agave Oil & Gas, LLC is a newly formed privately-held oil & gas development and production company with the goal of establishing an inventory of long-lived producing properties using a combination of strategic acquisitions, laser focused operations and professional management." Check out their website yourself; you won't find anything useful for helping you understand their history and track record. The company's registration with the Colorado Secretary of State indicates the company was formed in September 2013. The landowners signed their land lease in October 2011 with Preferred Oil and Gas Properties, LLC, of Granbury, Texas. It may be that Agave never intends to drill these wells but is only in land lease/mineral rights acquisition mode for drilling later or for reselling. Once the state approves a drilling application, it remains active for two years. Perhaps the county knows Agave's intent, perhaps not. Where is the truth? Is it possible to even know the truth? It is not apparent from my research that Agave has ever drilled a well.

NO Timely Notice:

County residents have little opportunity to voice their opinions on oil and gas development by design. This drilling application only appeared on the county website a few days before the commissioners were slated to review it and to vote to approve the standard MOU (Memorandum of Understanding) that is part of the application. The approval process adopted by Commissioners Schlegel and Rowland in 2013 places the drilling application process in the hands of county director of Community Development Services, Kyle Fenner, as a land use issue. Once that department deems the application ready for review and approval by the commissioners, the only regulation in your favor is that it be made available to the public 24 hours before the commissioners consider it at a publicly announced meeting. Schlegel and Rowland directed the county attorney to prepare a standard MOU for all oil and gas development in the county that annihilated the extra protections afforded by an earlier MOU that was authored by a qualified citizen committee of engineers, hydrologists, lawyers, local and State oil and gas experts and concerned citizens. Commissioners Schlegel and

Rowland believe there is no need to have any regulations that would afford more protection to local residents than what is afforded by the State of Colorado. Their decisions are why you know nothing about this pending impact. There is no regulation that prevents the commissioners from notifying the county citizens of this invasion; they have CHOSEN not to tell you. There are a number of avenues they may choose to employ to communicate big news to county residents: Front Page of the county website, Elbert County News, New-Plains.com, Prairie Times, Ranchland News, Elbert County Republican and Democratic websites and newsletters, Town Hall Meetings. They have CHOSEN not to tell you. They have CHOSEN to deny you any input until the 11th hour. Are you checking the county website every other Tuesday evening to see if they are preparing to vote on another application that could drastically impact your life?

Impacting You:

Water usage, water and air pollution, traffic noise and congestion, road safety, property values, all are potential collateral damage. Your commute to and from work, your daily travels to and from local schools and businesses, all will be grossly impacted when the drilling operation begins. These impacts will be felt 24hours/day, 7 days/week for at least a year. If the first well is productive, they will drill additional wells and these impacts will jump by orders of magnitude directly related to the numbers of wells drilled and the number of times each well is fracked. This could go on for many years. The state has granted approval for Agave to drill six wells in Elbert County. Do you still want to live here? Who wants to buy your property now?

Compromise: Is it Possible or Desirable?

Was any consideration given to routing the traffic elsewhere? Could it not come in from I70/Limon? State rules dictate that water for oil and gas development must come from an approved industrial source, not an agricultural source. Should ranchers be required to change their agricultural well permits to industrial well permits when they decide to lease their mineral rights to oil and gas developers? Why is the government allowed to turn my rural/residential home zone into an industrial development zone? Why are the few allowed to impact all the rest of us in towns and nearby communities when the few decide to exercise their personal property rights? Where are the protections for my personal property rights? Who is going to pay to provide me water if my well is contaminated by drilling or if my well goes dry because the aquifer has been lowered too much by drilling and fracking operations? Why did the commissioners decide it was okay to spray dirty water (the industry calls it "fresh water") from the drilling sites on my dirt roads for dust mitigation? How many locals (Elbert County residents) does Agave plan on hiring and for how long? Are all their workers coming from Texas or elsewhere? Should the oil companies be required to hire some number of locals?

Equitable Risk:

In Elbert County, the larger population is forced to assume most of the risk so that a few can exploit their mineral rights. I have no problem with owners exploiting their mineral rights as long as they don't require the rest of us to assume an inordinate amount of the risk involved. Today, State and Elbert County laws are way out of balance, forcing too much risk on too many. The mineral rights owners need to assume the majority of the risk because they have the most to gain.

What Can You Do?

Not much if you are not informed. I encourage readers to conduct their own research regarding oil and gas development in Elbert County by studying documents available on the county website as noted above. Please, don't take my word. Educate yourself on just this one drilling application in Elbert County. Limiting your research to this single application will help you focus on the immediate impacts to you and your family. Find your voice and let's have a full debate that involves all parties. If you have concerns, why not form your own group among friends and acquaintances with whom you already share some common values? Perhaps your church, your exercise group, your garden or community service club are places where you could begin to explore compromises in this debate over "property rights".

For me it boils down to "do unto others as you would have them do unto you." I don't always succeed in living by this philosophy, but it is a goal. We might not always see it, but every action we take causes a reaction elsewhere. Minimizing drastic or excessive life impacts to the majority by the actions of a few should be achievable when all parties and all ideas are allowed at the table. Please, let's figure out better solutions for ourselves together. Get involved in a way that is comfortable for you, if you cherish your life and home in this county.