

Stupid is as stupid does

By Tony Corrado

If you have ever watched the movie *Forrest Gump*, you might recall this favorite line, "Stupid is as stupid does." In other words, the measure of a person's intelligence is best determined by their actions and not by what they say.

It is essential that everyone understand what a Memorandum of Understanding (MOU) is and why it is so important to the health, welfare and retention of property values to all Elbert County citizens. Elbert County cannot regulate nor can it unreasonably obstruct the access by a mineral owner (oil and gas) to the minerals below ground. The Colorado Oil and Gas Conservation Commission (COGCC) has been granted sole power by the Colorado legislature to regulate what occurs below ground level.

However, in regard to these regulations, it is not clear either by law or by court decisions that the county cannot regulate surface use such as open pits or spreading of "water" on our roads. The original editing committee writing the oil and gas regulations met personally with Matt Lepore, the Director of the COGCC and several members of his staff. At that meeting the committee was told, and strongly encouraged, to prepare a separate MOU in which the county could implement more restrictive regulation of the oil and gas industry. The MOU, Mr. Lepore explained, was a separate, legally binding contract between Elbert County and the oil and gas operator. If the operator were to execute (sign) the MOU, then they would be legally bound to abide by its provisions.

Thus, the COGCC was informing Elbert County that they could require **more restrictive** regulatory provisions as long as the operator agreed to them. The caveat they imposed was simply that any regulation not cause an "operational conflict" in which the regulation clearly prevented the operator from accessing her (or his) mineral rights. Common sense, something that seems to be perversely lacking in commissioners Roland and Schlegel's character, would suggest that the provisions contained within the MOU should be reasonable. For instance, if we required 5280' of setback from a residence, that could prevent the operator from accessing their mineral rights since the normal horizontal, underground drilling distances are commonly approximately 5280'.

The original editing committee thoughtfully set out reasonable restraints that would not cause an "operational conflict" and yet would serve to protect citizens by banning open pits and the spreading of untreated water on the roads. Further, a setback recommendation of a ¼ mile (1320') was called for to prevent oil operations and the disposal of gases and liquid effluents within a reasonable distance of high density platted subdivisions. In every case, a landowner with sufficient land area, say 40 acres, could always enter into a surface use agreement with an operator that would permit them to have a well placed in their living room as long as long as it was 1320' from someone else who did not have that option.

Unfortunately our counties' planner and commissioners Schlegel and Rowland gave us a document that does not provide this additional or adequate protection for Elbert County. For instance, the MOU lacks regulatory enforcement methodologies; defaults to the state setback distances (500') and has absolutely no additional air quality protection because we defer to state rules instead of requiring more stringent local rules.

We have a problem with governance here in Elbert County. We have two incompetent commissioners who staff the county with incompetent hacks and then ignore the professional resources available to them to determine the right thing to do. We have organizations with vested interests who only care about their profit or personal agendas. We have a government that continues to either dismiss good and loyal county employees or create such a hostile environment to work under that good people leave county employment simply because they do not need the additional grief that comes from threatening commissioners. People generally get the quality of government they deserve by ignoring it. The only way to improve government is to get involved and demand better.

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