

COLORADO MUNICIPAL LEAGUE  
ANNUAL SEMINAR ON MUNICIPAL LAW

# Dealing with Aging Oil and Gas Wells

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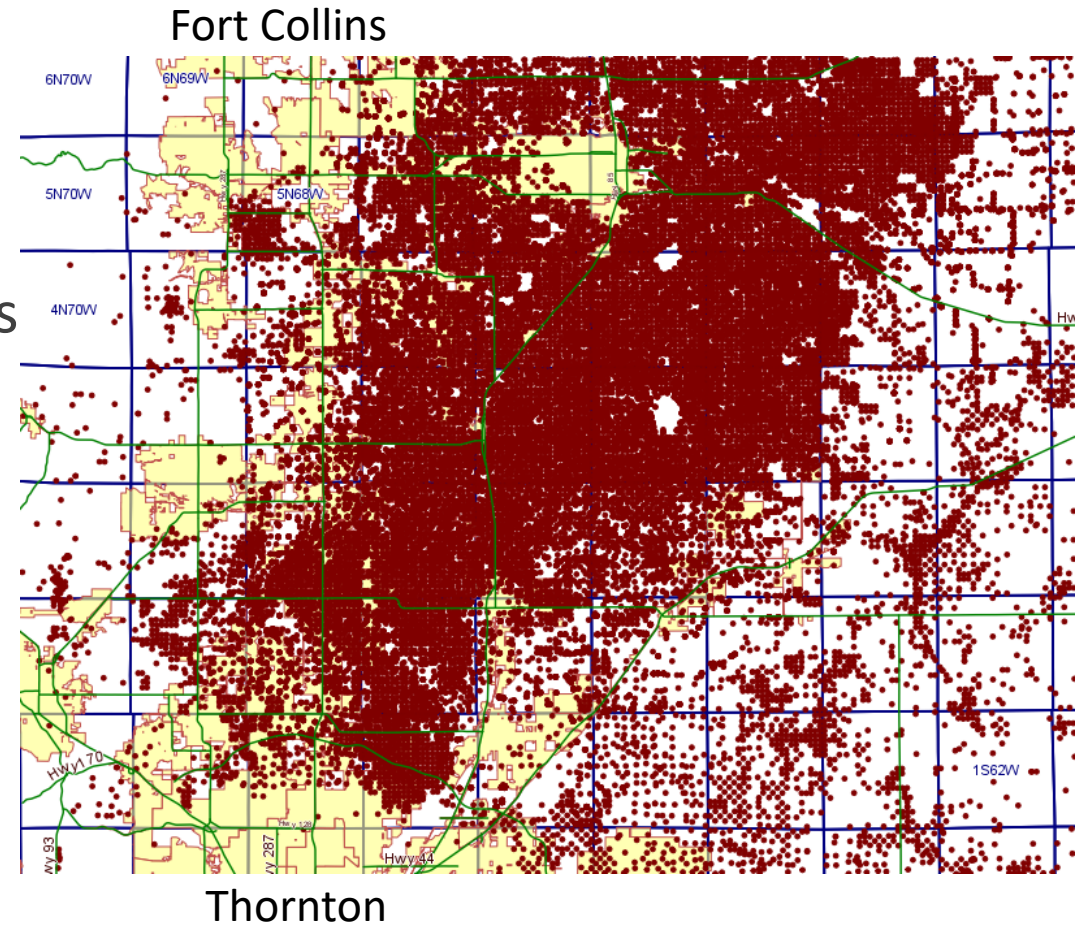
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# Outline

- History of Wattenberg Field and DJ Basin Development
- The Current State of Oil and Gas Development
- The Problem Facing Colorado Front Range Municipalities
- Risks of Unsolved Problem
- Solutions for Municipalities and Landowners
- Q&A

# History of O&G Development

- 1970s: Wattenberg Field Discovered
- 1970s-2000s: Vertical well drilling boom
- COGCC regulations: 5 wells per 160 acres
- Average vertical well life: 40-50 years





# Meanwhile ...

- Ag land has converted, populations increased
- Cities and towns have grown around the wells
- Well ownership has changed hands
- State and local regulations have changed





# Impacts on Development

- Subdivisions built around wells
- Old, dangerous equipment in our communities
- Swaths of land undeveloped, sanitized
- Developers are walking away



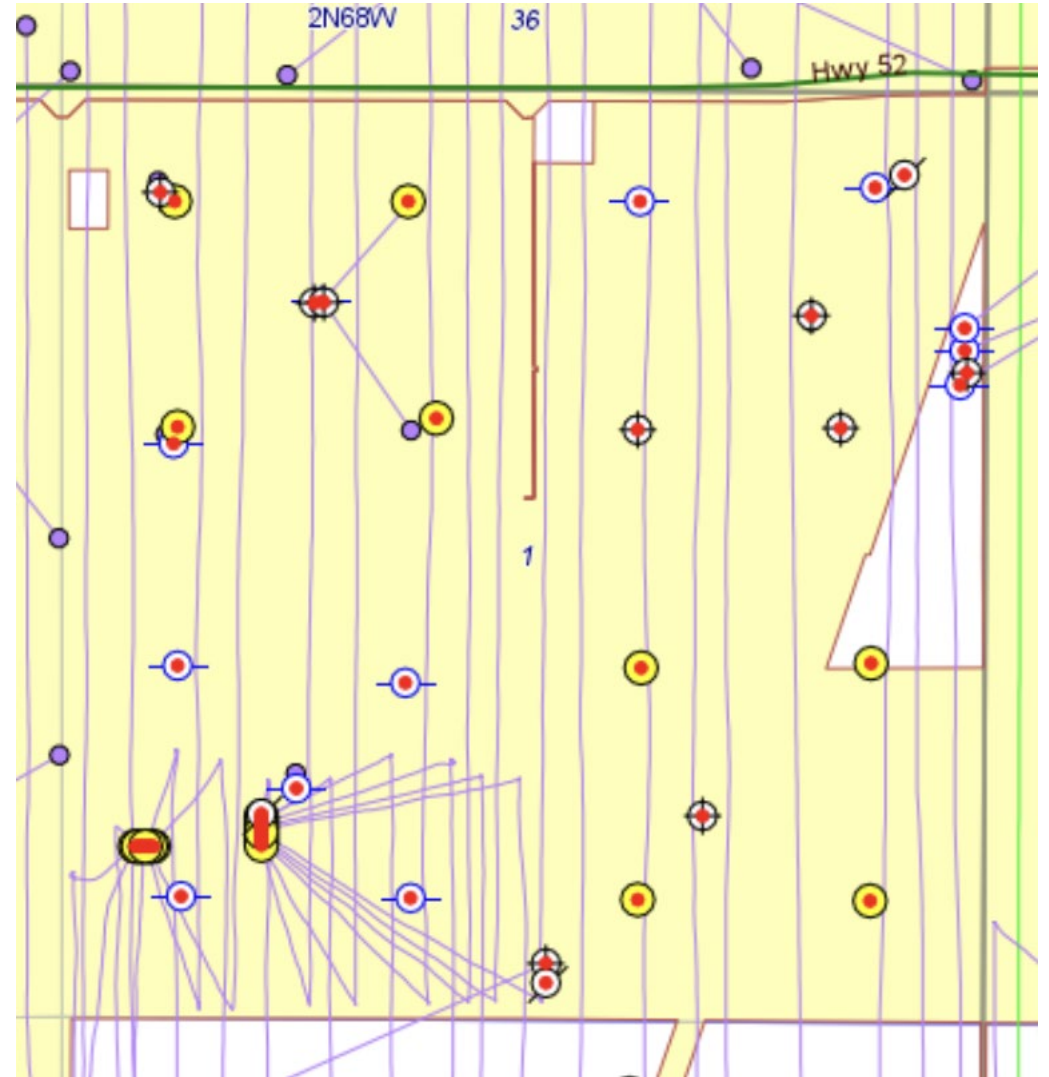
# Current Oil and Gas Development

- Horizontal drilling (since ~2010)
- Consolidates surface use away from homes
- “Plug to drill” expectation
- Stricter State O&G regulations (sometimes)
- Financial Assurance
- Orphan Well Program



# The Problem

- Typically, large operators drill horizontal wells, plug their old wells
- Many old wells have been acquired by smaller operators
- Acquire remaining production and plugging liability
- “Prudent Operation” suggests wells are plugged when no longer profitable
- **Why aren’t old, uneconomic wells in our communities getting plugged?**



# Risks of The Problem

- Preclude beneficial surface use
- Interfere with beneficial oil/gas or other carbon/energy resource development
- Methane leakage in air
- Oil and other hydrocarbon spillage into soil and water
- Plugging falls to State, taxpayers, and/or other oil companies



# Solution 1 - Negotiation

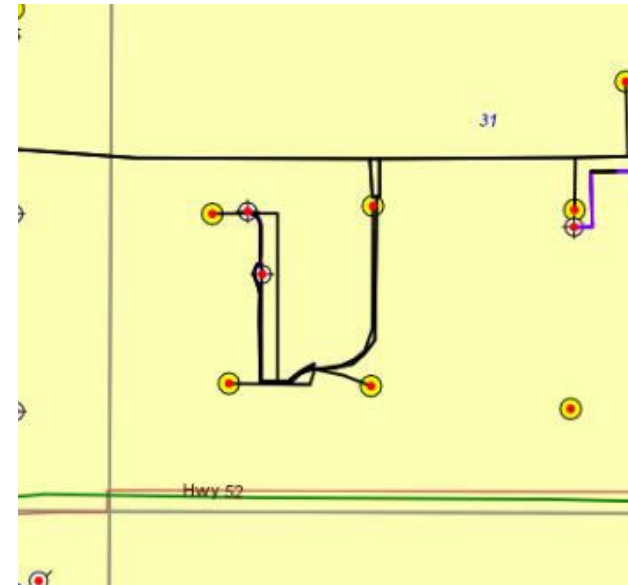
- Pay the operator to plug (“Hostage fee”)
- Often landowner/developer – oil company negotiation
- Economics must work for landowner/developer
- Oil company often seeks inflated plugging cost
- Oil company often seeks lost revenue from inflated reserves analysis

# Solution 2 – Eminent Domain

- First tested by special district in 2024
- C.R.S. § 32-1-1004(4): “A metropolitan district may have and exercise the power of eminent domain ... and, in the manner provided by article 1 of title 38, may take any property necessary to the exercise of the powers granted ... only for the purposes of fire protection, sanitation, street improvements, television relay and translator facilities, water, or water and sanitation, [etc.]”
- Weld County Dist Ct denied motion to dismiss challenging district’s purpose, authority, need, and necessity
- Settlement occurred prior to immediate possession hearing

# Solution 2 – Eminent Domain

- Takeaway: Oil wells are “property” subject to proper use of eminent domain
- Even the big operators are concerned
- Considerations:
  - URA – “Blight”
  - What exactly needs to be acquired?
  - Oil and gas expert
  - Just compensation
  - Acquiring and closing oil well and facilities





# Solution 3 – Rule 211

- ECMC (formerly COGCC) has a rule for this
- Surface owner and local government has standing
- ECMC can order a well plugged if no longer “used or useful” or threat to PHSWE
- In 2025, Dacono and Frederick asked ECMC to order 44 wells plugged
- Identified the “worst” wells operated by a “bad operator”
- Presented evidence on “use or useful” and threat to PHSWE
- ECMC order 3 wells plugged within 12 months (at operator’s cost)
- Case remains ongoing ...

# Solution 3 – Rule 211

- What we learned ... Not much!
- First time ECMC order wells plugged (yay!)
- Why only 3 of 44?
- 2 of 5 commissioners opposed combined plugging request
- “Used or useful” economic analysis remains unclear, but precedent set
- No weight given to identified “threats”
- Operators, local governments, and landowners took notice ...

# Solution 4 – Local Regulation/Legislation

- Some municipalities are reviewing O&G regulations
- Attempting to increase control over existing wells
- Example: require a permit for any “material change”
- Difficulties
  - Balancing competing land uses
  - Regulating preexisting land use
  - Compliance
- Discussions about legislation to guide ECMC



# Summary of Options

## Negotiation

- Let it be developer's problem
- May preclude development

## Eminent Domain

- Powerful
- Expensive
- Expertise

## Rule 211

- *Should* be the best option
- Plugging at operator's expense
- Unpredictable

## Regulate/Legislate

- Drafting
- Legal challenges
- Enforcement

# Questions and Answers



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# Thank You!

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