ARAPAHOE COUNTY
COLORADO'S FIRST

BOARD SUMMARY REPORT

Date: August 20, 2020

To: Board of County Commissioners

Through: Bryan D. Weimer, PWLF, PW&D Director

From: Charles V. Haskins, P.E., Engineering Services Division Manager

Subject: Oil and Gas Tranportation Impact Fee (C18-025)

Direction/Information

Public Works and Development (PWD) would like to provide the Board with additional information on the components of the proposed Oil and Gas impact fee and to request that the Board authorize staff to advance a resolution to adopt the proposed Oil and Gas, transportation impact fee to a public meeting for a hearing on adopting the fee.

PWD engaged Felsburg, Holt and Ullevig (FHU) to conduct an Oil and Gas, transportation impact study and to calculate impact fees for Oil and Gas development within unincorporated Arapahoe County that fairly and proportionately defrays the impacts such development has to County road infrastucture (attached). Staff discussed this study and the need for the impact fees with the Board of County Commissioners (BoCC) at three study sessions in the fall of 2019. At the study session on December 17, 2019, the BoCC directed staff to conduct an additional meeting with the Oil and Gas industry and then schedule this impact fee for hearing. Staff met with Oil and Gas stakeholders on June 4, 2020.

Request and Recommendation

The purpose of the Board Summary Report is to more clearly explain and discuss the proposed roadway improvements covered by the fee, to explain and discuss the methodology used in the study and how that compares with the Rural Transportation Impact Fee (RUTIF), and to answer the Board's questions relative to this matter. PWD recommends that the Board consider adoption of Oil and Gas impact fees in the fee amounts outlined as Alternative 2 in this report.

Background

Since 2011, Arapahoe County has been experiencing Oil and Gas development. This fee represents an opportunity to obtain roadway funding to address capital needs created by the increased use of the roads associated with Oil and Gas development for the rural portion of the County where roadway conditions are rapidly degrading.

Within Colorado, Arapahoe County ranked seventh in crude oil production in 2017 and 5th in natural gas production in 2016. Many national and international factors shape levels of drilling activity, including Oil and Gas prices, national economic growth propects, and the merit of the Niobrara Shale relative to other production areas.

Oil and Gas drilling and production does affect roadway conditions. The study's purpose was to better understand roadway deterioration impacts from Oil and Gas development and to develop an impact fee to offset the costs of capital improvements needed to support that development and mitigate its impacts to County roads. Arapahoe County has authority derived from state statutes to layout, improve and regulate its public roads and, pursuant to CRS 29-20-104.5 to adopt impact fees to defray the impacts of new development on county capital facilities, such as roads.

In 2013, Arapahoe County established a Memorandum of Understanding (MOU) process for review of Oil and Gas development applications, and in accordance with that process negotiated a $7,500.00 per well *voluntary* fee with Operators.

On September 26, 2016, PWD staff presented to the Board of County Commissioners (BOCC) a recommendation to adopt the following fee schedule to address roadway impacts related to Oil, Gas development within the County, and based on the study prepared at that time by Tischler Bise Consultants:

	1 Well 1 Pad	**2 Wells 1 Pad**	**3 Wells 1 Pad**	**4 Wells 1 Pad**	**5 Wells 1 Pad**	**6 Wells 1 Pad**	**Vert Well**	**Refrck Well**
Cost per Well	$13,453	$23,776	$34,166	$44,555	$54,878	$65,268	$5,328	$3,796

The BoCC did not support imposing the fee at that time and therefore, staff has continued to collect the $7,500.00 voluntary fee per well.

On July 3, 2018, Arapahoe County entered into an agreement for services with FHU to update the 2013 Oil and Gas Transportation Impact Fee study. The update incorporated several changes to the 2013 study, including:

- Update County roadway information
- Define characteristics of recent oil and gas development within the County
- Develop and use an analytical methodology that FHU has used in similar recent studies for Boulder County, Thornton, and Adams County
- Explore the potential incorporation of other energy-related uses including injection wells, solar farms, bio-farms, wind farms and landfills

Previous study sesssions were convened on this matter on October 1, 2019, November 4, 2019 and December 17, 2019. At these study session, staff addressed the Board's questions related to the following:

- Fee variation based on location and availability of pipeline infrastructure
- Other energy uses that generate truck traffic
- Fee increases since the last oil and gas study
- Impact fees collected by adjacent jurisdictions

- *Ad valorem* and other tax revenues

At the last study, session the Board directed staff to conduct one more meeting with Stakeholders and then schedule this matter as a general business item at a lower fee amount than what was recommended in the study (see below).

Pipeline Scenario			12-17-19 BOCC Guidance Version		
			West	East-Central	Far East
Fresh Water Pipeline	Produced Water Pipeline	Product Pipeline			
Per Pad Fees					
n/a	n/a	n/a	$ 1,112	$ 2,495	$ 468
Per Well Fees					
-	-	-	$ 35,835	$ 51,663	$ 48,976
x	-	-	$ 34,322	$ 49,355	$ 46,739
-	-	x	$ 20,928	$ 31,078	$ 36,224
-	x	-	$ 20,421	$ 29,999	$ 34,909
x	-	x	$ 19,414	$ 28,769	$ 33,986
x	x	-	$ 18,907	$ 27,690	$ 32,671
-	x	x	$ 4,606	$ 9,414	$ 22,157
x	x	x	$ 2,958	$ 7,105	$ 19,920

The above table represents the alternate amount for fees that staff is proposing. FHU and staff were able to reduce the amount of the proposed fees by treating the “roto-pave” roads within the study area as asphalt (removing the cost of replacing those roads as a factor in the fee calculation). Essentially assuming that the “roto-pave” roads would have a greater strength value than assumed in the study and sustain a longer “asset life” which reduced the fee. Additional explanation of the reductions can be found in the BSR for the December 17, 2019 study session.

As had been directed by the Board, Staff met with the oil and gas industry representatives on June 4, 2020 and they submitted additional comments (see attached).

Links to Align Arapahoe

Service First –
Implementation of a fee helps in addressing the impacts of Oil and Gas development in eastern Arapahoe County to improve or maintain the same level of service to those citizens that reside and/or use the transportation network.

Quality of Life –
The fee will provide the citizens of eastern Arapahoe County with safer driving conditions through the improvement of the roadway network.

Discussion

The industry comment was received that questioned the inclusion of shoulders for roads as the impact of Oil and Gas development and staff received additional questions from the Board on the shoulder improvements component included in the fee. In this study session, staff will address this and any other questions that the Board may have such as the inclusion of road shoulders, the reductions from the proposed impact fees, the methodology by which the fees were developed, or other questions.

The shoulder component of the fee adds approximately 6% to the amount of the fees set forth in the table above and proposed for impact fees. The County staff feels that improvements to shoulders in the rural area will enhance safety of the roadway and that the oil and gas truck traffic associated with the life of an oil and gas wells contributes significantly to the need for shoulder improvements to such roads. Wider shoulders provide safety benefits for all roadway uses: they serve as a countermeasure to run-off road crashes and provide stopping area for breakdowns or other emergencies, as well as space for bicyclists separate from the travel lanes.

Moreover, if these proposed impact fees are adopted, the oil and gas industry will not be the only type of development that is required to pay impact fees that will be used for shoulder improvements. The shoulder component of the fee originated in the existing Rural Transportation Impact Fee (RUTIF) assessed in eastern Arapahoe County for new residential and non-residential development. As such, other new commercial and residential development is currently paying an impact fee that will contribute funding for road shoulders through the RUTIF. In this regard, contrary to any assertion otherwise in the industry's comment letter, it is not just oil and gas that would pay towards shoulder improvements if the proposed fees are adopted. Instead, the industry would be paying its share as calculated in the study based on the typical amount of truck traffic associated with the development of an oil and gas well and the other factors as described in the study.

Considering that Oil and Gas development also adds significant traffic to the existing network, it seems logical to assess the impact of that traffic to County roads as done in the proposed impact fee. As described in the study and as presented to the Board, the calculated fees are intended to establish the amount of impact fees needed to proportionally defray the cost of impacts to the County road system caused by a new oil and gas well within that "tier" or area of unincorporated Arapahoe County. The fees are based on the amount of traffic typically associated with a well and the expected density of new oil and gas development within each of the established tiers.Further explanation of the methodology is set forth in the study.

The alternative fee amount that staff is recommending represents a 42% reduction from the amount of impact fees originally established in the study prior to the reductions for “roto-paved” roads as discussed at the last study session.

Alternatives

1. Consider adopting the fees as calculated in the consultant report.

2. The fee developed within this study represents a maximum fee. As such, if the Board is inclined to reduce the fees as calculated in the report, the BOCC may choose to lower the fees to an amount they feel is appropriate or to an amount that they believe the market could bear. At the December 17, 2019 study session, staff presented the BoCC with a fee schedule recommendation that treated the”roto-paved” roads within the Study area as asphalt (see fee schedule above). Staff recommends this alternative.

3. Not adopt the Oil and Gas impact fees calculated in the report and continue with voluntary fee process currently in place.

Fiscal Impact

A complete fiscal analysis was not conducted. Although, staff feels confident that the payment of the current voluntary fee of $7,500.00 is insufficient. The study does highlight that the overall condition of the roadway infrastructure has degraded since the 2013 study and overall roadway conditon is categorized as “poor to very poor condition”. While the recommended fee may not completely resolve this pavement condition issue, not having an adequate fee will only excerbate this situation.

Concurrence

Arapahoe County’s PWD, Finance and County Attorney office concur with this staff’s recommendation for adoption of an alternate fee schedule.

Attorney Comments

The County Attorney’s office has reviewed this BSR and has no additional comments.

Reviewed By

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Chuck Haskins, ESD Manager

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James Katzer, Transportation Manager

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Byran D. Weimer, PWD Director

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Finance Department