ARAPAHOE COUNTY
COLORADO'S FIRST

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DATE: September 16, 2019

TO: Bryan Weimer, Public Works & Development Director

FROM: Todd Weaver, Budget Manager

SUBJECT: **Response to Comments Regarding County Revenue from Oil & Gas Industry**

This memorandum has been drafted in response to the information provided by the Public Works & Development Department that it received related to the Oil and Gas Transportation Impact Fee (TIF) that has been proposed. The responses included information from the oil and gas industry groups indicating that operators already contribute a significant amount of revenue to fund County road maintenance improvements through payment of ad valorem taxes, such as property and sales tax, as well as through State taxes such as severance taxes and fuel excise taxes. In addition, the industry groups also point to voluntary fees that operators have already been paying under memorandums of understanding (MOU) with the County. The information in this memorandum seeks to provide information on what revenues the County does collect from the oil and gas industry as well as the amounts of these collections to provide some context alongside the Transportation Impact Fee study.

The Public Works & Development Department (PWD) received responses from the Colorado Petroleum Council (CPC) and the Colorado Oil & Gas Association (COGA) to Arapahoe County's TIF study. These responses covered similar points regarding the payment of taxes by operators and their viewpoint on tax revenues that could be used by the County for the improvements discussed in the TIF study. The industry points can be summarized as follows:

In evaluating the TIF, the County should consider the industry's contributions to transportation funding through:

- The payment of ad valorem property taxes to the County.
- The payment of severance taxes to the State that are shared back with the County.
- The payment of fuel excise taxes that are allocated back to the County from the Highway Users Tax Fund.
- The increase in sales tax revenues from increased oil and gas development.

The remainder of this memorandum will provide additional information on these points.

Property Tax

The oil and gas industry does pay property taxes on real estate, improvements, and personal property involved in the extraction process as well as on production from wells. The assessment rate for real property is 29% of market value and the rate for personal property related to oil and gas production is higher than that at 87.5% for new production and 75% for secondary production.

Industry groups have provided information indicating that operators pay a significant amount of property taxes to local government and the County. Based on 2018 assessment data, oil and gas activities within the County totals $57.7 million in taxable value out of the $10.5 billion in total taxable value, or about 0.5%. After applying the County's 2019 mill levy of 13.301 mills to this taxable value, the total anticipated revenue collected from oil and gas activity is approximately $767,000. In looking back over the past 5 tax years, the average annual property tax collections from oil and gas activity is $794,228 with the largest amount in FY 2016 at almost $1.2 million.

The internal allocation of the County's total mill levy is an important consideration when evaluating amount of property tax paid by oil and gas operators that could be used for road maintenance and repairs. The allocation of this mill levy for the Road & Bridge Fund is 0.560 mills of the 13.301 mill total. When looking at the $767,000 in taxes to be paid this year, the amount allocated to the Road and Bridge Fund only totals about $32,000. The remainder of the property tax revenue goes to the General Fund, Social Services Fund, and the Capital Expenditure Fund to provide resources for the majority of County programs and services just like the collection of property tax on all other types of property.

Over the past 5 years, the amount of property tax paid stemming from Oil and Gas activity totals about $4.0 million and the amount of that allocated to the Road & Bridge Fund is about $181,000. This is the amount of revenue from all Oil and Gas activities in Arapahoe County and not just one well or parcel. It is important to note that the property tax allocated to the Road and Bridge fund has50% shareback to municipalities by Colorado State law.

Severance Taxes

Severance tax is remitted to the State of Colorado and distributed back to local governments based upon a formula that considers certain factors measuring the impact of energy and mineral production. The amount to be distributed to counties (known as "Direct Distribution") considers Arapahoe County's share of the statewide share of employee residence reports for industry employees, mining and well permits, and mineral production. Following this allocation, the amount is then distributed among local governments within the County, including the County itself, based upon industry employee residence reports, population, and road miles. A similar process is used for Federal Mineral Lease distributions as well.

Arapahoe County's allocation from both severance taxes and Federal Mineral Lease distributions are rather small compared to other counties where oil and gas development is much more concentrated. Over the past 5 years, Arapahoe County has received $594,062 in both severance taxes and Federal Mineral Lease distributions. In 2018, the County received $50,050 in severance tax distributions out of a statewide distribution of $16.2 million, or about 0.3% of the overall total. The largest amount received by the County over the past 5 years was just over $196,000 in 2015.

As stated earlier, severance tax is distributed to local governments based on an allocation that includes factors such as oil and gas employees residing in the county and the number of oil and gas permits. In 2018, Arapahoe County had only 1.0% of the overall statewide permit count, or 78 of 7,812 permits. For resident Oil and Gas employees, Arapahoe County has 268 of 12,183 total employees, or 2.2%. As this data indicates, Arapahoe County does not receive a large allocation of severance tax, as well as Federal Mineral Lease distributions, due to a minimal amount of Oil and Gas employees and activity, as measured by permitting data. State economic projections indicate a sizable increase (81%) for SFY 2018-2019 but it is projected to decline in the years that follow. Such an increase would result in an increase in severance tax revenues to the County of about $40,000. Severance taxes are deposited into the Road & Bridge Fund for road maintenance activities.

Fuel Excise Taxes and the Highway Users Tax Fund

The industry group responses requested the County consider the increase in the purchase of diesel fuel and the payment of the corresponding excise taxes based on some of this tax revenue being distributed to local governments. The distribution of such revenue to local governments would come from the State allocation of Highway Users Tax Fund (HUTF) monies to counties and municipalities. HUTF revenue is generated not only through the collection of fuel excise taxes but also from motor vehicle registrations. Fuel taxes make up about 60% of the HUTF total.

HUTF distributions go through three tiers of factor-based calculations to determine the amount allocated to Arapahoe County and includes such factors as lane miles of paved and gravel roads, amount of bridge decking, and number of motor vehicle registrations. As of the SFY 2017 distributions, Arapahoe County received 3.6% of the allocation for counties, or about $9.0 million. This percentage is lower than the allocations for Adams, Douglas, El Paso, Jefferson, and Weld counties. If Oil and Gas operators have increased their diesel fuel purchases, then an increase in fuel excise taxes paid and received via HUTF would not be unexpected. That said, such an increase would be realized and distributed on a statewide basis and Arapahoe County's allocation is less than other metro-area counties.

Sales Tax

Arapahoe County imposes a 0.25 percent sales and use tax for the purposes of preserving open space within the County. The voter approved ballot question restricts the use of the funds to acquiring and preserving open space, specific purposes including a 50% shareback to municipalities, providing grants for specific open space projects, and the administration, operation, and maintenance of existing open spaces and the County fairgrounds.

Within a number of municipalities, the sales and use taxes collected can be used for transportation needs. For Arapahoe County, the resolution does not permit any of the sales or use tax collected under this ballot language to be used for general county road maintenance, repair, or construction. Therefore, sales and use tax payments by oil and gas operators for Arapahoe County's 0.25% rate cannot be considered as an offset to roadway maintenance, construction, or improvements for purposes of evaluating the TIF.