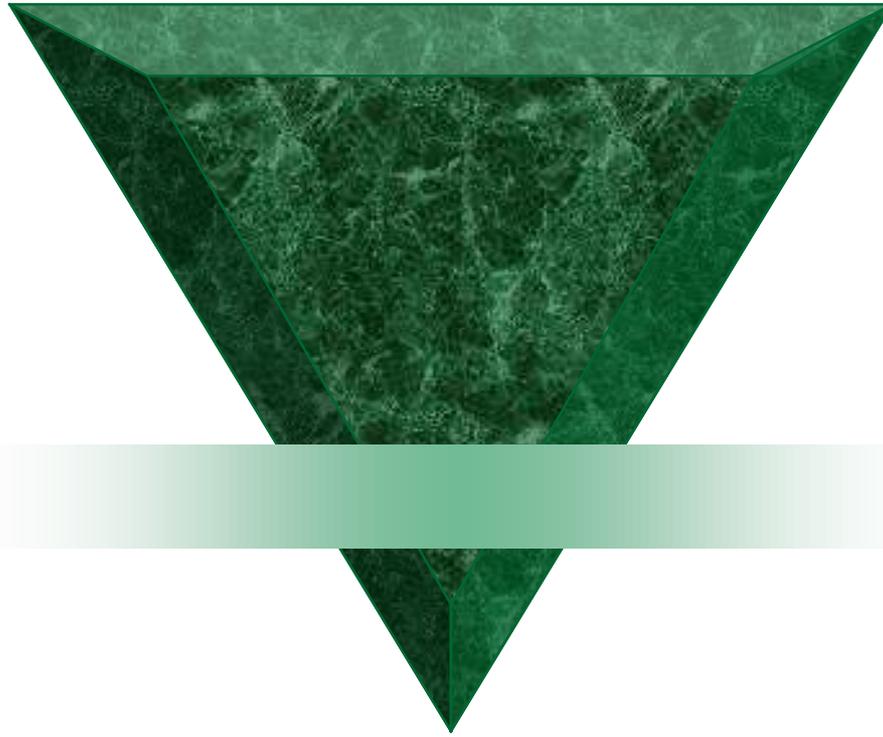


2/12/2020



# Leading COGCC as a Petroleum Engineer – Lessons from Interesting Times

John H. Benton  
Benton Engineering



# Agenda

- ◆ Why would anyone want to be a Commissioner?
- ◆ Who's on the Commission?
- ◆ What did we do?
- ◆ What were the learnings
- ◆ How did we get to where we are today?
- ◆ What can we expect next?



# Commission Makeup 2011-2019

- ◆ 9 Volunteer Commissioners
  - Landowner with mineral rights
  - Environmental
  - Reclamation
  - Local government
  - Executive Director of CDPHE
  - Executive Director of DNR
  - Three individuals with oil and gas experience
  - No more than 5 from one political affiliation



# Commission Makeup 2019-2020

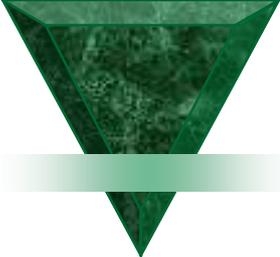
## ◆ 9 Volunteer Commissioners

- Landowner with mineral rights
- One individual with environmental protection experience
- One individual serving on a local government
- Executive Director of CDPHE
- Executive Director of DNR
- One individual with oil and gas experience
- One individual with technical expertise
- One individual with Wildlife expertise
- One individual with Public Health expertise (other than head of CDPHE)
- No more than 5 from one political affiliation



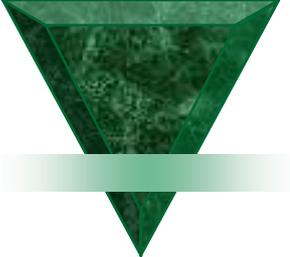
# Commission Makeup 2020-??

- ◆ 5 Full-Time Commissioners, 2 Ex-Officio Non-Voting Members
  - One appointed member must be an individual with substantial experience in the oil and gas industry;
  - One appointed member must have substantial expertise in planning or land use;
  - One appointed member must have formal training or substantial experience in environmental protection, wildlife protection, or reclamation;
  - One appointed member must have professional experience demonstrating an ability to contribute to the commission's body of expertise that will aid the commission in making sound, balanced decisions;
  - One appointed member must have formal training or substantial experience in public health.
  - Executive Director of DNR, or their designee; non-voting
  - Executive Director of CDPHE, or their designee; non-voting
  - No more than 3 from one political affiliation



# Commission Activities 2012-2018

- ◆ “6-7 hours of boredom with 2-3 hours of high drama” (John Ashby, Jr.)
- ◆ Consent Agenda items
- ◆ Contested Spacing Applications
- ◆ Contested Pooling Applications
- ◆ Contested Rule violations
- ◆ Staff presentations/updates/recommendations
- ◆ Rulemakings



# Rulemaking 2012-2018

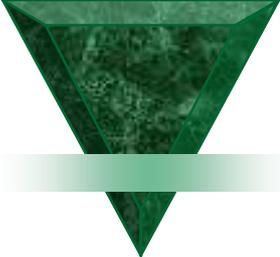
## ◆ 14 Rulemakings

- Hydraulic Fracturing
- Setbacks
- Groundwater
- Wildlife Mapping
- Spill Reporting
- Cleanup
- Enforcement and Penalty
- Governor's Task Force (Urban Development)
- Front Range Flooding
- Complainant
- School Setback
- Pooling and Hearing Process
- Mill Levy
- Flowline



# Learnings

- ◆ Patience
- ◆ The importance of teaching, not preaching
- ◆ Industry should be as forthcoming as possible
  - Keep it simple
  - Avoid highly technical terms
  - Involve stakeholders early, even if you don't think they are stakeholders
  - Listen, then clearly state where you stand, and points where you agree or do not agree
- ◆ There is no good solution for the Passionately Uninformed
- ◆ John Ashby was right

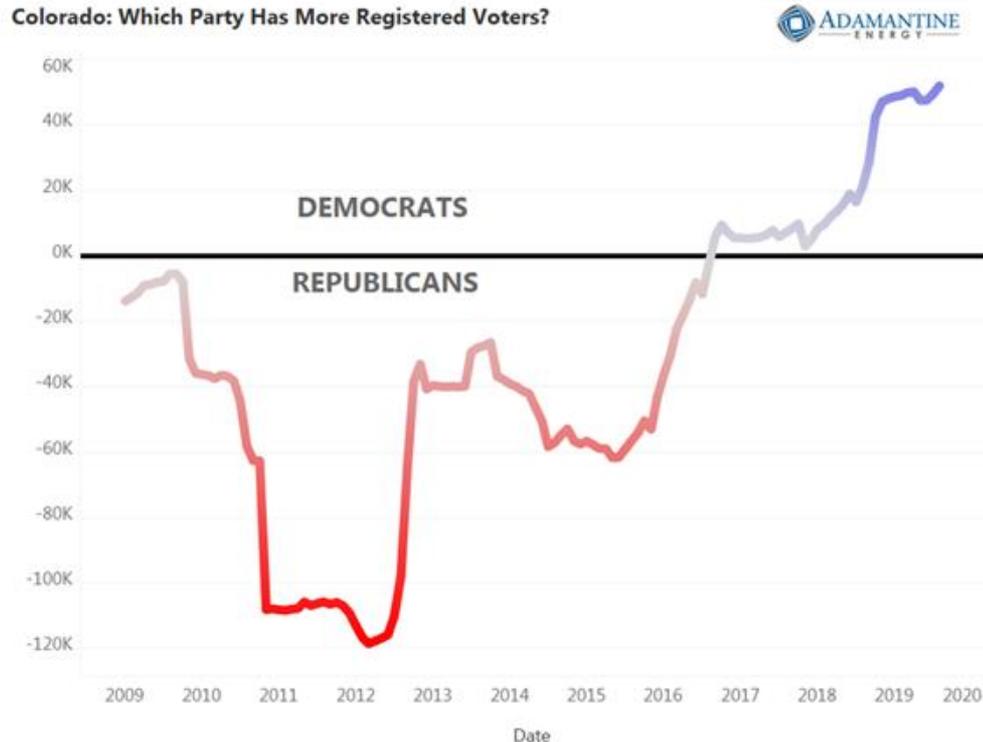


# How Did We Get Here?

- ◆ Industry missed the signals and opportunities to change
  - Changing voter demographics
    - No meaningful cover for Democrats to support oil and gas
    - Ten years ago, Colorado Democrats could, and often did, support oil and gas. Today, asking them for such support is nearly a complete non-starter.
  - Perceived lack of support for environmental issues
    - Missed the opportunity to consistently embrace environmental regulations and sustainability
  - Little or no attempt to work with left-leaning stakeholders
  - Missing a long window of opportunity to transcend partisan politics. Instead, industry overwhelmingly supported Republican candidates and political priorities to the exclusion of building partisan-neutral bridges to both sides
    - Relied on a Republican State Senate majority to defeat anti oil and gas bills
  - Focusing heavily on voting down Proposition 112, not state congressional elections



# How Did We Get Here (cont.)?

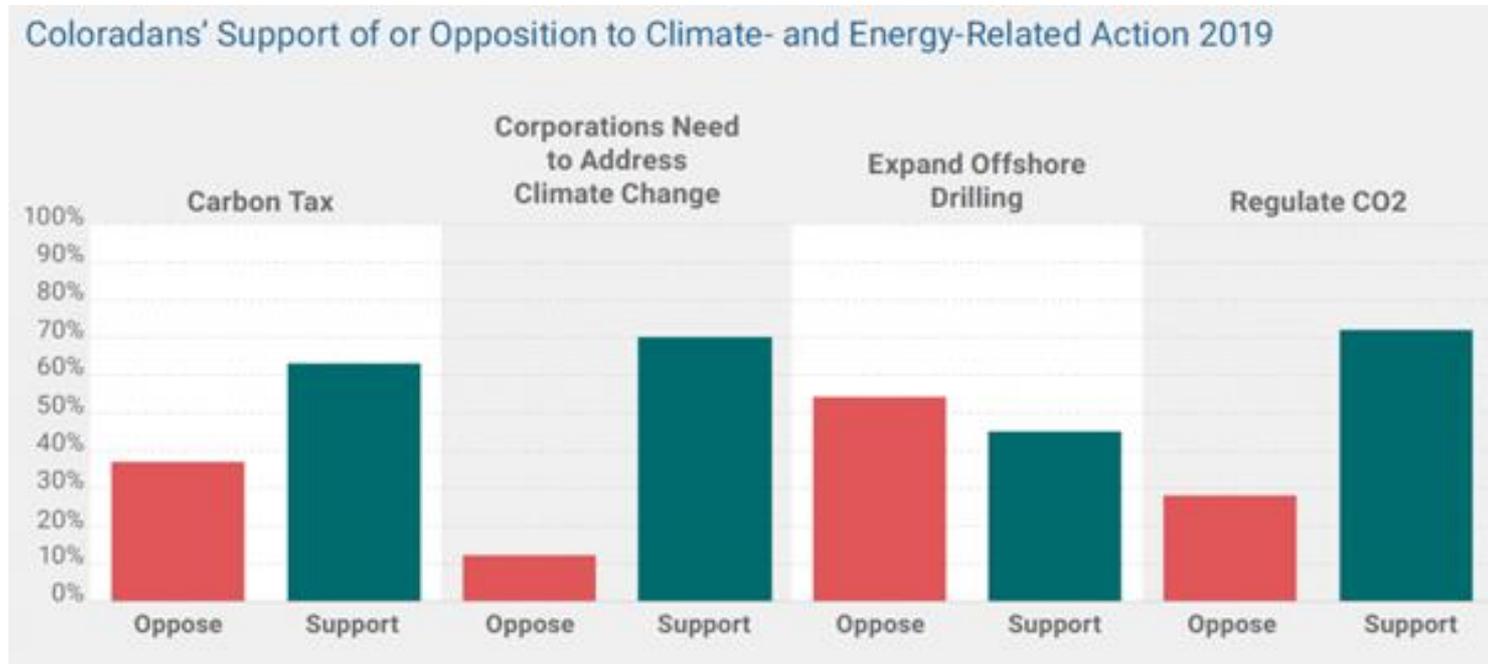


- ◆ Since 2012, Colorado voters have transitioned from "leaning Republican" and "reliably Republican" to an electorate increasingly dominated by registered Democrats. Nearly one-third of the electorate is registered Independent; and, Independents are increasingly leaning Democratic. The figure shows that Colorado currently has 51,000 more registered Democrats than Republicans.

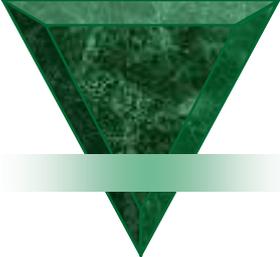


# How Did We Get Here (cont.)?

Coloradans' attitudes toward climate- and energy-related topics

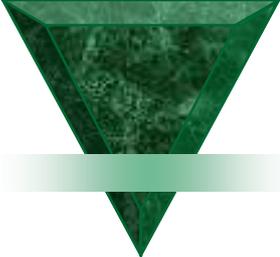


- ◆ The figure shows that a strong majority of Coloradans are now concerned about climate and support climate-related action such as a carbon tax, regulating CO2, and holding companies accountable for their effects on the climate.



# Mission Statement Before SB 181

- ◆ **Foster the responsible, balanced development, production,** and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources
  - CRS 30-60-102 (1)(a)(I)



# Mission Statement Post SB 181

- ◆ **Regulate the development and production** of the natural resources of oil and gas in the state of Colorado in a manner that protects public health, safety, and welfare, including protection of the environment and wildlife resources
  - CRS 34-60-102 (1)(a)(I)
- ◆ **Regulate oil and gas operations** in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and shall protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations
  - CRS 34-60-106(2.5)(a)



## A Key Concern

- ◆ The Commission is charged to: Protect the public and private interests against waste in the production and utilization of oil and gas
  - CRS 34-60-102 (1)(a)(II)
- ◆ Yet "Waste", as applied to oil and gas:
  - (b) Does not include the nonproduction of gas from a formation if necessary to protect public health, safety, and welfare, the environment, or wildlife resources as determined by the commission.



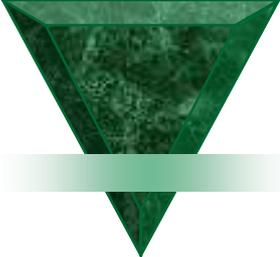
## Other Changes

- ◆ Remove the consideration of cost-effectiveness and technical feasibility
- ◆ Regulate in a way that first avoids, then minimizes and mitigates, adverse impacts on the environment
  - “Minimize adverse impacts” means to ~~wherever~~ ~~reasonably practicable~~ the extent necessary and reasonable to protect public health, safety, and welfare, the environment, and wildlife resources



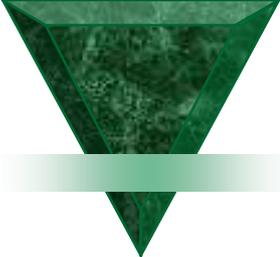
## Other Changes

- ◆ Remove “Shall Approve” from decision-making language
- ◆ Remove “technically feasible and cost effective” from rules and replace with “reasonable and necessary” to protect public health, safety, welfare, wildlife and the environment?
- ◆ Minerals left in the ground are no longer considered “waste”
- ◆ Reorienting COGCC rules to horizontal development
- ◆ Rewrite rules covering Standing to allow for increased community engagement in the permitting process



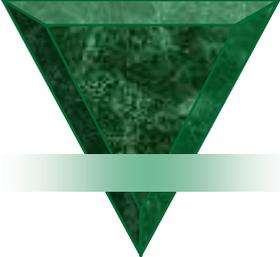
# The Consequences

- ◆ The 2019 Canada-US Energy Sector Competitiveness Survey ranked Colorado last amongst 20 states and provinces for policies that support oil and gas development;
  - Survey of senior executives in the upstream oil and gas sector is designed to identify provinces and states with the greatest barriers to investment in oil and gas exploration and production
  - Survey created a “Policy Perception Index” based on a survey using 16 factors.
    - The survey results were used to rank each state or province; The jurisdiction with the most attractive policies received a score of 100 and the jurisdiction with the policies that pose the greatest barriers to investment received a score of 0
    - Texas ranked first, followed by Oklahoma, Kansas, and Wyoming
    - Colorado was last with a score of zero; Even British Columbia and California has better scores
- ◆ In 2018, Colorado ranked 5<sup>th</sup> in crude oil and 8<sup>th</sup> in natural gas production



# The Consequences (cont.)

- ◆ Survey listed 16 factors; Fiscal terms, taxation, environmental regulations, regulatory enforcement, cost of regulatory compliance, protected areas, trade barriers, labor regulations and employment agreements, quality of infrastructure, quality of geological database, labor availability and skills, disputed land claims, political stability, security, regulatory duplication and inconsistencies, legal system
- ◆ For the 16 factors, respondents were asked to select one of five responses that best described each jurisdiction with which they were familiar:
  - 1. Encourages investment
  - 2. Is not a deterrent to investment
  - 3. Is a mild deterrent to investment
  - 4. Is a strong deterrent to investment
  - 5. Would not invest due to this criterion



# Is It Too Late?

- ◆ Being successful in Colorado will require effort
  - Assess your company’s government-affairs strategy.
    - Does it foster relationship-building with Democrats, Republicans, and Independents?
  - Cultivate relationships with stakeholders, policy makers, and elected officials of both parties
  - Consider building longer bridges
  - Build these engagements over time to build trust
  - Once rapport and trust are established, conduct educational efforts on oil and gas in general, or for specific projects
- ◆ Support COGA and CPC in its efforts to create balanced rules
- ◆ Work with your company’s government affairs staff to recommend and support candidates for the professional oil-and-gas Commission that understand our industry and its technology



Questions?