

## LAW OFFICE OF MATTHEW SURA

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Honorable Committee members,

My name is Matt Sura and I am representing myself in this hearing. I am an oil and gas attorney that works for neighborhood groups, conservation organizations, mineral owners, and local governments. In 2015, I served on the Governor's Oil and Gas Task Force and was also proud to be a member of Senator Marble's Oil and Gas Summit that held several half-day meetings this past summer.

At those meetings, local government officials, mineral owners, and community organizations heard presentations and talked for many hours about a number of issues, including forced pooling. Conspicuously absent in those discussions was the oil and gas industry. Characteristically holding its cards close to the vest, the industry chose to send attorneys into the room who would sit in the audience and take notes on the proceedings rather than participate in the discussions.

Senate Bill 230 contains a number of the provisions that we discussed at those meetings. However, there is one provision in particular that sticks out. The provision to change the forced pooling penalty from 200% of drilling costs to 300% of drilling costs. I understand that the oil and gas industry likely would not support this bill without such a generous giveaway to their industry but forcing individual landowners to pay thousands of dollars in forced pooling penalties to the oil and gas industry is wrong. For that reason I am urging all members of this committee to vote no on this bill.

The forced pooling penalty is currently at 200% of the drilling and completion costs. Non-consenting or forced pooled landowners receive 12.5% of their proportionate share of the production until 200% of their proportionate share of the costs has been paid out of the remaining 87.5% that has been retained by the Operator. That is, the Operator who has used the forced pooling laws to take the minerals from an unwilling landowner is able to have all if its drilling and completion costs paid, and realize 100% profit, before the forced pooled landowners gets their full proportionate share from the wells.

I have provided two examples from Senator Marble's district. In Windsor, the entire Ridge West neighborhood received a forced pooling notice on December 10, 2016 giving residents 35 days to respond during the Christmas holiday. That forced pooling notice contains 65-pages of oil and gas legalese that is unintelligible to all but those in the industry. One of the statutory requirements is that the Operator must disclose the proportionate cost to each individual landowner who may be forced pooled. Instead of doing that, they simply stated the costs for each well... \$6.68 million. Because they are drilling 25 wells, the proportionate costs for an average ¼ acre landowner in Ridge West is \$24,332. By raising the penalty to 300%, this bill would have potentially costed each forced pooled landowner \$24,332.

I say "potentially" costed each landowner \$24,332 because the well may or may not have paid out three times. According to my friends in the industry, most of the wells in productive areas like Greeley and Windsor, Broomfield and Thornton, will realize 220% to 260% of the cost of drilling over the 30-year life of the well. Using this average, raising the penalty to 300% would have cost your constituents \$5,000 to \$15,000 each.

Fortunately that will not happen in Ridge West because this bill cannot be applied retroactively. However, this bill would affect your constituents in Broomfield who will not see their forced pooling notices until this fall. As part of its spacing application, Extraction Oil and Gas stated that each well drilled into the Niobrara would cost \$6.7 million and each well into the Codell would cost \$5.9 million. The cost of drilling the 20 wells for an average ¼ acre lot will be roughly \$19,000. If Extraction's wells also have a similar return of 220 - 260% of the costs, then this bill will cost your constituents who are forced pooled \$3,000 - \$11,000.

How many people are being forced pooled? We know that hundreds, and maybe thousands, of people are being forced pooled every year. The COGCC does not ask for that information so we do not know. However, my experience in places like Windsor and Broomfield, I would estimate 10-15% of residential landowners are forced pooled.

Who are the people being forced pooled? Well, everyone can be forced pooled. I have talked with elderly people who threw out the forced pooling notice because they thought it was a scam. I have talked with young families that were forced pooled because they simply did not have time to wade through the materials sent to them. Others are forced pooled because English is a second language and they do not understand the materials sent to them. I have also represented landlords who simply never received the forced pooling notices from their tenants.

This bill contains some needed reforms of the forced pooling laws in our state. However, the 300% penalty giveaway to the industry will harm hundreds of Colorado residents who bought their homes, not to invest in oil and gas, but to provide a place for their family to live.

Please vote no on Senate Bill 230.

#### OTHER CONCERNS ABOUT THIS BILL:

- 1) **Operators must "negotiate in good faith".** There are oil and gas Operators that send out thousands of offers at a time but do not have anyone assigned to return calls. The requirement to "negotiate in good faith" is required in condemnation statutes, it should also be required here.
- 2) **Require transparency.** The oil and gas industry is the only industry that is allowed to take private property (mineral rights) for their own private gain. The current statute states that the industry must make a "reasonable offer to lease". In order to know if their offer is reasonable, Operators should disclose all the terms (bonus payments and royalty rates) for all the leases they have taken in the past two years in that unit and all adjacent sections or units – whichever is larger.
- 3) **Require a threshold.** Require operators to obtain at least 51% consent for leasing or ownership of the minerals in a unit before being allowed to force pool the remaining owners.

Supporting documentation for cost estimates above:

- 1) **Great Western Oil and Gas forced pooling letter** to a Windsor neighborhood.  
BOTTOM LINE: Raising penalty from 200% to 300% could cost a ¼ landowner **\$24,332 (if wells produced 3x cost of drilling and completion)**
  - The “Authority for Expenditure” is supposed to actually spell out how much it is for the mineral owner but GWOG does not break it down in this case.
  - As you can see... in this example GWOG is drilling 25 wells at approximately \$6.68 million each. The drilling and spacing unit is 1,715.781 acres.
  - 25 wells x \$6.68 million / well = \$167 million.
  - $167,000,000 / 1715.781 \text{ acres} = 97,331.769 / \text{acre cost.}$
  - $97,331.769 / \text{acre} \times .25 \text{ acres} = \mathbf{\$24,332 \text{ for each } \frac{1}{4} \text{ acre lot}}$
  
- 2) **Extraction Oil and Gas Inc. has submitted the attached Exhibit 28** to document expected costs and revenues to support its spacing application in Broomfield.  
BOTTOM LINE: Raising penalty from 200% to 300% could cost a ¼ landowner **\$18,945 (if wells produced 3x cost of drilling and completion)**
  - In Lowell South Extraction is proposing to drill 14 Niobrara wells at \$6.312 million and six Codell wells at \$5.481 million each. The drilling and spacing unit is 1,600 acres.
  - 14 wells x \$6.312 million / well + 6 wells x \$5.481 million /well = \$121.254 million
  - $\$121.254 \text{ million} / 1,600 \text{ acres} = \$75,783,750 / \text{acre cost.}$
  - $\$75,783,750 / \text{acre} \times .25 \text{ acres} = \mathbf{\$18,945 \text{ for each } \frac{1}{4} \text{ acre lot}}$