



## Board Summary Report

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**Agenda Date:** 10/1/2024

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**To:** Board of County Commissioners

**Through:** Bryan Weimer, Director, Public Works & Development

**Prepared By:**

Jason Reynolds, Planning Division Manager & Rebecca Doane, Support Services Division Manager, PWD

**Presenter:** Jason Reynolds, Planning Division Manager & Rebecca Doane, Support Services Division Manager, PWD

**Subject:**

10:00 AM \*Energy Program Implementation

**Purpose and Request:**

At their July 22, 2024, study session, the Board of County Commissioners (Board) directed staff to include a new oil and gas inspections program as part of the Phase 2B oil and gas regulations. Creating and implementing this program will require investments in personnel, training, and equipment. The purpose of this study session is to provide the Board with additional details about the program's implementation, costs, and anticipated revenues and to seek concurrence on program elements such as the anticipated schedule and proposed staffing level.

**Background and Discussion:** Following the approval of SB19-181, which granted more local authority over oil and gas development, Arapahoe County has adopted increasingly complex oil and gas regulations. Concurrently, suburban development and proposed oil sites are increasingly close together, which generates heightened public interest and concern. In addition, alternative energy and electric grid support technology, including electrification, battery storage, and geothermal, will require both land development code updates and project management. The State of Colorado continues to enact legislation promoting electrification and requiring adjustments to local processes and codes. All of these factors contribute to Public Works & Development staff workload, even as other development activities remain high. For these reasons, PWD proposes establishing an energy program which would include the new oil and gas inspections program.

**Energy Program Goals**

The PWD energy program will:

- serve to protect the public health, safety, welfare, and the environment;
- avoid and mitigate adverse impacts of energy development; and
- promote, administer, and enforce protective local energy regulations.

**Energy Program Responsibilities**

As noted above, energy-related issues are becoming increasingly complex. Responding to current and future demands and achieving the energy program's goals will require staff resources dedicated solely to energy-related work. PWD staff must provide support for the new oil and gas inspections program and address current and future energy trends, which include:

- Electric vehicle charging infrastructure
- Solar, wind, and geothermal energy production
- Battery electric storage systems, both to support renewable energy and manage peak grid demands
- Energy storage and carbon sequestration
- Additional electric substations and transmission lines
- Oil and gas financial assurance/insurance tracking
- Oil and gas inspections
- Development and maintenance of a public-facing air quality/water quality/energy development dashboard
- Project management for energy-related land use cases

Based on presubmittal activity, we anticipate at least eight energy cases in late 2024 and 2025:

- Four Lowry Ranch pad sites
- Pronghorn utility-scale solar farm (Use by Special Review w/1041 components)
- Tebo oil and gas pad near Bennett
- US Solar Calico solar garden
- US Solar Raptor solar garden

### **Energy Program Roles**

To start, the energy program will require 0.5 FTE of administrative support, 1.0 FTE for an oil and gas inspector, and 1.0 FTE as a program manager. We believe that both the manager and administrative support roles can be fulfilled using existing resources as described below; therefore, we anticipate only one new FTE resource needed in the first year of the program as an inspector. A high-level overview of the energy program positions is attached.

**Administrative Support** - Existing PWD staff resources will perform the administrative duties associated with this program, including assessing fees, confirming insurance, and monitoring financial guarantees. This will be a significant workload increase, but we believe we can cover it by spreading the work across a few positions. Charging annual fees for oil and gas sites and confirming insurance are similar to the Building Division's contractor licensing program. PWD already tracks financial guarantees for public improvements and landscaping installations; those processes can be adjusted for oil and gas guarantees. As the program develops moving forward, PWD will monitor the energy program's impact on administrative workload and will come back to the Board if additional resources are deemed necessary to handle this work.

**Energy Program Manager** - PWD will convert the existing vacant Energy Specialist position to a management position, reporting to the Planning Division Manager. This addresses a span of control concern by reducing the number of direct reports to the Development Review Planning Manager. This is also responsive to exit interview and outside agency feedback that the current position's salary is too low, and that the program has too few people given the program's scope and responsibilities. This position will be responsible for managing and nurturing a strong, responsive, and effective energy program, including the new oil and gas inspections program. The Energy Program Manager will also manage energy cases as needed. The job description for this new manager position is currently under review by HR; the position will be posted for job filling as soon as possible after HR approval is received.

**Oil & Gas Inspector** - The Colorado Energy and Carbon Management Commission inspects all oil and gas sites throughout the state and inspects wells once every 1.7 years on average. For comparison, Aurora visits

each well site three times per year through their local inspections program. A local inspections program would allow Arapahoe County to be more responsive to concerns and provide a higher level of service for both industry and residents. This position is the only new FTE proposed for 2025 and will report to the new Energy Program Manager. The new Oil & Gas Inspector job title has been approved by HR.

### **Inspections Activity**

The goal of the inspections program will be to visit each drilling/completing/producing/shut well twice a year. Most of Arapahoe County's producing wells are located within 10 miles of Gun Club Road, which should initially allow us to meet this goal with a single inspector. As more of the anticipated future wells begin construction and operation, an additional inspector position may be required to maintain the level of service goal.

Regarding wells that are dry/abandoned or plugged and abandoned, we propose inspecting 150 of these wells each year, which is approximately 16% of the total of such wells each year. We will prioritize these inspections based on the proximity of the well to where people live. Additionally, we may be able to complete more than 150 of these inspections per year and will reassess that target in the program's first year; however, for now, we believe this is a reasonable estimate based on other workload and the travel time between these types of wells.

The attached table (Table 1) estimates inspections based on the above-stated goals before Lowry CAP development.

With an estimated 506 inspections to be conducted in the first year of the program, we are comfortable recommending just one Inspector FTE to complete all of the inspections. We estimate that each inspection takes about an hour to complete and that an average of four inspections can be conducted per day with proper planning that minimizes travel time between sites. As such, the annual inspections work in 2025 is estimated to require 127 workdays to complete, and if we assume a standard 219 workdays in a year (which considers time off for holidays and average vacation/sick leave usage), that means that one Inspector FTE can complete all required inspections and still have sufficient time remaining for other work obligations, such as meetings, training, administrative tasks, and other required duties.

We currently estimate that the number of inspections needed will increase by about 100 each year from 2026-2030, based on the number of wells that are added each year and adhering to the inspections goal noted above. A table estimating the increase in number of annual inspections is attached (Table 2).

Based on these projections, we anticipate needing a second Inspector FTE in Year 3 of the program (2027) in order to maintain the inspection frequency proposed above. We would formally request the additional FTE as part of the 2027 budget process if we determine it is needed at that time.

We are also monitoring the planning review workload associated with energy cases and may need to request a dedicated Energy Planner as part of this program. We will continue monitoring the workload and will request an additional FTE as part of the budget process if/when we believe that this additional resource is needed.

### **Tentative Implementation Schedule**

12/2024 - Energy Program Manager start

1/2025 - Order program equipment (FLIR camera, vehicle, etc.)

1/2025 - Begin Inspector hiring process

3/2025 - Inspector start

1/2025 - 5/2025 - Accela configuration (inspections, financial assurance, insurance tracking)

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2/2025 - 4/2025 - Develop IGA w/ECMC

4/2025 - 6/2025 - Inspector training

7/1/2025 - Program start; invoice operators and begin inspecting sites

**Fiscal Impact:** The goal is for the inspections program to be budget neutral over time, with the fees charged for the program fully covering program costs. However, the program includes significant startup investments in both equipment and personnel. Additionally, we are unsure if we will receive full compliance in fee collection for this program based on the experience of other jurisdictions.

Given the proposed start date for this program of July 1, 2025, we propose the billing for this program be done on a state fiscal year cycle of July 1 to June 30 each year. That will mean that the first billing in July 2025 will be for a full 12-month period through June 2026, rather than prorating the first billing for a partial calendar year.

Assuming a July 1 - June 30 billing cycle and an Energy Planner FTE added to this program in 2026 and a second Inspector FTE added in 2027, the attached document shows the estimated revenue and expenditures for this program from 2025-2030. There are two revenue bars - one showing the revenue at a full compliance level (i.e. all companies paying the required fees) and one showing expected compliance based on the experience in other jurisdictions. There are also two expenditure bars - one showing all expenditures projected in the year (both one-time and ongoing costs) and the other showing only ongoing expenditures in the year.

The attached revenue projections are based on proposed fees of \$1,500 per producing well per year and \$3,000 per pad site with producing wells per year. There will be no fees charged for dry/abandoned and plugged and abandoned wells. We are still considering whether to charge fees for shut in wells, which will be inspected twice per year. These proposed fees were developed based on a review of what other jurisdictions are charging for similar work and also trying to ensure that the fees charged for this program reasonably cover the costs of the program. These proposed fees are subject to final Board approval as part of the program adoption, which is scheduled to occur on Nov. 26, 2024.

Based on the attached information, please note that:

- If we achieve full compliance with companies paying program fees, the full program costs will be covered by fees in year 2 of the program (2026) and then again in 2028-2030.
- Ongoing costs will be covered by fees in year 1 (2025) regardless of fee compliance level; however, the one-time costs of the vehicle and FLIR camera for the inspector will not be fully covered by fees in year 1 (2025) or year 3 (2027), regardless of compliance level.
- From 2028-2030, there are no one-time costs expected for the program, so “all costs” and “ongoing costs” are the same amount in those years. This is expected to be the case until such time that a vehicle or FLIR camera replacement is needed (in 8 or 10 years from the date of purchase, respectively).
- At the expected fee compliance level, the total revenue collected from 2025-2030 is projected to cover new ongoing costs associated with this program; however, there will be a deficit in fees collected as compared to total program costs of almost \$400,000, which is equivalent to the one-time program costs related to equipment and training. That deficit will need to be covered by the General Fund, unless a full compliance of fee collection can be achieved.
- At a full fee compliance level, the revenue collected from 2025-2030 will exceed the total new costs for the program. This is appropriate as the additional revenue collected above the new program costs can be applied to the fully-loaded costs of the program (such as the 0.5 FTE in admin support, support provided by the Energy Manager, and other resources supporting the oil and gas inspections program)

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and can be applied to future equipment replacement costs to minimize the impact of the General Fund covering such costs.

We are currently discussing options with legal counsel to ensure the highest level of compliance possible in fee collection for this program. All companies will receive a benefit from this program in the form of a higher level of service than the state is currently providing in terms of inspections. The County fees assessed for this program are consistent with other jurisdictions, and as shown in the attached, are reasonable to cover the program costs. Paying the program fees would not be “optional” on the part of companies, so we will continue to work with legal counsel to explore options available to try to ensure full compliance.

The current revenue projections do not include any fines for spills, leaks, or emissions. As proposed in the Phase 2B Regulations, it is suggested that a fine up to \$15,000 for each violation and for each separate day could be assessed; however, as we hope to have no spills, leaks, or emissions occur, no revenue based on fines was included in the revenue projections.

As part of the program implementation, there will also be costs associated with configuring the Accela system for this new program. We request using the remaining funds in account 4145100190-54360 for this work. Those funds were previously approved for a different Accela project which has now been completed, and costs came in under the approved budget for that project; therefore, we propose using those remaining funds for the Accela configuration work required for the new oil and gas inspections program.

Please note that we also intend to review the current application fees for oil and gas cases to determine if they are still appropriate. We have been experiencing an increase in staff processing time for these applications due to increased public concern and interest in these cases. The current fees were established based on an assumption of very little staff time needed to process these cases; therefore, we will be reviewing these fees, and if we believe that an increase is warranted based on an increase in staff processing time, we will come back to the Board with a recommendation to update the Planning Review Fee Schedule.

**Alternatives:** Staff is seeking direction on the Energy Program. The Board has several options:

- 1 - Proceed with Energy Program as described above and recommended by staff
- 2 - Provide alternative direction for the Energy Program
- 3 - Maintain the Energy Program as it exists today

**Alignment with Strategic Plan:**

- Be fiscally sustainable
- Provide essential and mandated service
- Be community focused

**Staff Recommendation:** Staff recommends proceeding with the Energy Program as outlined above.

**Concurrence:** PWD staff have reviewed this proposal. The proposed new Inspector FTE is being recommended for approval by the Executive Budget Committee as part of the 2025 Budget.

**Attachments:**

- 1 - Overview of Job Duties for Energy Program Positions
- 2 - Revenue and Expenditure Projections for Oil & Gas Inspections Program