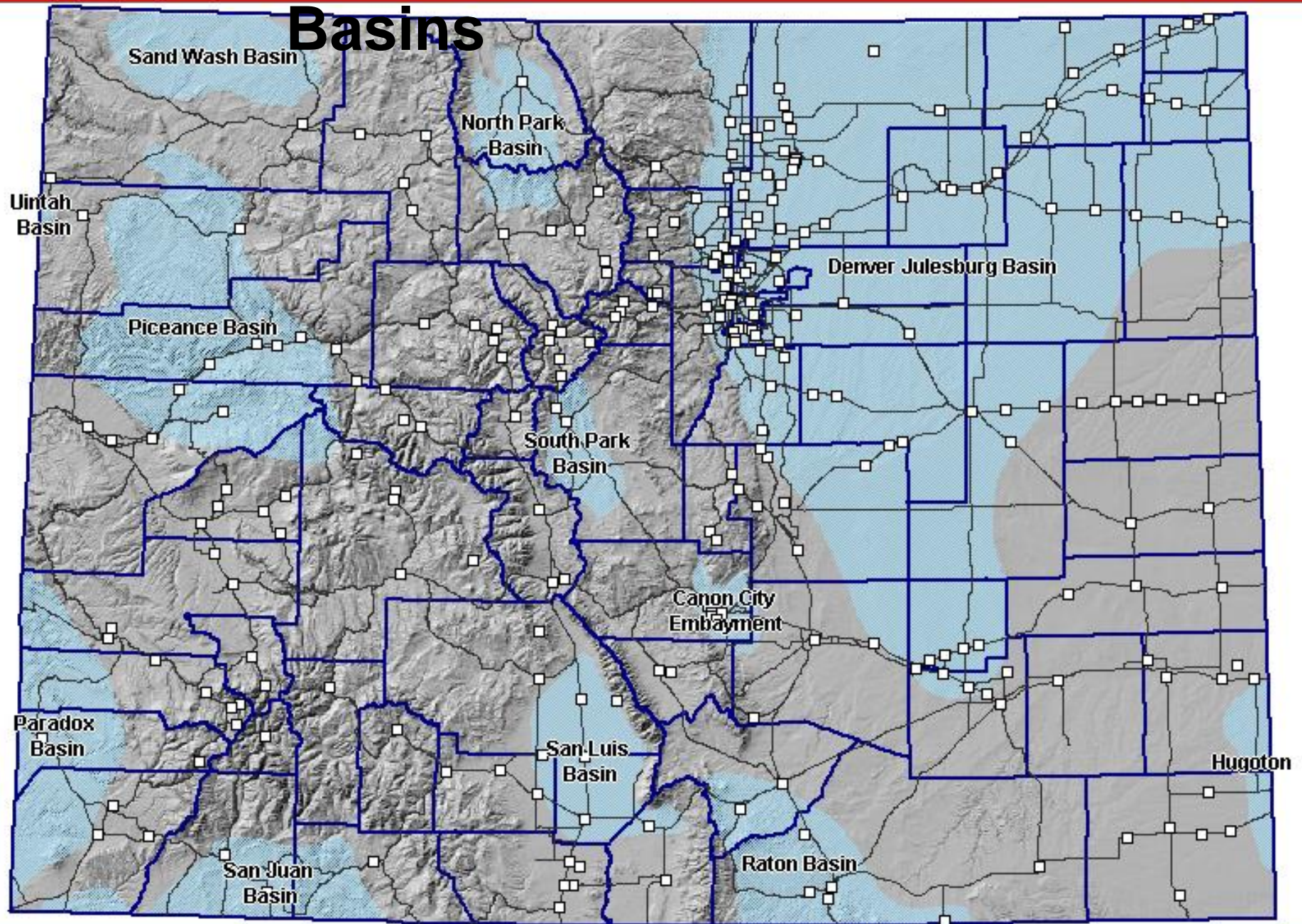
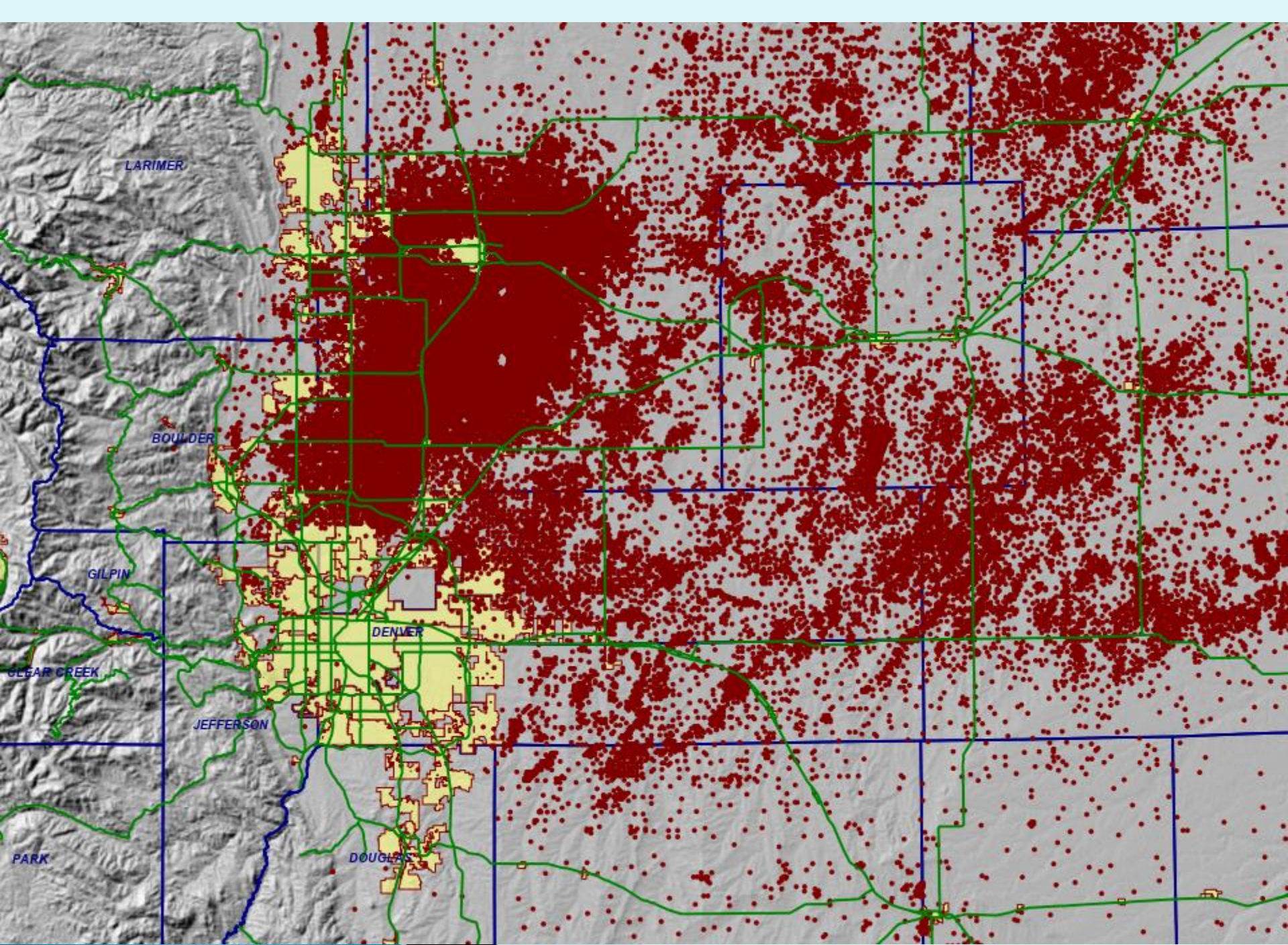


Role of local governments in oil and gas regulation

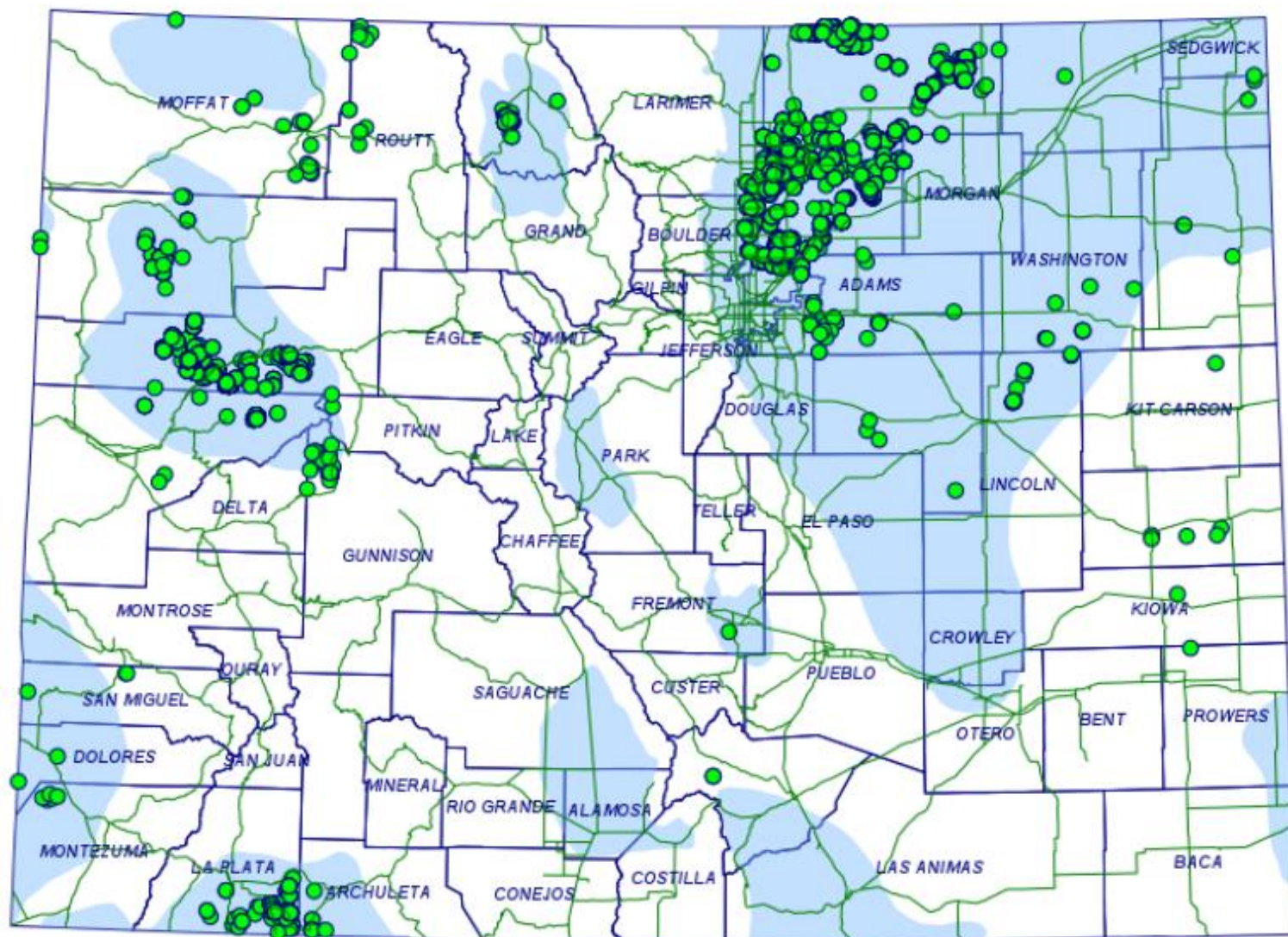
Matthew Sura
Attorney at Law
(720) 563-1866
mattsura.law@gmail.com

Colorado's Oil and Gas Basins





2-1-2017

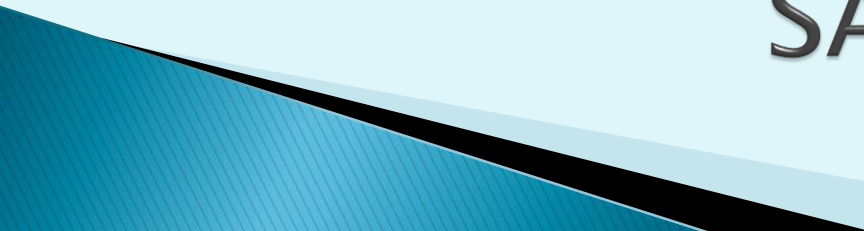


Oil and gas development is a
highly-industrialized activity



ENVIRONMENTAL AND COMMUNITY IMPACTS OF OIL AND GAS DEVELOPMENT

NOISE
WATER
AIR
PUBLIC HEALTH
SAFETY







Water Quality

IMPACTS TO AIR QUALITY AND HEALTH

Local

- Dust
- Toxic emissions
- Carcinogenic (Benzene)

Regional

- Front Range in Non-Attainment for Ozone
- NW Colorado in Non-Attainment for Ozone.

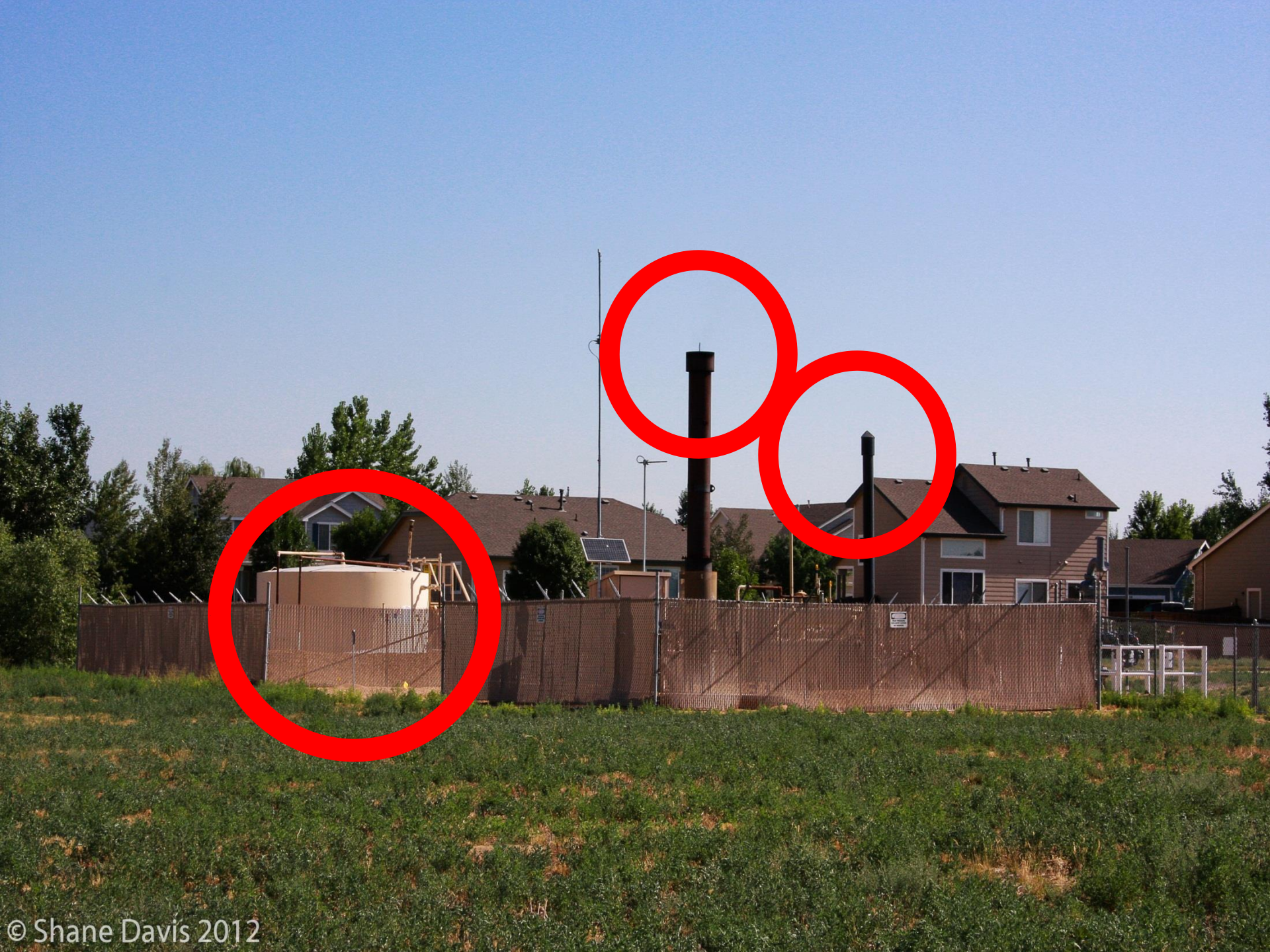
Global

- Methane is 20 X more potent greenhouse gas than CO₂



Storage Tanks





**Increased risk to
public safety?**

DANGER

**HIGH PRESSURE
EXPLOSIVE VAPORS
NO SMOKING**



Well blow-out near Windsor, CO in February, 2013.
Similar blow-out happened in Hudson, CO in February,
2017 – covering an area as far as 2,000 feet away in oil,
fracking fluids, and water.

Six tank explosions and fires in two months in 2014

school told to “shelter in place”





Result of a lightning strike of waste water facility near Greeley on April 17, 2015



2016 Colorado Supreme Court

City of Longmont v. Colorado Oil & Gas Ass'n,
a local government ordinance may not
authorize what state law forbids, forbid what
state law authorizes, or be found to “materially
impede or destroy” the state interest in
“permit[ting] each oil and gas pool in Colorado
to produce up to its maximum efficient rate of
production, subject to the prevention of waste,
consistent with the protection of public health,
safety, and welfare, including protection of the
environment and wildlife resources...”

Few tools in the local government
tool box to address oil and gas
development...



Local Government Tools

- 1) Work through COGCC permitting process with your Local Government Designee
- 2) Apply zoning rules – *so long as not prohibiting oil and gas development*
- 3) Enter into voluntary agreements with the oil and gas industry
 - A. MOU
 - B. Broomfield Task Force
 - C. Comprehensive Drilling Plans

COGCC Residential Drilling Rules

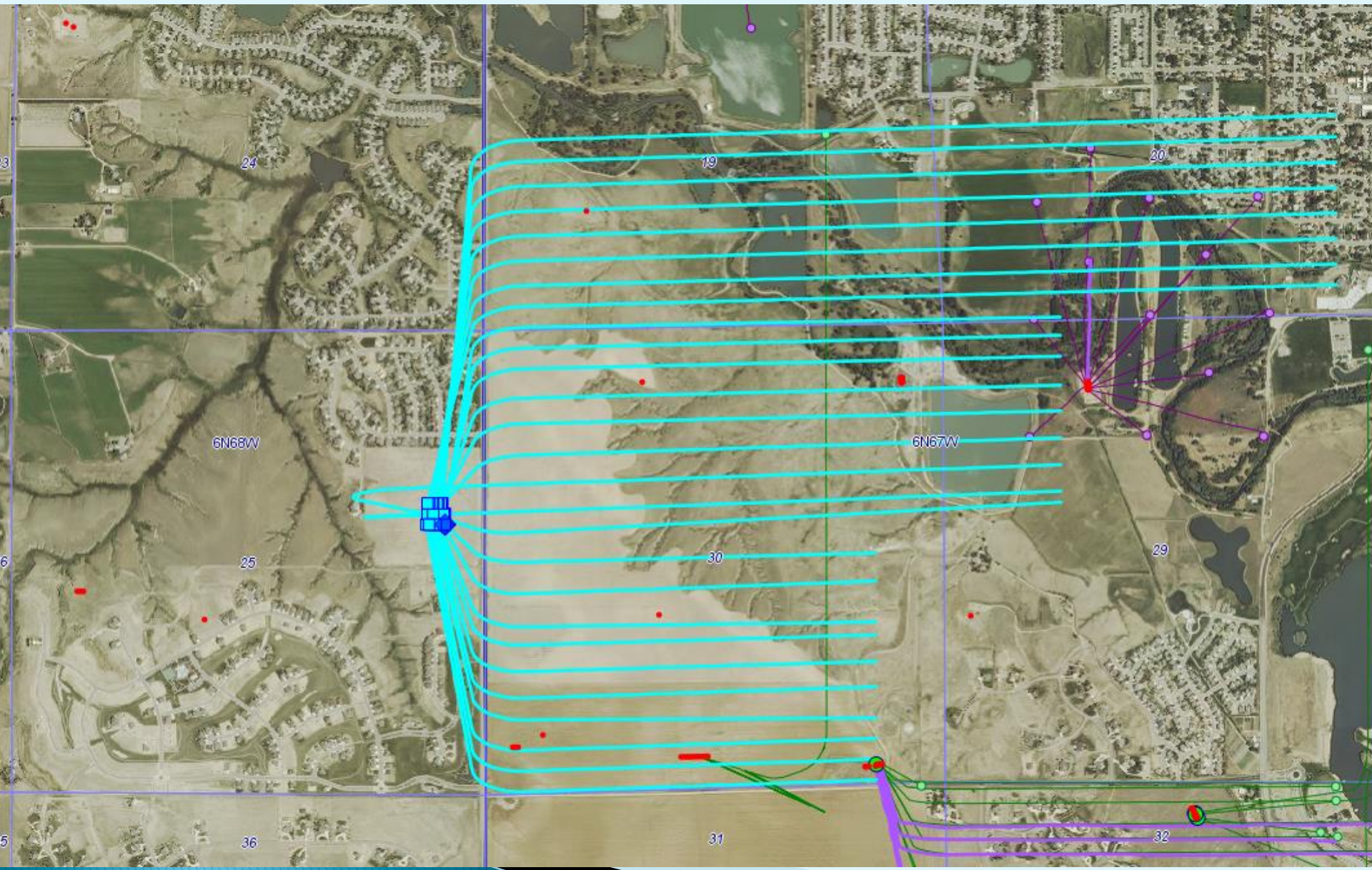
Setbacks– *600 series Rules*

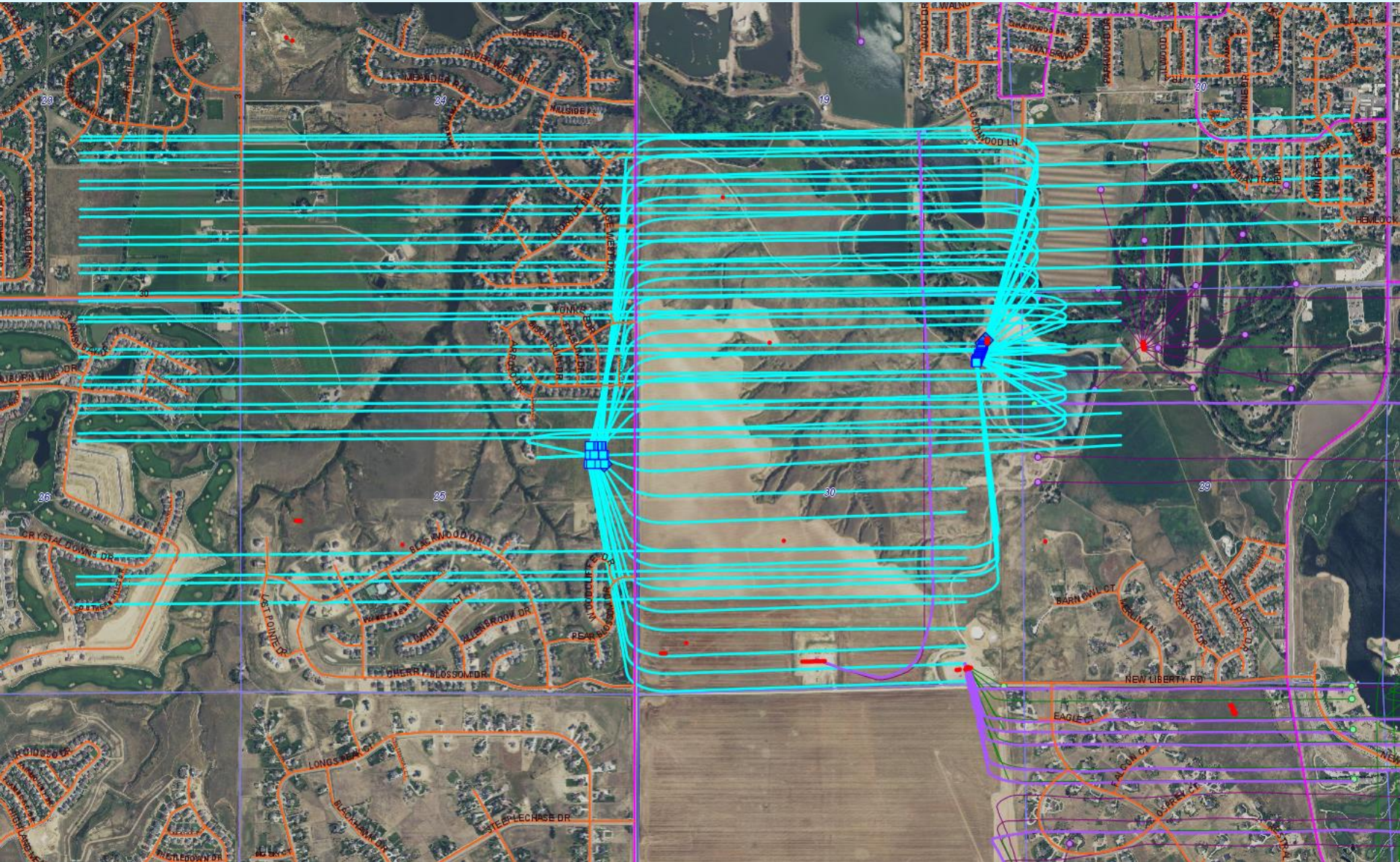
- ▶ Schools and hospitals: 1,000-foot setback
- ▶ Urban Setbacks: 500-foot setback
Affects less than 4% of wells
- ▶ Rural Setback: 500-foot setback
Allows an “exception” if the industry asks for it
*The only requirement is that impacts are mitigated to the greatest extent **economically practicable***

COGCC Rule 604c.(2)E

Any “multi-well production facility” that is proposed near a residential area must prove it is located “as far as possible” from homes.

Great Western proposal in Windsor





Oil and Gas Task Force rulemaking:

Large oil and gas facilities within
Urban Mitigation Areas

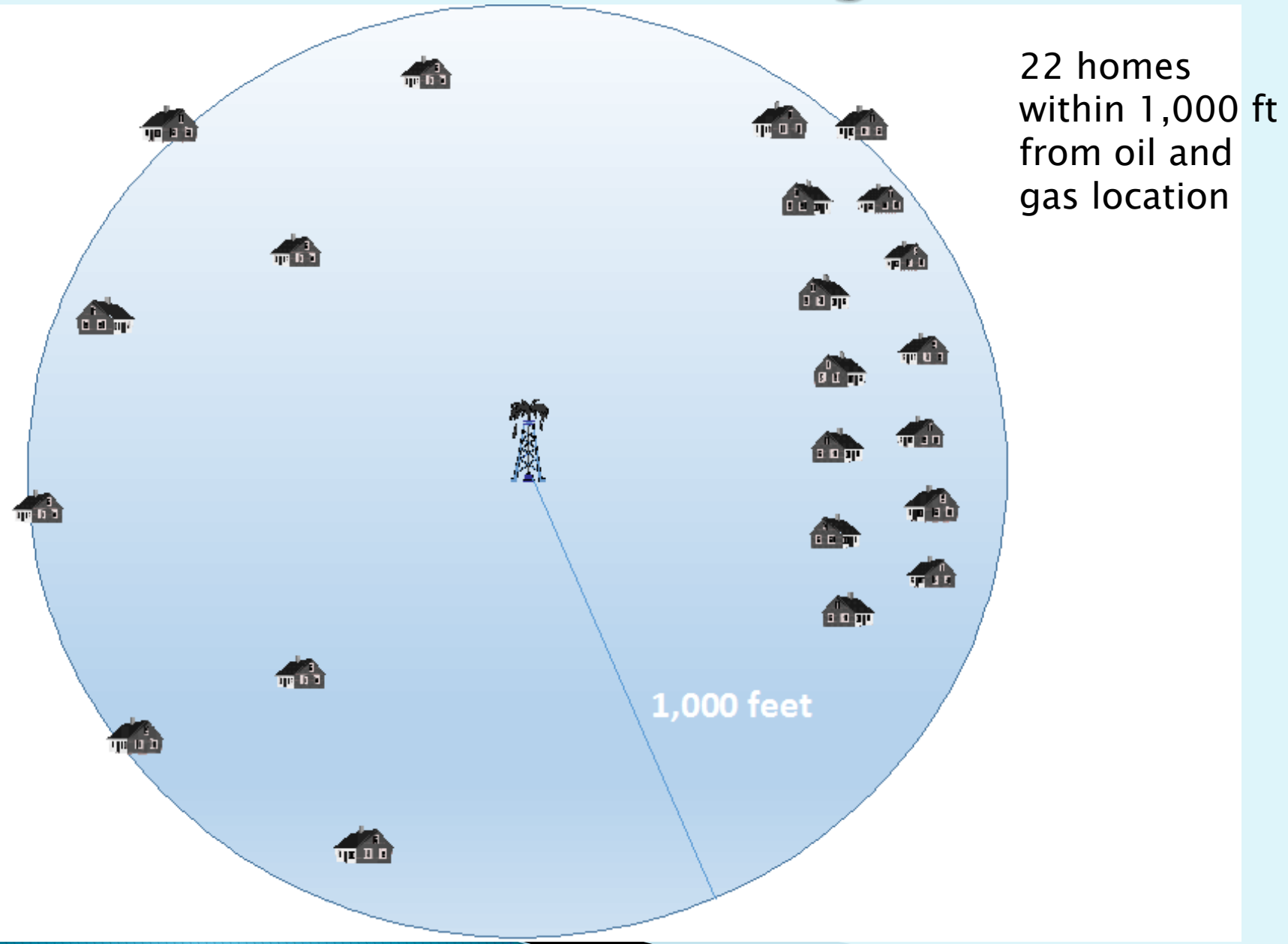
Large UMA Facility

- An “Urban Mitigation Area” is 22 homes within 1,000 feet of a proposed oil and gas facility or 11 homes within a semi-circle of the proposed location.
- A “Large UMA Facility” is eight or more wells or 4,000 barrels of hydrocarbons stored onsite.

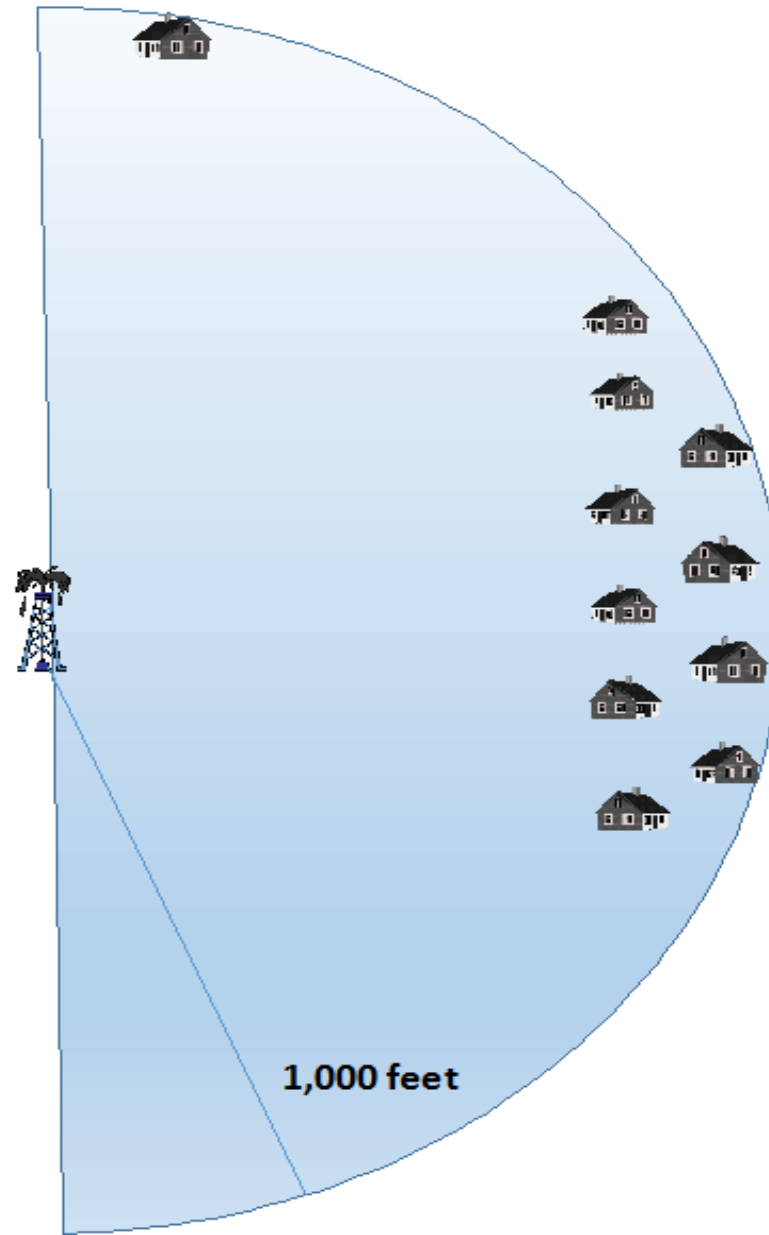
Large scale oil and gas facility near Berthoud, CO



What is an Urban Mitigation Area?



Urban Mitigation Area



11 homes
within 1,000 ft
semi-circle
from oil and
gas location

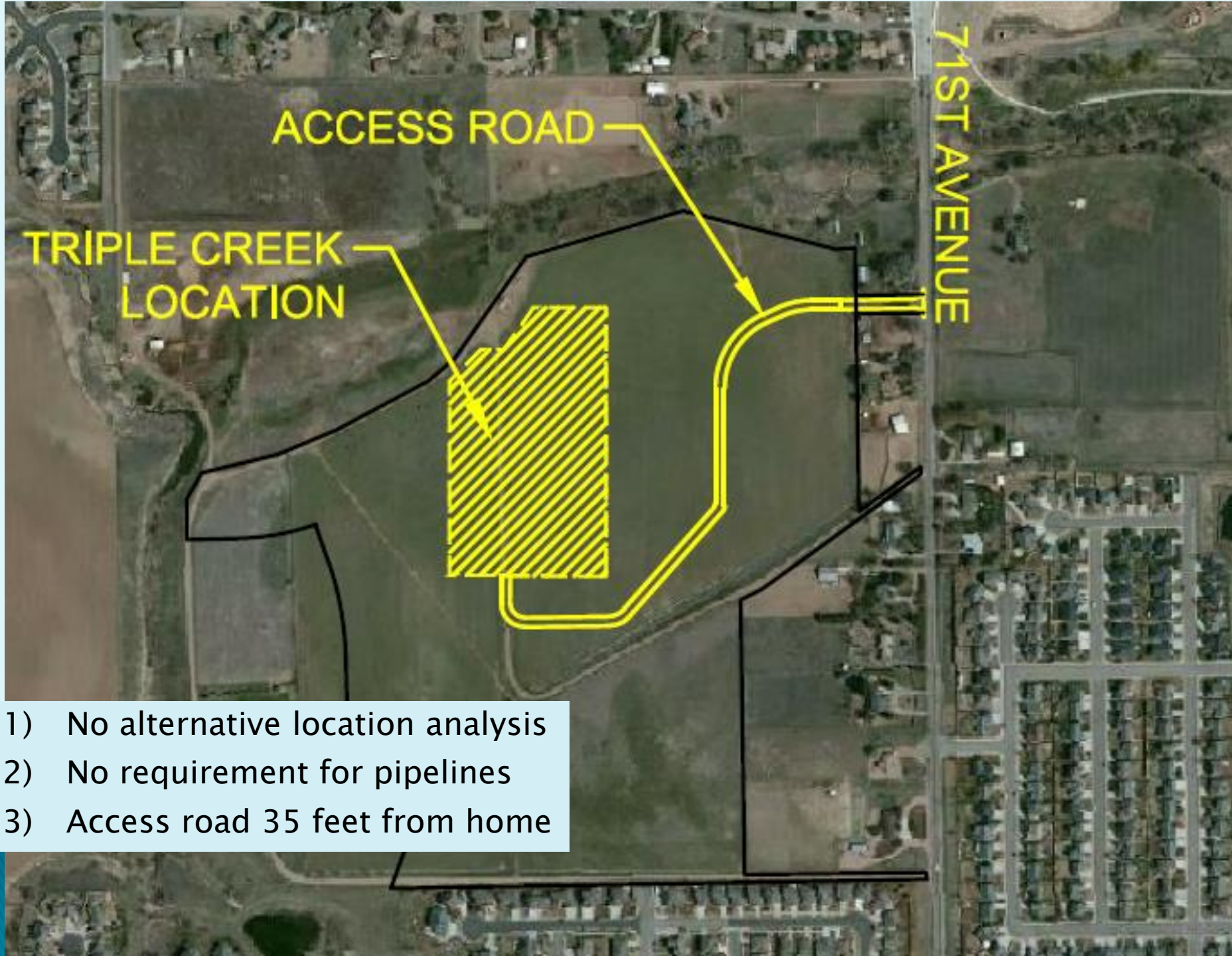


UMA language

(4) **Large UMA Facilities.** Large UMA Facilities should be **built as far as possible** from existing building units and operated using the **best available technology** to avoid or minimize adverse impacts to adjoining land uses. To achieve this objective, the Director will require a combination of best management practices and required mitigation measures, and may also impose site specific conditions of approval related to operational and technical aspects of a proposed Large UMA Facility.

COGCC Large UMA Facilities

1. Additional 40-day comment period for citizens to comment on the proposed location including site and mitigation measures
2. The rules require operators to provide proof of their search for alternative sites, and reasons why those sites were not selected.
3. If alt. locations are not available, must use best available technologies to avoid or minimize adverse impacts to adjoining land uses to the greatest extent achievable. (Rule 604.c.(4))
4. CDPHE is required to comment and offer mitigations to protect public health



- 1) No alternative location analysis
- 2) No requirement for pipelines
- 3) Access road 35 feet from home

Local government may appeal decisions

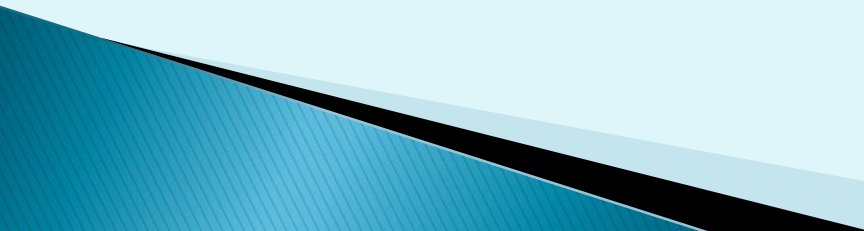
- ▶ To COGCC – “Relevant local government” may require a hearing before the COGCC to contest a location decision under COGCC rule 503.b(7).
- ▶ To District Court – *Neighbors Affected by Triple Creek v. COGCC*

Most local governments take the “Carrot and Stick” approach – offering an administrative approval track to companies willing to go beyond COGCC regulations

Boulder County's proposed regulations

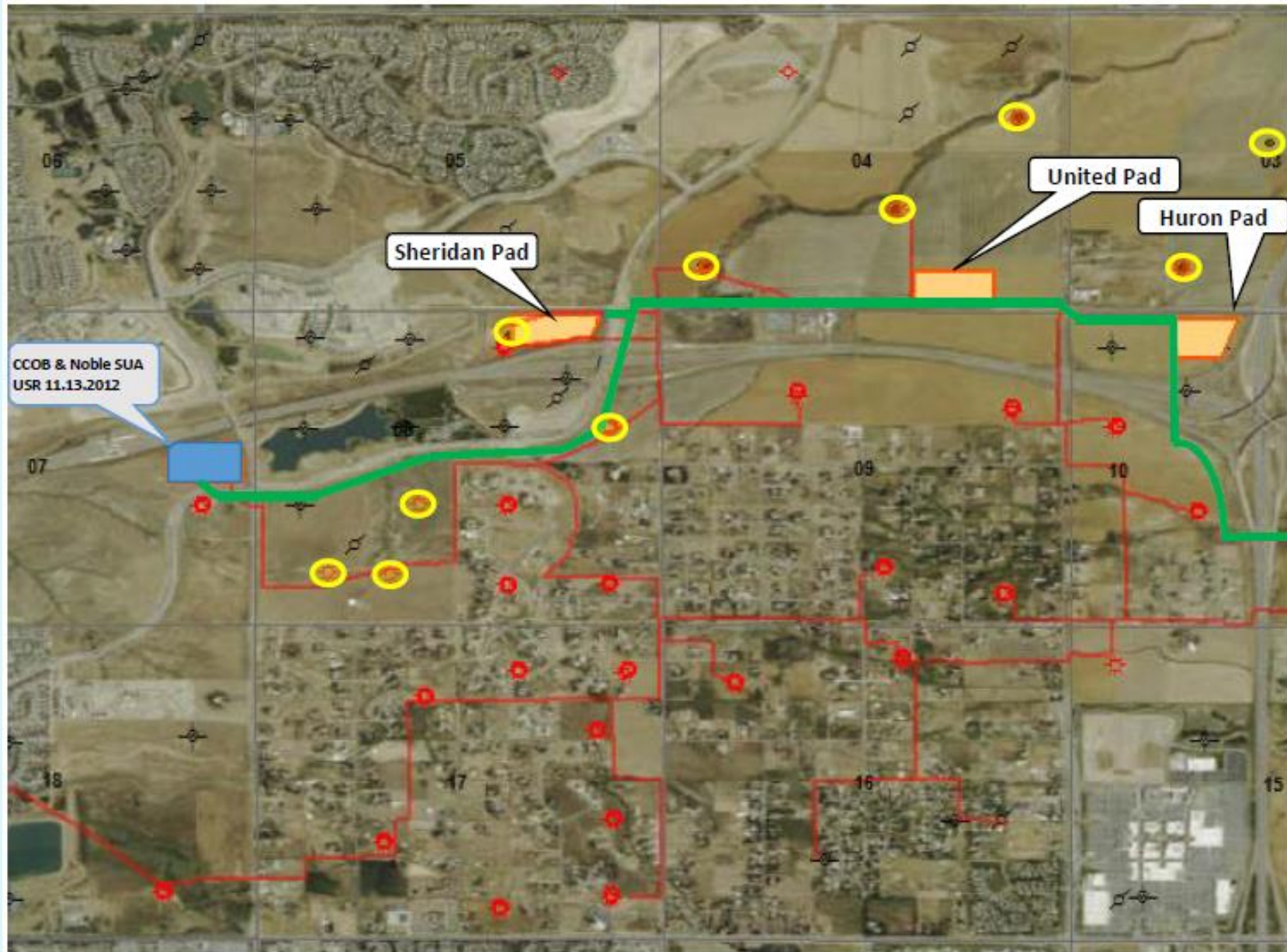
1. Hearing before the Planning Commission
2. Hearing before the County Commissioners
3. Hearing before Open Space Advisory Committee







Boulder County's proposed regulations

1. No Drilling in Floodways or Floodplain*
 2. Continuous Ambient Air Quality Monitoring
 3. Offer to sample all wells within $\frac{1}{4}$ mile
 4. “Disruption payments” to nearby property owners
 5. Oil and gas roughnecks required bike-to-work every Tuesday to offset GHG emissions
- 

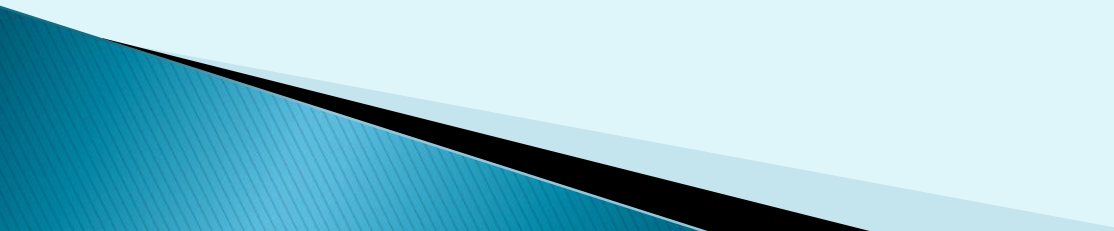
The Longmont Ordinance

Voluntary Standard – Fast Track Review	Mandatory Standards – P&Z Hearing
750' Setback from Occupied Buildings	Residential Zoning Restriction
300' Setback from Water Bodies	Groundwater Monitoring
Close Loop/Pitless Systems	Consolidated Well Sites and Horizontal Drilling Whenever Appropriate
Noise Mitigation	Visual Mitigation – Low Profile Tanks, Color and Relocation



- | | | | | | |
|---|--|---|-------------------------------|---|--|
|  | Approved "Well Site" |  | Pipeline to be Decommissioned |  | Vertical Well to be Plugged and Site Reclaimed |
|  | Consolidated "Well Site" |  | Planned Pipeline Corridor | | |
|  | Noble SUA/USR Not Subject to Agreement | | | | |

City and County of Broomfield

1. Current MOU with Extraction Oil and Gas
 2. Declined passing 6-month moratorium
 3. Attempting to update Comprehensive Plan to include Oil and Gas
 4. Revise MOU with Extraction
- 

City and County of Broomfield Comprehensive Plan

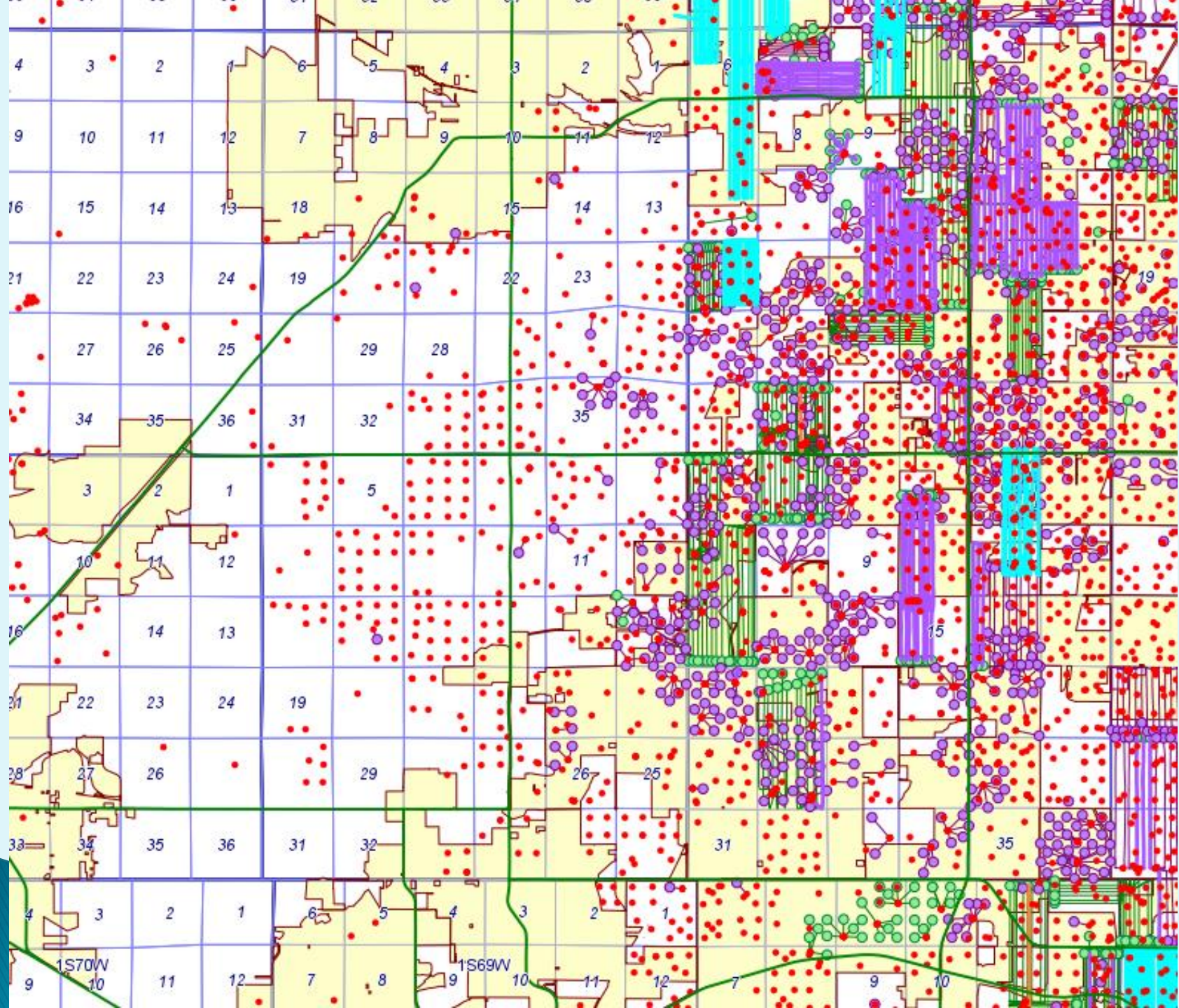
- ▶ Add a focus area: “Oil and Gas drilling” to Comprehensive Plan
- ▶ Pursuant to COGCC Rule 302.c(3) The City and County of Broomfield shall request all Oil and Gas operators ("operators") to submit five year plan
- ▶ The Update Committee will prepare a comprehensive map of the potential future well sites overlaid on the 2016 Comprehensive Plan Map.

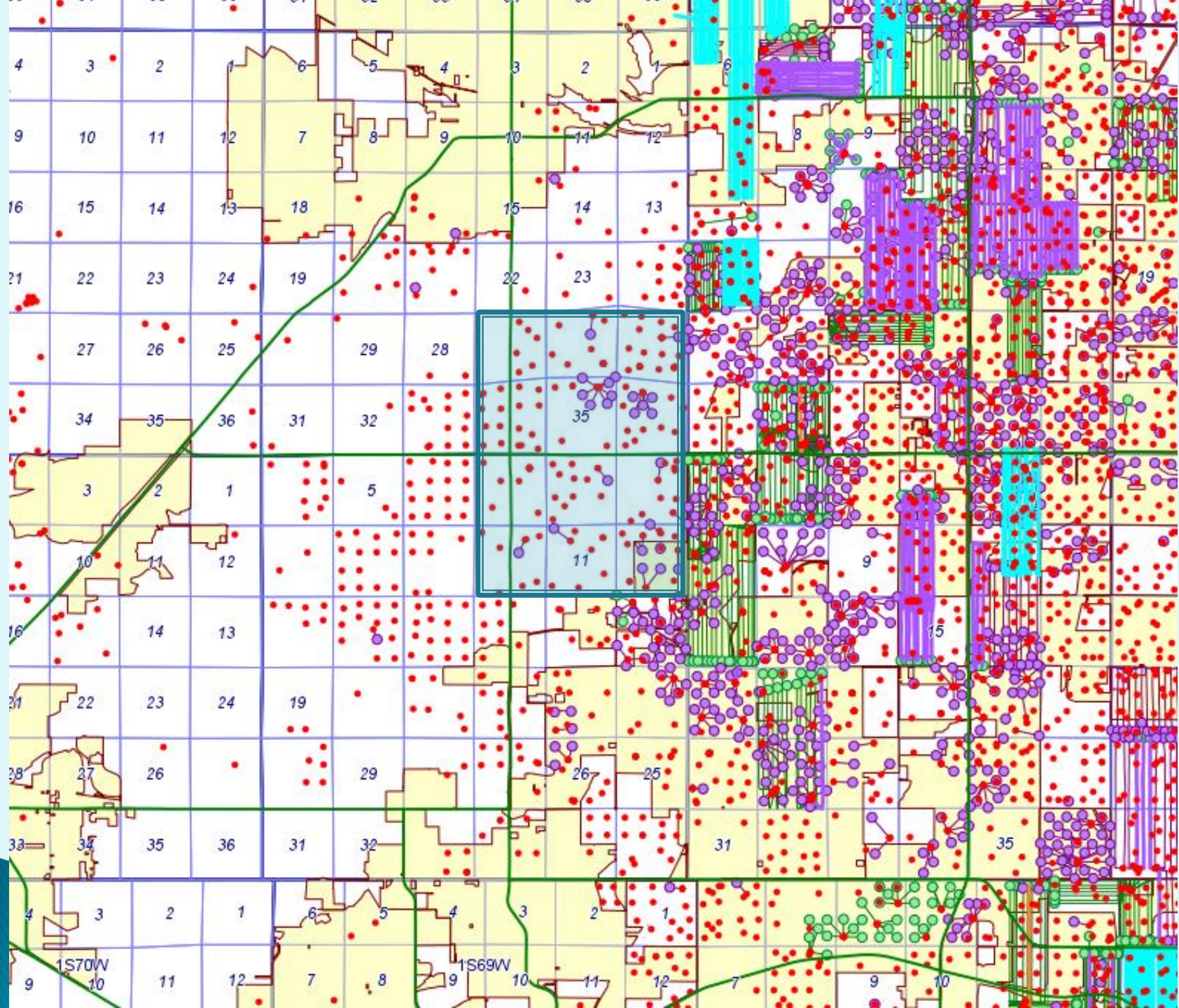
City and County of Broomfield Comp. Plan

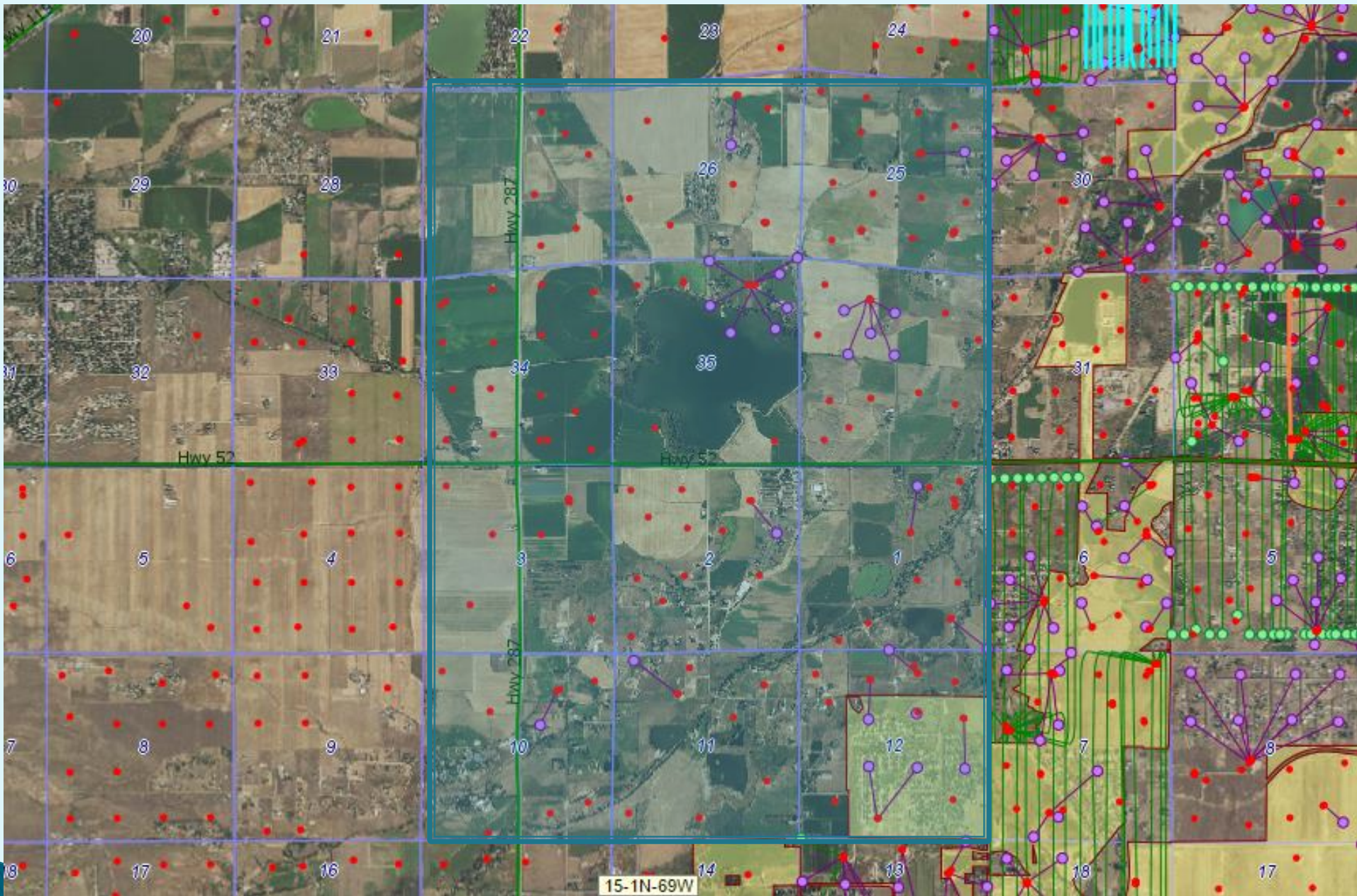
- ▶ On such map, the Update Committee will identify:
 1. sites that it considers compatible with the current and planned future uses of the area;
 2. sites where it anticipates minor issues to be resolved by negotiation with the operator; and
 3. sites where it anticipates significant conflicts. Conflicts may include concerns over health, safety, traffic and noise.

216. COMPREHENSIVE DRILLING PLANS

a. **Purpose.** Comprehensive Drilling Plans are intended to identify foreseeable oil and gas activities in a **defined geographic area**, facilitate discussions about potential impacts, and **identify measures to minimize adverse impacts to public health, safety, welfare, and the environment, including wildlife resources, from such activities**. An operator's decisions to initiate and enter into a Comprehensive Drilling Plan are voluntary.







Thank-you!

Matthew Sura

Attorney at Law

(720) 563-1866

mattsura.law@gmail.com