



May 17, 2017

The Honorable John Hickenlooper
200 East Colfax Ave.
Denver, CO 80203

Dear Gov. Hickenlooper:

As representatives of Colorado's business community, we are writing to praise the energy and public health officials in your administration who recommended an appeal of the deeply flawed split ruling in the *Martinez vs. Colorado Oil and Gas Conservation Commission* case. With the deadline for such an appeal approaching, we hope you will honor their recommendation and ask the Colorado Supreme Court to overturn this ruling.

Environmental activists, who want to ban oil and natural gas development in Colorado, brought the *Martinez* case. "I think our chances are really good of getting a statewide moratorium, I mean a statewide ban, on fracking," one of the plaintiffs told Denver CBS4 in November 2013 when the petition was first filed with the Colorado Oil and Gas Conservation Commission (COGCC).¹ While the petition was filed in the names of several children, the attorneys who brought the case are closely associated with Greenpeace, Sierra Club, 350.org and other "keep it in the ground" groups that have spent years trying to shut down one of Colorado's most important economic growth engines.²

COGCC denied the petition, which demands an indefinite halt to oil and gas permitting statewide, and the petition was later rejected by the Denver District Court. But a split decision by the Colorado Court of Appeals in March sided with the plaintiffs and a long list of anti-oil and gas groups that intervened in the case. If allowed to stand, the appeals court decision would force the COGCC to reconsider the petition, and potentially rewrite the state's oil and gas regulations, in an attempt to appease the activist groups behind this lawsuit. This would put the COGCC in an extremely difficult, if not impossible, position. As the activists have said themselves, they filed this petition to ban oil and gas development, not regulate it. Short of a ban, nothing the COGCC does will ever satisfy the demands of the plaintiffs.

In the 2-1 appeals court decision, Judge Laurie Booras issued a strong dissent which stated the COGCC "has consistently recognized its duty to balance health and environmental concerns with the promotion of oil and gas development." More recently, Boulder District Attorney Stan Garnett called for the appeals court decision to be reviewed. Garnett also warned activists against using campaign-style tactics to pressure your administration into backing away from an appeal. "I think it is a mistake not to seek Colorado Supreme Court review of the court of appeals decision," Garnett said.³

¹ <https://www.youtube.com/watch?v=PsEhK2tccE>

² <https://energyindepth.org/mtn-states/national-ban-fracking-activist-groups-hide-behind-kids-in-oil-and-gas-lawsuit/>

³ <https://www.facebook.com/stan.garnett.9/posts/1507779882597464?pnref=story>

We understand that the members of the COGCC unanimously recommended an appeal in the *Martinez* case. This is highly significant given the bipartisan nature of the commission and its diverse membership, which includes Dr. Larry Wolk, the state's chief medical officer and executive director of the Colorado Department of Public Health and Environment. We hope and expect your administration will stand by its decision to request a Colorado Supreme Court review of this case, given the high stakes involved.

The energy sector is a mainstay of the Colorado economy and a pillar of the state's business community. As you know, oil and natural gas companies have also been willing partners in finding ways to improve and strengthen Colorado's energy and environmental regulations. Forcing the COGCC and the state's energy sector to answer to fringe environmental groups who believe regulation is impossible, and who only support sweeping energy bans, would be a huge mistake. For this reason, we want you to know you have our full support in filing an appeal in the Martinez case.

Sincerely,

