

Leading The Colorado Oil and Gas Conservation Commission Lessons Learned and Industry Implications

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Background



Commission Makeup 2011-2019

- **9 Volunteer Commissioners appointed by state governor**
- **Changed from primarily individuals with oil and gas experience in 2007**
 - **Landowner with mineral rights, Environmental, Reclamation, Local Government, Executive Director of Colorado Dept. of Health & Environment (CDPHE), Executive Director of Department of Natural Resources (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; and,
 - 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”
- 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)
 - Primarily horizontal well development in Urban areas
 - Front Range Flooding
 - Complainant
 - School Setback
 - Pooling and Hearing Process
 - Mill Levy
 - Flowline



Learnings

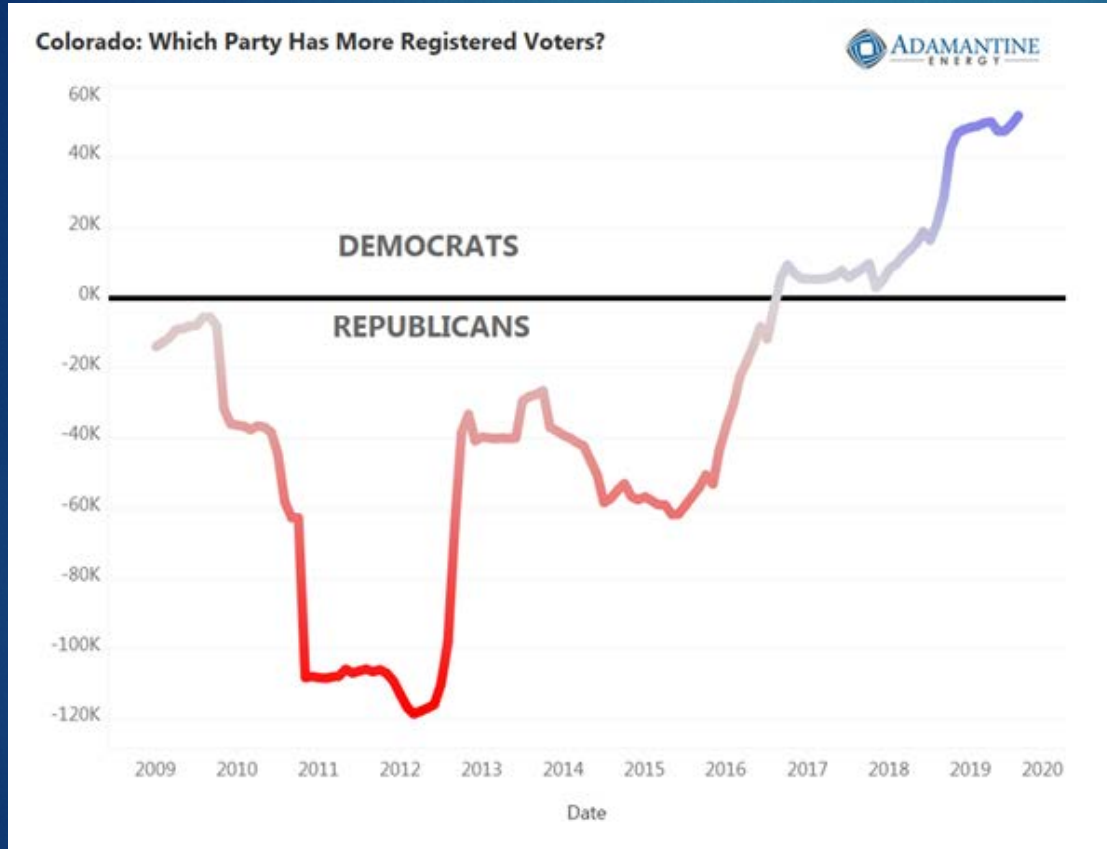
- **Patience**
- **Teaching, not preaching**
- **Industry should be as forthcoming as possible**
 - Keep it simple
 - Avoid highly technical terms
 - Involve stakeholders early, even if you don't think they are stakeholders
 - Listen, then clearly state where you stand, and points where you agree or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

What Happened In Colorado

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



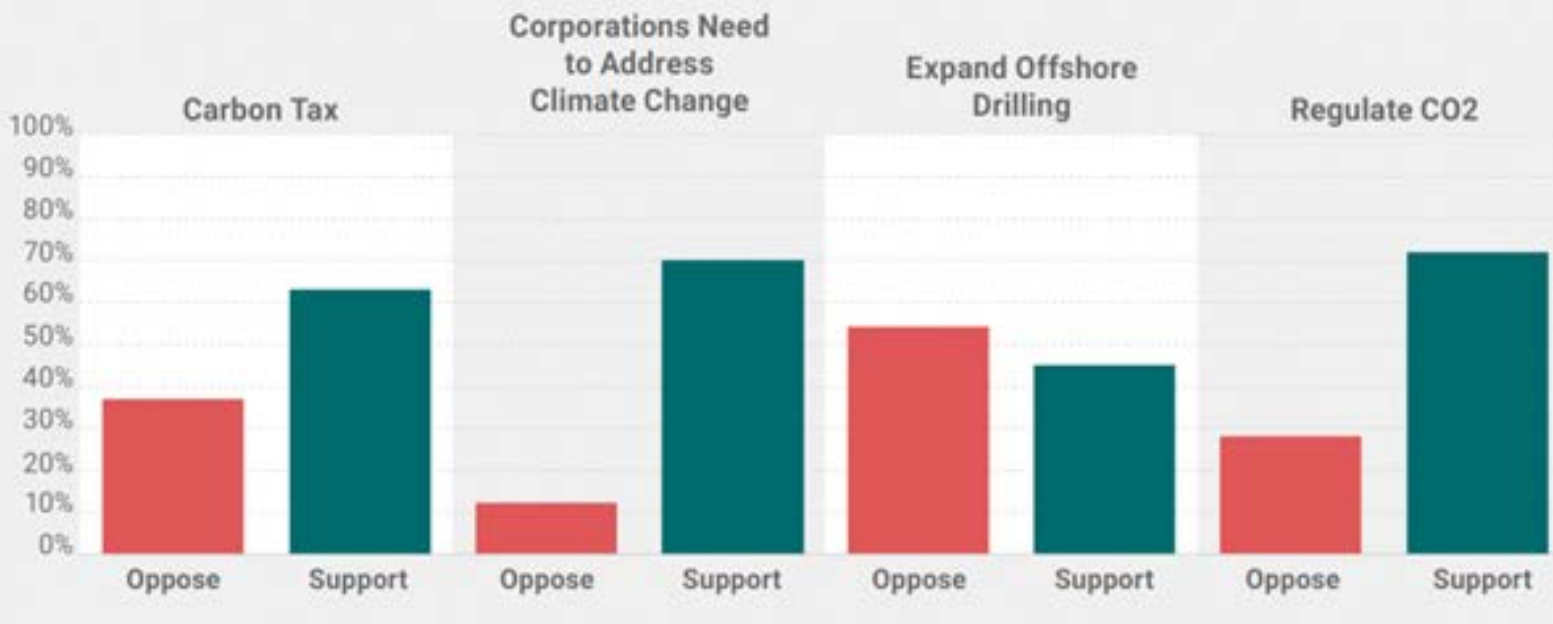
Changing Political Dynamics in Colorado



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. In the last 10 years, Colorado has changed from reliably red to undeniably blue. Largely as a result of that shift, the state's oil and gas industry is on its heels, and oil and gas observers consider Colorado one of the most actively hostile states in the country.

Coloradan's Concerns

Coloradans' Support of or Opposition to Climate- and Energy-Related Action 2019



Yale Program on Climate Change: <https://climatecommunication.yale.edu/publications/climate-change-in-the-american-mind-november-2019/> Copyright 2019 Yale.

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.



Legislation Affecting Colorado Oil and Gas

- **COGCC Mission Statement Before Senate Bill 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 resource
- **Post Senate Bill 181 COGCC Mission Statement**
 - 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



Key Industry Concerns

- **The Commission is charged to: Protect the public and private interests against waste in the production and utilization of oil and gas**
 - 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 Affecting Industry

- Removes 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

Additional 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

Post SB-181 Rulemakings

Rulemaking 2018-2020

- **6 Rulemakings**
 - **Last Volunteer Commission**
 - 500 Series
 - Flowline
 - Wellbore Integrity
 - **Professional Commission**
 - Mill Levy (Conservation Levy)
 - Setbacks
 - Mission Change; 200-1200 Series Rules

Rulemaking 2018-2020

- **500 Series (Initial)**
 - Allowance for administrative law judges and hearing officers to preside over hearing matters
 - Addressed evidentiary requirements for pooling and drilling and spacing unit applications
- **Flowline**
 - Built on previous rulemaking to increase public disclosure of flowline information and added rules for flowline reactivation
- **Wellbore Integrity**
 - The poster child for Rulemaking; cooperation with industry and environmental groups such as EDF to create sound, workable rules



Rulemaking 2018-2020

- **Mill Levy (Conservation Levy)**
 - Adjusted Mill Levy to provide funding for COGCC
- **Mission Change; 200-1200 Series Rules**
 - Multiple changes to several series of rules
 - Setbacks increased to 2000'
 - Alternative location analysis
 - Standing
 - Address impacts to disproportionately impacted communities
 - Increased collaboration between state and local governments in oil and gas regulation
 - Still a work in progress

Other Considerations

- **Potential Commissioner Roles Other Than Rulemaking and Hearings**
 - Public Outreach
 - Education
 - Interaction with Local Governments
 - Better access to information

Implications For Colorado And Other States/Provinces



Colorado 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 zero
 - Texas ranked first, followed by Oklahoma, Kansas, and Wyoming
 - Colorado was last with a score of zero; Even British Columbia and California had better scores
- In 2018, Colorado ranked 5th in crude oil and 8th in natural gas production

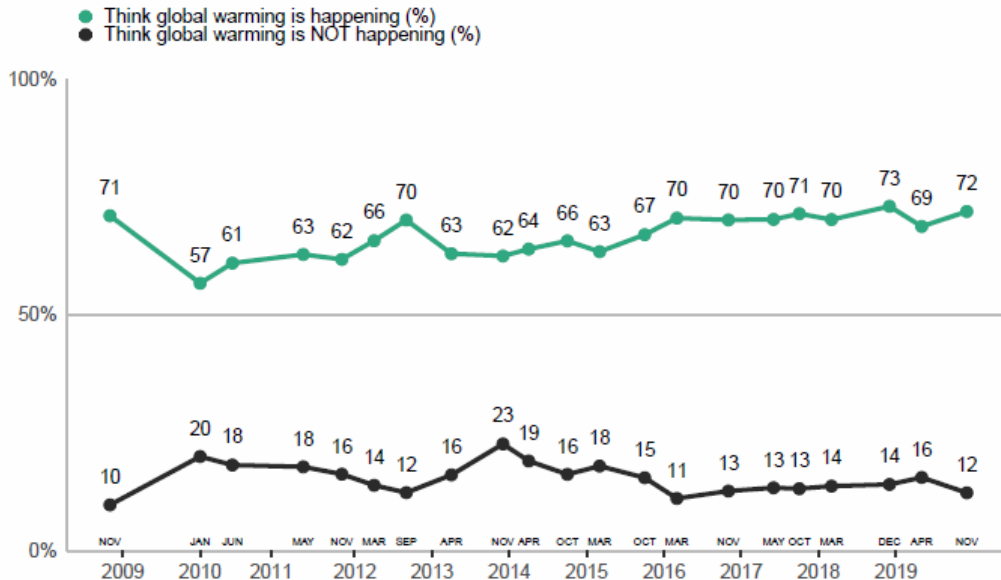


Colorado Consequences (Cont.)

- 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

Could It Happen Elsewhere?

About seven in ten Americans think global warming is happening



Do you think global warming is happening?
November 2019



VALE PROGRAM ON
Climate Change
Communication

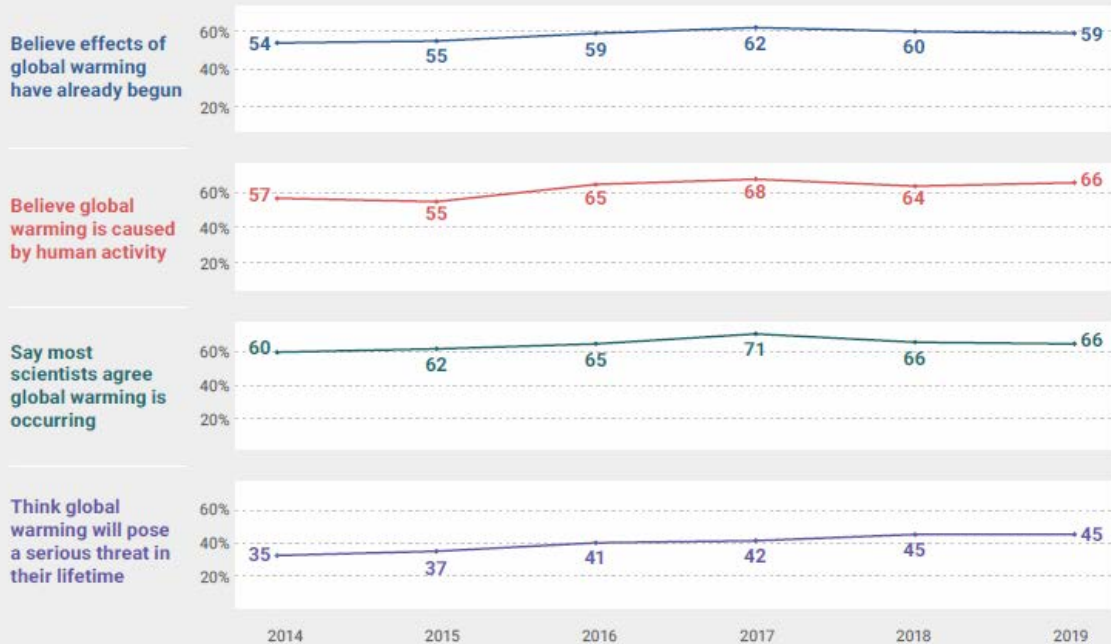


GEORGE MASON UNIVERSITY
CENTER for CLIMATE CHANGE
COMMUNICATION

- About half of Americans are certain that global warming is happening; 52% are “extremely” or “very” sure it is happening.
- Two in three Americans (67%) say the issue of global warming is either “extremely,” “very,” or “somewhat” important to them personally
- More than four in ten Americans (45%) think people in the United States are being harmed by global warming “right now”

Could It Happen Elsewhere?

Americans' Views on Global Warming

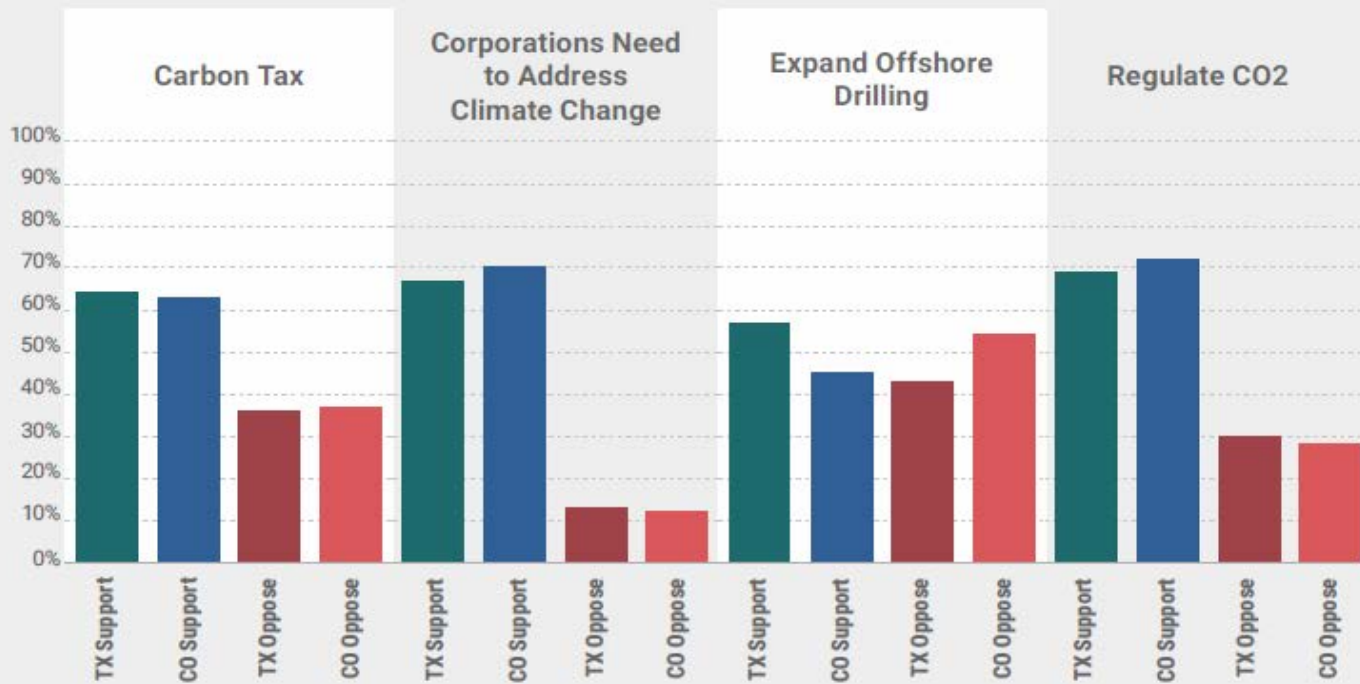


From Gallup Polling. <https://news.gallup.com/poll/231530/global-warming-concern-steady-despite-partisan-shifts.aspx>. Copyright 2018 by Gallup Polling

- Concern over climate has become synonymous with opposition to fossil fuels, including oil and gas and the practice of hydraulic fracturing
- The millennial generation is growing in political relevance, increasingly concerned about climate and opposed to oil and gas
- 60% of US voters support the reduction of fossil fuels

Could It Happen Elsewhere?

Comparing Support of and Opposition to Climate and Energy-Related Action



Yale Program on Climate Change: <https://climatecommunication.yale.edu/publications/climate-change-in-the-american-mind-november-2019/> Copyright 2019 Yale.

- Colorado's political and demographic trends are being replicated in Texas, along with additional changes unique to Texas, such as an in-migration from more liberal cities and states
- Texas is considered "safe" territory for oil and gas support, yet what happened in Colorado may happen in Texas, and is a bellwether for oil and gas support throughout North America



Changing The Approach

- **Being successful elsewhere in mitigating what happened in Colorado will require effort**
- **Companies should work to take oil and gas out of the political identity equation and work to mitigate your risk**
 - **Assess your Social Risk**
 - the combined political, policy, and community factors that could delay, increase costs for, or stop your project
 - **Foster support across the stakeholder spectrum**
 - Create a government affairs strategy that fosters relationship-building with diverse political affiliations
 - Cultivate relationships with stakeholders, policy makers, and elected officials
 - Consider building longer bridges
 - Build these engagements over time to build trust, and once established, conduct educational efforts on oil and gas in general, or for specific projects
 - **Focus on your millennial stakeholders**
 - the oil and gas industry has its own vibrant, diverse, engaged, and passionate millennials. Engage them in your outreach strategy, and have them be the face of that strategy



Changing The Approach

- **Embrace the climate conversation**
 - Translate your company's commitment to reducing emissions and your footprint into a vision for decarbonization
 - The U.S. Energy Information Administration's (EIA) predicts that total world energy consumption will increase by 28% between 2015 and 2040. The United States has reduced greenhouse gas emissions 14 percent since 2005 primarily due to natural gas replacing carbon intensive fuels
- **Support industry organizations in their efforts to work with regulatory bodies to create balanced rules**
- **Work with your company's government affairs staff to recommend and support candidates for oil-and-gas regulatory bodies that understand our industry and its technology**



Conclusions

- Colorado's oil and gas regulatory body worked hard to adapt its rules and regulations to changing conditions for oil and gas development in the state
- Despite those efforts the public's perception of the Commission was that it was not doing enough
- Industry missed a number of signals that would have enabled it to adapt to changing public perception and politics towards Colorado oil and gas development
- Public perception and political shifts resulted in legislation that creates a hostile environment for Colorado oil and gas development
- The changing rules landscape has a negative effect on oil and gas investment in Colorado
- Colorado is a bellwether for the industry, and the same result may occur in other states and provinces if industry does not change its approach to working with stakeholders and legislatures

Information Sources

- **Climate Change In The American Mind, November 2019**
 - Yale Program on Climate Change Communication; and,
 - George Mason University Center for Climate Change Communication
 - <https://climatecommunication.yale.edu/publications/climate-change-in-the-american-mind-november-2019/>
- **Will Texas Ban Fracking in 10 Years?, January 2020**
 - Adamantine Energy
- **Canada-US Energy Sector Competitiveness Survey 2019**
 - Fraser Institute
- **COGCC Website**
 - <https://cogcc.state.co.us/#/home>



COGCC Information

- COGCC Website
 - <https://cogcc.state.co.us/#/home>
- COGCC Contact Information
 - Main Number: 303 894 2100
- Hearings: <https://cogcc.state.co.us/reg.html#/hearings>
- Commission Portfolios, including Agendas
 - <https://drive.google.com/drive/folders/1YioUKARo-jwqy60RcAzvHDIqj9PDP>
- Commissioners
 - <https://cogcc.state.co.us/about.html#/commissioners>

Questions?

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