

SANDOVAL COUNTY OIL & GAS DRAFT ORDINANCE COMMENT -- Draft ordinance recommendation to County Commission

David Craig <dtc.bayern@gmail.com>

Fri 9/21/2018 1:01 PM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Cc: Aparcio C. Herrera <aherrera@sandovalcountynm.gov>; Peter J. Adang <padang@sandovalcountynm.gov>; James G. Maduena <JMaduena@sandovalcountynm.gov>; Keith Brown <kbrown@sandovalcountynm.gov>; Daniel J. Stoddard <DStoddard@sandovalcountynm.gov>; Geoffrey Stamp <gstamp@sandovalcountynm.gov>; Dennis R. Trujillo <DTrujillo@sandovalcountynm.gov>; Dave Heil <dheil@sandovalcountynm.gov>; James Holden-Rhodes <jholden-rhodes@sandovalcountynm.gov>; Jay Block <jblock@sandovalcountynm.gov>; Don Chapman <dchapman@sandovalcountynm.gov>; Kenneth Eichwald <keichwald@sandovalcountynm.gov>; Michael Springfield <MSpringfield@sandovalcountynm.gov>; Makita Hill <mhill@sandovalcountynm.gov>; Robin S. Hammer <rhammer@sandovalcountynm.gov>; Dianne Maes <dmaes@sandovalcountynm.gov>;

📎 3 attachments (1 MB)

CWG Charter -- Approved County Commission 15 Mar 2018.pdf; Meeting Aug 28 2018 OG ORD -- Oil and Gas Spreadsheet -- 913_Copy of EXCEL DRAFT ORDINANCE COMPARISON AUGUST 2018 F2 (obtained Aug 25 8am) ALL SHEETS.pdf; cwg ot ordinance draft introduction 8_23_18.pdf;

[[County PIO - Please consider all the attachments as part of my public comment which I ask that you please include in full in the weekly comment compilation]]

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Hello P&Z Commissioners and County Commissioners,

I request that the P&Z commissioners in your September 25 (Tuesday) 4:30 pm meeting please vote to recommend only the Citizens Working Group (CWG) draft ordinances to the County Commissioners for their consideration as the county's oil and gas and water protection ordinance. The other proposed ordinances (Block and Baseline Block Updated) are weak, oil & gas industry friendly ordinances, without adequate protections for water, for the health, safety and welfare of county residents and without genuine efforts for Tribal input.

I make this request since the P&Z commissioners do not seem to have in any serious way considered any of the draft ordinances. Also, the Block and Baseline (really just modified Block) ordinances are just the rehashed Stoddard ordinance which the County Commission rejected earlier this year. The P&Z commissioners seem to just want as quickly as possible to pass these ordinances to the County Commissioners so the County Commissioners can decide which ordinance they consider best for the county.

o An ordinance comparison matrix (see the attached August 21 version) was initially created by the P&Z staff, but any serious understanding or review of this matrix was ignored by the commissioners at their meetings. The proposed work sessions never really materialized.

o This staff-created ordinance matrix most egregiously ignored the most important part of the ordinance's mandate by the County Commission -- the preservation and protection of county aquifers (see the attached CWG Charter for the actual mandate direction). Topic AQUIFER PROTECTION was only added after a P&Z commissioner (Peter Adang) pointed out this omission. Seems the P&Z staff were completely oblivious that the most important part of a proposed county oil and gas ordinance is to protect water. This comparison matrix originally included the names of the ordinances, but the later versions just provide generic numbered names which only confuse people who try to read these.

o The 2 submitted Citizens Working Group (CWG) ordinances (one from the Science Team, other from the Ordinance Team) are treated as bastard stepsons by the P&Z staff led by Mike Springfield (505-867-7628, m.springfield@sandovalcountynm.gov). All Mike Springfield seems to say about these CWG ordinances is they are too

complex for the county P&Z staff to implement. The CWG ordinances understand this and have recommended the use of expert consultants to handle the details and have the oil/gas companies pay for these consultants. Surely the oil/gas industry can afford this expense given that the state guestimates it will receive an additional \$1.2 Billion (yes, Billion with 9 zeros, not Million) next year from increased oil/gas development.

o I also strongly object to Mike Springfield's attempt to rush the P&Z's ordinance review due to what he said are pressing P&Z issues such as bed and breakfast regulations. Surely the P&Z could hold additional separate meetings to address other important issues.

o Also, I am unable to find any public meeting approval by the P&Z commissioners allowing for the inclusion of either of the Block ordinances. Seems the P&Z staff under Mike Springfield just included these ordinances at their discretion. This may make one wonder why the P&Z commission is even needed since the staff seems to control this commission's actions. County Commissioner Jay Block (505-252-6218, jblock@sandovalcountynm.gov) submission of his ordinance to the P&Z could make one question his dedication to process which he touts as his forte when he bypasses the P&Z ordinance review process. Seems Block as a county commissioner thinks he can decide how the P&Z conducts its operations without any P&Z approval or public disclosure of his actions. Would the P&Z allow anyone to submit their own ordinance for P&Z consideration? Highly doubtful.

o As a member of the CWG Ordinance Team, I am also attaching the introduction from this team's August ordinance. This introduction provides the rationale behind the creation of this ordinance which may help some people better understand this ordinance's perspective.

It's time that the P&Z commissioners and staff admit that they do not have the time, inclination or expertise to address a complex ordinance such as the current oil and gas and water protection ordinance. The P&Z's most prudent action should be to recommend only the CWG ordinances to the County Commissioners who will hopefully seriously review and decide the only ordinances which follow the commission's own CWG ordinance mandate.

Thank you for your time.

- David Craig
- Cochiti Lake - New Mexico
- 505.465.0087 / dtc.bayern@gmail.com

- CWG Secretary
- CWG Ordinance Team member

March 11, 2018

Approved by County Commission
March 15, 2018

SANDOVAL COUNTY

AQUIFER WATER PROTECTION &
OIL AND GAS CITIZENS WORKING GROUP

Objective

Preservation and protection of drinking water aquifers, groundwater, and surface water
and development of a county oil and gas ordinance

Participants

Independent Leader (non-voting):

Donald T. Phillips (Pending)
Writer/Author
Geologist (BS, MS); Oil and Gas Exploration (Mobil Oil, Tenneco Inc., CNG Producing Co.)
Former 3-term mayor, Fairview, Texas

Members (Voting):

Algodones:

John Arango
Former Chairman, Sandoval County, Planning & Zoning Commission
20 years' experience in Sandoval County Ordinance process

Bernalillo:

Phoebe Suina
Environmental Engineering & Management (BA, MA, Dartmouth)
Environmental Management (MA; Dartmouth)
Owner, High Water Mark (Environmental Consulting Company)

Cochiti Lake:

David Craig
Computer Science (BS), 34 years professional programming experience
Chairman, Cochiti Lake Zoning Board

Corrales:

Mary Feldblum
PhD in Sociology and Economics
Former Chair Corrales Planning and Zoning Commission
Has worked in policy issues for over 3 decades at state and local levels, including
expertise in oil and gas issues. Consultant for the Oil and Gas Accountability Project
(OGAP)

Cuba:

Aparcio C. Herrera, Jr.
BS in Business (UNM)
Chairman, Sandoval County Planning & Zoning Commission
Owner, The Copper Mug, Cuba, NM; former O&G field pumper

La Madera:

Bill Deaton
Chemical Engineer (MS)
Math and Economics (BA)
Executive MBA (Stanford)

Placitas:

Bill Brown
Geologist (BS, MS, UNM)
Professional hydrologist (investigation and cleanup of soil/groundwater hydrocarbons)
Owner, Brown Environmental, Inc.

CITIZENS WORKING GROUP (CWG) AUGUST 23, 2018 ORDINANCE INTRODUCTION

ORDINANCE MISSION

To preserve and protect the county's aquifers, groundwater, and surface water, the public health, safety and welfare, to preserve and protect Tribal and other historic, cultural and archaeological artifacts and sites while at the same time providing for the responsible and economically viable extraction of oil and gas minerals.

ORDINANCE DEVELOPMENT SUMMARY

Assembling a legally, technically competent, defensible, and enforceable oil and gas ordinance is a difficult and complex task, requiring significant time and expertise, as well as having many eyes check and re-check all sections thoroughly.

On March 15, 2018, the Sandoval County Commission voted to assign a group of citizens, the Citizens Working Group (CWG), to work on drafting an oil and gas ordinance for the county.

The Commission's proposal called for "maximum citizen participation" as well as technical and scientific reviews to inform the process of drafting an ordinance. On April 5th, the CWG voted in the CWG Ordinance Team to draft an ordinance with input from science and public awareness teams. The Team quickly became aware of the critical need for legal consultation and sought out that expertise as well.

The Ordinance Team includes members of the CWG and the public. The team began immediately working on an ordinance while soliciting public and Tribal input at every stage.

The Ordinance Team is deeply committed, both in process and product, to drafting an ordinance that is legally, technically competent, culturally sensitive, defensible, and enforceable.

The Team has solicited public input by conducting community outreach 'listening meetings' throughout the county, in rural and Tribal communities. Several such meetings have taken place and more will be scheduled. Citizen responses from those meetings have been carefully reviewed and incorporated into the Ordinance Team's ordinance.

The team has consulted technical experts in areas including; geology, hydrology, water, noise, health, air quality, cultural, Tribal, archeological, and others.

The Team has formally engaged with the UNM Law Clinic and other attorneys to review the draft ordinance for legal defensibility and advise the group on specific legal issues.

LEGAL ANALYSES

The legal analyses used in the preparation of this ordinance are attached which includes the UNM Law Clinic analyses. The 2015 Browning decision relating to the Mora County oil and gas ordinance is also attached since we think this decision is important for the county to understand. Significant state preemption passages in this decision are highlighted.

	A	B	C	D	E	F
SECTION/TOPIC	OIL AND GAS DRAFT #1	OIL AND GAS DRAFT #2	OIL AND GAS DRAFT #3 (page numbers based on word version)	OIL AND GAS DRAFT #4	OIL AND GAS DRAFT #5	2018 P&Z COMMISSION DRAFT
	<p>issued by an insurance company approved by the New Mexico Superintendent of Insurance, and that names the applicant as insured. Such insurance policy shall be maintained in full force and effect from the date of approval of this Conditional Use Permit request by the Planning and Zoning Commission and continuing in force until the well is plugged and abandoned in accordance with the State Regulation Plan as approved by the County Engineer. A separate policy is not required if pollution coverage is included as a part of the comprehensive general liability insurance policy required by this Section. The insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation. The applicant, offering a plan of self-insurance, may provide a certificate of insurance as required by this Section pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico and the County Manager.</p>		<p>issued by an insurance company approved by the New Mexico Superintendent of Insurance, and that names the applicant as insured. Such insurance policy shall be maintained in full force and effect from the date of approval of this Conditional Use Permit request by the Planning and Zoning Commission and continuing in force until the well is plugged and abandoned in accordance with the applicable State statutes, NMDCP Regulations, or the State Regulation Plan as approved by the County Engineer. A separate policy is not required if pollution coverage is included as a part of the comprehensive general liability insurance policy required by this Section, as long as the coverage is not less than Ten Million Dollars (\$10,000,000). The insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation. The applicant, offering a plan of self-insurance, may provide a certificate of insurance as required by this Section pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico and the County Manager.</p>	<p>The insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation. The Applicant, offering a plan of self-insurance, may provide a certificate of insurance as required by this Section pursuant to such plan provided that such plan has been approved by the New Mexico Division of Insurance and the County Manager.</p>	<p>Prior to the commencement of operations requiring notice. Each policy shall be endorsed to provide the County a minimum thirty-day notice of cancellation, non-renewal and/or material change in policy terms or coverage. A ten days' notice shall be acceptable in the event of non-payment of premium. 8.Z. Standard Commercial General Liability Policy. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources and equipment hazard damage, broad form property damage, fire, independent contractors' protective liability and personal injury. This coverage shall be a minimum combined single limit of \$5,000,000 per occurrence for bodily injury and property damage.</p>	
14	NOT ADDRESSED	NOT ADDRESSED	<p>RECOMMENDED DISTRICTS B AND C ARTICLE IX, P. 23: Financial Solvency. Applicant must demonstrate financial solvency. If the Applicant is a subsidiary of another company, Applicant must also demonstrate the financial solvency of the parent company. The information provided must be certified by an officer of the company.</p>	<p>RECOMMENDED ARTICLE VI, P. 25: Financial Solvency. The Applicant must submit financial statements audited by a certified public accountant for each of the past five years to demonstrate financial solvency. If the Applicant is a subsidiary of another company, the information provided must include five-year financial statements for the parent company that have been audited by a certified public accountant.</p>		

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SECTION/TOPIC	OIL AND GAS DRAFT #1	OIL AND GAS DRAFT #2	OIL AND GAS DRAFT #3 (page numbers based on word version) Procedures for a Special Use Permit in District C shall include a Pre-Application Meeting (see Article VII.E); Onsite Visit (see Article VII.F); Review for Completeness of Application (see Article VII. G); Review Process and Criteria for Special Use Development Permits in District C (see Article VII. H); Public Notification (see Article VII. I); and are the same as the comparable referenced sections of Article VII in Ordinance 36. For proposed special use permits in District C substituting, where applicable, "special uses" for "conditional use", and changing the role of the Planning and Zoning Commission from decision maker to recommending agency.	OIL AND GAS DRAFT #4	OIL AND GAS DRAFT #5	2018 PRZ COMMISSION DRAFT
4	GROUND WATER MONITORING NOT RECOMMENDED BY OCD, PREEMPTION ISSUE	NOT RECOMMENDED BY OCD, PREEMPTION ISSUE	REFERENCE TO MONITORING IN JULY 2018 PDF DOCUMENT, ARTICLE IV, PROVISIONS, P. 13, HAS BEEN DELETED FROM THE WORD VERSION DOCUMENT SEND TO PRZ 8/3/18	GENERAL MONITORING RECOMMENDED, ARTICLE III, P. 11-12: Where the Director is charged in this Ordinance with the responsibility of monitoring compliance with Oil and Gas Permits, the Director may, at the expense of the Operator, hire such experts, consultants, companies or agencies as are deemed necessary to perform the Citizens Working Group Ordinance Team monitoring function. The Operator shall give the County a certified or bank check, wire transfer or letter of credit deposit in an amount to be determined by the Director to cover all of the County's expenses as are considered necessary for such monitoring.	RECOMMENDED, ARTICLE 6, P. 6: 6.12. The operator will conduct a pre-drill water sample quality test on any public drinking water well within five thousand two hundred eighty (5,280) feet of the drill site, and shall conduct quarterly water quality testing and monitoring as long as the well is not plugged and abandoned in accordance with NIMCCD and NIMED requirements.	

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SECTION/TOPIC	OIL AND GAS DRAFT #1	OIL AND GAS DRAFT #2	OIL AND GAS DRAFT #3 (page numbers based on word version)	OIL AND GAS DRAFT #4	OIL AND GAS DRAFT #5	2018 P&Z COMMISSION DRAFT
6 NOISE PLAN	NOT ADDRESSED	<p>RECOMMENDED ARTICLE 5 P. 4: 3.G. Noise Control Plan. Estimate the noise levels from expected operations requiring notice, which shall not exceed sixty (60) decibels as measured from a distance of seven hundred fifty (750) feet from the well or associated operations, including noise from traffic, and describe the manner in which operator intends to limit the noise levels associated with such operations below that threshold. Noise levels may exceed sixty (60) decibels, up to eighty (80) decibels, for a period of time not to exceed thirty (30) calendar days for each calendar year.</p>	<p>RECOMMENDED DISTRICTS B AND C, ARTICLE IX, P. 24: Noise Control Plan. Applicant must provide a noise control plan identifying the type, frequency and maximum level of noise to be emitted during construction, maintenance and operations of the hydrocarbon wells) and associated facilities, including during any kind of fracturing of the well bore. Any noise mitigation to be performed to ensure that continuous noise shall not exceed 35 decibels at the property line of the parcel containing a well pad and any adjacent occupied structure or wildlife corridor.</p>	<p>RECOMMENDED, ARTICLE VII, P. 31: Sound Management Plan. Applicant must provide a Sound Management Plan that identifies hours of increased sound emissions due to oil and gas operations including the type, frequency spectrum and intensity to be emitted and proposed mitigation measures for Oil and Gas Facility operations that include truck traffic, drilling and fracturing, well pumps and compressors. Sound emitted from facilities shall be limited to a level which protects the public health, welfare and quality of life of residents, conserves property values and does not harm livestock and wildlife, as required under Article VII E. The Plan shall identify any sound sensitive locations within one-half (1/2) mile, including schools, libraries, hospitals, group homes, recreation areas, livestock and wildlife habitats. Sound mitigation measures shall ensure that sound sensitive locations shall not be subject to increases of more than five (5) A-weighted decibels (dBA) above site-specific ambient baseline sound levels, measured as specified in Article VIII. Sound measurements shall be taken by a qualified sound consultant approved by the Director and paid for by the Applicant.</p>	<p>RECOMMENDED, ARTICLE 6, P. 5: 6.G. Noise Control Plan. Estimate the noise levels from expected operations requiring notice, which shall not exceed sixty (60) decibels as measured from a distance of seven hundred fifty (750) feet from the well or associated operations, including noise from traffic, and describe the manner in which operator intends to limit the noise levels associated with such operations below that threshold. Noise levels may exceed sixty (60) decibels, up to eighty (80) decibels, for a period of time not to exceed thirty (30) calendar days for each calendar year.</p>	

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<p>8 SECTION/TOPIC EMERGENCY SERVICES PLAN</p>	<p>OIL AND GAS DRAFT #1 RECOMMENDED ARTICLE 4, P. 20: (3) Fire/Police/Agency Response Plan: The applicant shall provide documentation of all fire, police, and emergency response service facilities which may be contacted for these services. The well as a description of standard operating procedures, including applicable health, safety and environmental protocols, used by the operator in the event of an emergency. The Emergency Response Plan shall include a section for fire protection and when the permittee will call emergency responders. The Planning and Zoning Division Director or designee shall convey the Emergency Response Plan to the Fire Department Fire Chief or designee for review, and may revise as needed. The Fire Department Fire Chief or designee shall issue a determination to accept or deny the Emergency Response Plan within 30 days. The applicant may file for a Variance on the determination of the Fire Department Fire Chief or designee to the Planning and Zoning Commission.</p>	<p>OIL AND GAS DRAFT #2 RECOMMENDED ARTICLE 5, P. 4: 5: (3) Emergency Response Plan: The applicant shall submit an Emergency Response Plan identifying location of fire, police, and emergency response services are closest to the well site as well as a description of standard operating procedures, including applicable health, safety and environmental protocols, used by the operator in the event of an emergency. The Emergency Response Plan shall include a section for fire protection and when the permittee will call emergency responders. The Planning and Zoning Division Director or designee shall convey the Emergency Response Plan to the Fire Department Fire Chief or designee for review, and may revise as needed. The Fire Department Fire Chief or designee shall issue a determination to accept or deny the Emergency Response Plan within 30 days. The applicant may file for a Variance on the determination of the Fire Department Fire Chief or designee to the Planning and Zoning Commission.</p>	<p>OIL AND GAS DRAFT #3 (page numbers based on word version) RECOMMENDED DISTRICTS B AND C ARTICLE IX, P. 25: Emergency Response Plan: Applicant shall submit an emergency response plan that contains a map showing the location of the well pad(s), the location of the nearest County emergency services and the location of the nearest other (municipal, tribal, private, etc.) emergency services; Describes any emergency services that will be available on-site; and Describes the services available from the nearest source(s), any arrangements for assistance that are already in place, whether a reliable method of communication with these services is planned or in place, and the circumstances that will cause the applicant to seek emergency assistance.</p>	<p>OIL AND GAS DRAFT #4 RECOMMENDED ARTICLE VII, P. 30-31: Emergency Response Plan: The Emergency Response Plan shall include the following: Name, address and phone number, including a 24-hour emergency number of at least two local persons responsible for emergency field operations at the Facility. Describe any emergency services that will be available on-site. Identify all fire, police and emergency response services in or near the County that are within two miles of the Facility. Identify other possible fire, police and emergency response services outside the two-mile area. Letters from the local police, fire, and emergency services department heads confirming that they have the capacity, equipment and training needed to address potential emergencies that may occur including explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide, methane or other toxic gas emissions, or hazardous material vehicle spills or vehicle accidents. An Oil and Gas Facility emergency services map showing the name, location and description of all potentially dangerous facilities on the site and their GPS coordinates and includes the site, type and content of all pipelines, wells and tanks. The information the emergency services map contains shall be held confidentially by the County Fire Chief and shall only be disclosed in the event of an emergency. The map shall be updated as built after permit approval and submitted to the County Fire Chief. A written specific Emergency Response Plan for each type of potential emergency associated with the Oil and Gas Facility operations. These include: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide, methane or other toxic gas emissions, or hazardous material vehicle spills or vehicle accidents. The Emergency Prepared Plan should be site specific and take into account site topography and seasons. The Plan shall describe whether a reliable method of communication with these emergency services is in place or is planned and the circumstances that will cause the Applicant to seek outside emergency assistance.</p>	<p>OIL AND GAS DRAFT #4 RECOMMENDED ARTICLE 6, P. 5: Emergency Response Plan: The applicant shall submit an Emergency Response Plan identifying all fire, police, and emergency response services in the County that are closest to the well site. The plan shall include a description of standard operating procedures, including applicable health, safety and environmental protocols, used by the operator in the event of a contingency situation. The Emergency Response Plan shall include a section for fire protection and when the permittee will call emergency responders. The Planning and Zoning Division Director or designee shall convey the Emergency Response Plan to the Fire Department Fire Chief or designee for review, and may revise as needed. The Fire Department Fire Chief or designee shall issue a determination to accept or deny the Emergency Response Plan within 30 days. The applicant may file for a Variance on the determination of the Fire Department Fire Chief or designee to the Planning and Zoning Commission.</p>	<p>2018 P&Z COMMISSION DRAFT</p>

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10 WATER USAGE AND SOURCES PLAN	<p>RECOMMENDED, ARTICLE 6, WATER PROTECTION CERTIFICATION: The applicant shall certify that it will comply with the requirements of OCD and NMED concerning the protection of water, will provide estimates on how much water is to be used, where the water is planned to be sourced, and the applicant shall take reasonable measures necessary to avoid the pollution of surface water, ground water, and the use of non-potable water wherever possible. The operator will conduct a pre-drill water sample quality test on any public drinking water well within five thousand two hundred eighty (5,280) feet of the drill site, and shall conduct quarterly water sample quality tests thereafter for so long as the well is not plugged and abandoned in accordance with NMOC and NMED requirements. Such test results shall be made available within ten (10) working days following verification of the results by a laboratory licensed in the State of New Mexico for water quality analysis to the Planning and Zoning/Production, Leak and Spill Protec</p>	<p>NOT RECOMMENDED BY OCD, PREEMPTION ISSUE</p>	<p>The Director may also contract with one or more consultants to review the Air Quality Plans and advise the Director. If consultants are used, the consultants' reasonable fees and expenses shall be paid by the applicant. The applicant shall submit the Air Quality Plans as submitted; request additional information; require changes before approval; or deny approval of the plans. The Director shall accept or deny the Air Quality Plans within thirty (30) calendar days of receipt of the plans. The applicant may request, in writing, for a reasonable amount of additional time. The Director shall grant a request for additional time unless there is a compelling reason for ruling that lack of approval is in effect a denial of the plans. The applicant may appeal the Director's denial of a one or both of the Air Quality Plans to the NMED. The Director shall ensure that the plans are made available to "need to know" County Departments and local municipalities. The Fire Chief shall assist municipalities that request help in preparing for an air quality emergency.</p>	<p>RECOMMENDED, ARTICLE 6, WATER PROTECTION CERTIFICATION: The applicant shall certify that it will comply with the requirements of OCD and NMED concerning the protection of water, will provide estimates on how much water is to be used, where the water is planned to be sourced, and the applicant shall take reasonable measures necessary to avoid the pollution of surface water, ground water, and the use of non-potable water wherever possible. 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The operator will conduct a pre-drill water sample quality test on any public drinking water well within five thousand two hundred eighty (5,280) feet of the drill site, and shall conduct quarterly water sample quality tests thereafter for so long as the well is not plugged and abandoned in accordance with NMOC and NMED requirements. Such test results shall be made available within ten (10) working days following verification of the results by a laboratory licensed in the State of New Mexico for water quality analysis to the Planning and Zoning/Production, Leak and Spill Protec</p>

SECTION/TOPIC	A	B	C	D	E	F
11 TERRAIN MANAGEMENT PLAN	<p>OIL AND GAS DRAFT #1 RECOMMENDED ARTICLE 4, P. 20-61 Terrain Management Plan shall include a narrative describing clear goals for post-production land management and how those goals are to be achieved. A Terrain Management Plan shall address the restoration of all areas of the development where the surface was disturbed. The Terrain Management Plan shall include, but may not be limited to, the following information: (a) A schedule and description of interim terrain management activities to be conducted following the completion of each phase of development within the Well Site; and (b) A schedule and description of proposed final restoration activities to be completed upon abandonment of the Oil or Gas Well and a discussion of how those restoration activities will impact the anticipated future uses of the property.</p>	<p>OIL AND GAS DRAFT #2 RECOMMENDED ARTICLE 6, P. 61-63 Abandonment, Plugging and Remediation. Operator shall submit to the County copies of all approved plugging and abandonment permits.</p>	<p>OIL AND GAS DRAFT #3 (page numbers based on word version) RECOMMENDED ARTICLES 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 Terrain Management Plan shall include a narrative describing clear goals for post-production land management and how those goals are to be achieved. It shall address the restoration of all areas of the development where the surface was disturbed. The Terrain Management Plan shall include, but may not be limited to, the following information: A schedule and description of interim terrain management activities to be conducted following the completion of each phase of development within the Well Site; and B. Schedule and description of proposed final restoration activities to be completed upon the final NMOCD approved plugging, and abandonment of the Oil or Gas Well and a discussion of how those restoration activities will impact the anticipated future uses of the property. All restoration activities described in the Terrain Management Plan shall include a Grading and Drainage Plan which shall include the following, where appropriate, but may not be limited to: (i) Grading methods; (ii) Backfill and regrading methods; (iii) Reseeding materials and revegetation methods; (iv) Backfill or grading requirements; and (v) Soil stabilization techniques.</p>	<p>OIL AND GAS DRAFT #4 RECOMMENDED ARTICLE V, P. 15-16 Terrain Management Plan shall address the restoration of all areas of the development where the surface will be disturbed should the Exploratory Well be plugged and abandoned as required by OCD. The Terrain Management Plan shall include a narrative describing clear goals for post-production restoration and how those goals are to be achieved. These goals shall include preventing the appearance or spreading of noxious and invasive plant species as specified in communications with the local agricultural extension office and returning the well site to its natural state, excluding noxious and invasive plant species that existed prior to exploration. The Terrain Management Plan shall be approved by the Director. It shall include, but may not be limited to, the following information: A. Schedule and description of interim terrain management activities to be conducted following the completion of each phase of development of the Oil and Gas Facility; B. A drainage map identifying natural drainage and a description of how storm water will be managed with the project area to prevent the travel of runoff.</p>	<p>OIL AND GAS DRAFT #5 RECOMMENDED ARTICLE 7, P. 71-73 Abandonment, Plugging and Remediation. Operator shall submit to the County copies of all approved plugging and abandonment permits.</p>	<p>2018 P&Z COMMISSION DRAFT</p>

SECTION/TOPIC	A	B	C	D	E	F
13 INSURANCE	<p>OIL AND GAS DRAFT #1 RECOMMENDED ARTICLE 5, P. 26-5.10 ADDITIONAL FINANCIAL SECURITIES (A) Additional financial securities shall be evaluated by the County every five (5) years from the date of approval of this application, and may include (1) A policy or policies of commercial general liability insurance, including contractual liability, covering bodily injuries and property damage, and environmental impacts, that the applicant shall be insured and the County shall be added as an additional insured. The County shall approve the insurance policy or policies, and the County must be in a form acceptable to the County and shall further provide a limit of liability of not less than One Million Dollars (\$1,000,000) per occurrence. Said policy or policies shall provide that they may not be cancelled without written notice to the County of at least thirty (30) days prior to the date of cancellation. The County shall require a pollution insurance policy or policies that provides standard pollution liability insurance with a coverage of not less than One Million Dollars (\$1,000,000) per occurrence.</p>	<p>OIL AND GAS DRAFT #2 RECOMMENDED ARTICLE 7, P. 6-7.1 Insurance in addition to the financial securities required by the County shall be subject to the self-insurance option below, the operator shall carry the insurance policy or policies required below provided by an insurance company or companies authorized to do business in New Mexico. In the event such insurance policy or policies are cancelled, the operator shall be required to take corrective actions as soon as reasonably practicable to reinstate the insurance policy or policies, and notify the County of said corrective action. The County, its officials, employees, agents and officers shall be endorsed as an "additional insured" on the required policies. Certificates of insurance shall be delivered to the Sandeoval County, Planning and Zoning Commission, 1500 Idalia Road, Building D, Bernalillo, NM 87004, evidencing all the required coverage, including endorsements,</p>	<p>RECOMMENDED FOR DISTRICTS B AND C, ARTICLE IX, P. 32: Financial Security. Financial security shall be evaluated by the County every five (5) years from the date of approval of the application, and may include (1) A policy or policies of commercial general liability insurance, including contractual liability, covering bodily injuries and property damage, and environmental impacts, that the Applicant as an additional insured, issued by an insurance company approved by the State of New Mexico Superintendent of Insurance. The insurance policy must be in a form acceptable to the County and shall further provide a limit of liability of not less than Five Million Dollars (\$5,000,000) per occurrence. Said policy or policies shall provide that they may not be cancelled without written notice to the County of at least thirty (30) days prior to the effective date of such cancellation. In the event that the above described policy or policies does not include environmental impacts, the County shall require a pollution insurance policy or policies that provide standard pollution liability insurance with a coverage of not less than Ten Million Dollars (\$10,000,000) per occurrence.</p>	<p>OIL AND GAS DRAFT #4 RECOMMENDED ARTICLE 8, P. 46-47: Pollution Insurance. Unless the policy or policies under B include environmental damages, the County shall require a pollution insurance policy or policies that provide standard pollution liability insurance with a coverage of not less than \$15,000,000 per occurrence, issued by an insurance company authorized to do business in the State, and that names the applicant as insured and the County as additional insured. Such insurance policy shall be maintained in full force and effect from the date of approval of the Oil and Gas Development permit by the County Planning and Zoning Commission and continuing in force until the well is plugged and abandoned in accordance with the applicable state statutes, OGD regulations, and the Terratin Management Plan as approved by the County Engineer. A separate policy is not required if pollution coverage is included as part of the commercial general liability insurance policy required by this Section as long as the pollution coverage is not less than Fifteen Million Dollars (\$15,000,000).</p>	<p>OIL AND GAS DRAFT #5 RECOMMENDED ARTICLE 8, P. 7-8; 8.1: Insurance. In addition to the financial insurance required by the OGD and other laws and subject to the self-insurance option below, the operator shall carry the insurance policy or policies required below provided by an insurance company or companies authorized to do business in New Mexico. In the event such insurance policy or policies are cancelled, the operator will take corrective actions as soon as reasonably practicable to reinstate the insurance policy or policies, and notify the County of said corrective action. The County, its officials, employees, agents and officers shall be endorsed as an "additional insured" on the required policies. Certificates of insurance shall be delivered to the Sandeoval County, Planning and Zoning Commission, 1500 Idalia Road, Building D, Bernalillo, NM 87004, evidencing all the required coverage, including endorsements,</p>	<p>2018 PRZ COMMISSION DRAFT</p>

	SECTION/TOPIC	A	B	C	D	E	F
15	ENGINEERING REVIEW	<p>OIL AND GAS DRAFT #1 CONSULTANT RECOMMENDED, ARTICLE 3, P. 15: FEES: (A) The County hereby establishes, by Agreement, Consultant assistance for the review and evaluation of applications, and the construction, modification, and monitoring of the site. (B) An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert assistance, including the review of the County's connection with the review of any Application including the construction and modification of the site, once permitted, as established in the Oil and Gas Fee Schedule and Fee Procedures as follows: Consultant Fee Schedule and Procedures: The County shall maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services in reviewing the application, including the construction and monitoring of the site, as established in this Ordinance. (C) Resolution No. 11-18-10-2C establishes a fee for submittal of an application for a Conditional Use Permit for review by the Planning and Zoning Commission. This fee is also applicable to review of an application through the Administrative process as established in this Ordinance.</p>	<p>OIL AND GAS DRAFT #2 NOT ADDRESSED</p>	<p>OIL AND GAS DRAFT #3 (page numbers based on word version) CONSULTANT RECOMMENDED, ARTICLE IV, P. 5: Considers, if at any time during the review process for a permit hereunder, the Director, Planning and Zoning Commission, or the County Commission determines that the application for a permit for oil or gas development may present a negative impact on sensitive habitats and resources, historic, cultural or archeological resources, ground or surface water quality, or the environment, they may, at the expense of the Applicant, hire experts to review an application or to evaluate specific technical issues related to those matters. If they determine that the County should retain such experts, they shall notify the Applicant and the Applicant shall have the opportunity to provide recommendations of experts to the County. The Applicant shall give the County a certified or bank check, wire transfer or letter of credit deposit in an amount to be determined by the requesting authority for each application submitted, to cover the cost of the consultant and experts as are considered necessary and appropriate.</p>	<p>OIL AND GAS DRAFT #4 RECOMMENDED, ARTICLE 6, P. 11: Considers, if at any time during the review process for a permit hereunder, the Director, Planning and Zoning Commission, the County Commission, the Public Works Department Director or the County Commission determines that the application for a permit for oil or gas development may present a negative impact on sensitive habitats, water quality, air quality, sound, traffic or otherwise believe that they require outside expertise to discharge their duties, they may, at the expense of the Applicant, hire experts to review an application or to evaluate specific technical issues related to those matters. If they determine that the County should retain such experts, they shall notify the Applicant and the Applicant shall have the opportunity to provide recommendations of experts to the County, but only if the County Commission determines that the County should retain such experts. The Applicant shall give the County a certified or bank check, wire transfer or letter of credit deposit in an amount to be determined by the requesting authority for each application submitted, to cover the cost of the consultant and experts as are considered necessary and appropriate.</p>	<p>OIL AND GAS DRAFT #5 NOT ADDRESSED</p>	<p>2018 PRZ COMMISSION DRAFT</p>
16	TRIBAL NOTIFICATION	<p>NOT ADDRESSED</p>	<p>NOT ADDRESSED</p>	<p>RECOMMENDED NOTICE, ARTICLE XI, P. 33: All government and Native American Nation/Pueblo agencies within three (3) miles of subject site are notified by the County of any request for Oil and Gas Facilities as regulated by this Ordinance. Municipalities within five (5) miles of the subject site, with a population of over fifty thousand (50,000), are also notified by the County. The County shall communicate all comments from State reviewing agencies to notified area agencies regarding any request for Oil and Gas Facilities as regulated by this Ordinance.</p>	<p>RECOMMENDED, ARTICLE VI, P. 21: All Native American Tribes and Pueblos located within the County shall be notified by the County of any request for any Oil and Gas Facility hearing as regulated by this Ordinance.</p>	<p>RECOMMENDED, ARTICLE 11, 11.4: Notification. All government and Native American Nation/Pueblo agencies within three (3) miles of the subject site are notified by the County of any request for Oil and Gas Facilities as regulated by this Ordinance. Municipalities within five (5) miles of the subject site, with a population of over fifty thousand (50,000), are also notified by the County. Government and Native American Nation/Pueblo agencies shall have thirty (30) days from their receipt of this notice to review and return comments regarding a request for development of oil and gas facilities as regulated by this Ordinance.</p>	

CWG plan only

[Kathy Barrett <kbarr67507@aol.com>](mailto:kbarr67507@aol.com)

Mon 9/24/2018 7:31 AM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Dear County Commissioner. It is imperative that we have the agreed upon citizen's group plan presented only. The other plans are not taking the safety of our water into account. Thank you for your consideration. Kathy Barret

Sent from my iPhone

Water in the Rio Grande Basin and effects of Oil and Gas exploration and extraction

Leland Bowen <lhbowen@comcast.net>

Mon 9/24/2018 11:03 AM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Dear Sandoval County Planning and Zoning Commission,

Probably the most important issue in Sandoval County or all of New Mexico for that matter is water. The supply of water is extremely important but of equal or higher importance is preventing pollution of what is available both now and in the future. Therefore, I ask that any ordinance which might allow drilling for gas and/or oil that might involve fracking be avoided especially in the Rio Grande Basin (Rio Grande Fault).

The area in current danger is the Rio Grande Basin which is the source of clean drinking water for 800,000 residents. This water must be protected! In March of this year the Sandoval County Commission appointed a citizen's group to draft an ordinance, "**with maximum public participation**". The citizen working groups came up with two reasonable and protective ordinances, but neither has been promoted by the P&Z Department. **Please support the Citizen's Working Group Oil and Gas Ordinance and/or the Scientific Study by NMSU and kill the Block Ordinance or other ordinances that would allow possible exploration including seismic exploration and exploratory drilling.**

Thank you for your careful and responsible consideration of this very important matter,

Leland H. Bowen, PE (ret.)

lhbowen@comcast.net

8 Ridge Road

Placitas, NM 87043

(505) 867-2731

O & G Ordinance Consideration

Stephen FARKASH <farkadelic@msn.com>

Mon 9/24/2018 12:17 PM

To: Public Comment <PublicComment@sandovalcountynm.gov>; James Holden-Rhodes <jholden-rhodes@sandovalcountynm.gov>; Jay Block <jbblock@sandovalcountynm.gov>; Dave Heil <dheil@sandovalcountynm.gov>; Kenneth Eichwald <keichwald@sandovalcountynm.gov>; Don Chapman <dchapman@sandovalcountynm.gov>;

Well, here we go again. It would seem the many months of county commission meetings with people from all over the county attending and speaking to voice their concerns, fears and a lack of democratic process on the part of the commission never occurred. Why do residents of the county have to fight with their own commission to do the job they were elected to do and not act as representatives of the extractive industries?

Commissioner Block left a voicemail on my phone essentially saying what a beautiful thing it was for the voices of the counties peoples to have been heard. Since then he and Chairman Heil have publicly demonstrated that their true purpose on the commission is to represent well monied interests such as Americans for Prosperity and associated parties.

This is a travesty of state representative government. The Stoddard Ordinance didn't even attempt to protect county residents interests and now of course, Dan Stoddard is being rewarded for his efforts with support for his bid to be Magistrate Judge. Jay Block has taken over Stoddard's role by proposing his own industry friendly ordinance. The Sandoval County Commission agreed previously to allow the Citizens Working Group to research and propose an ordinance that would first and foremost protect the aquifer that all residents of the county depend on. There is no alternative water source. If it is harmed, every resident of the county will be impacted beyond remedy.

Because of the history of this subject, those who push for unrestricted development as with the Block and Sample ordinances would be libel for their participation. Americans for Prosperity, I was told, assured Chairman Heil and Commissioner Jay Block that their railroading of the county Right to Work Ordinance was not to be worried over as it would cover any legal obligations. Do these two individuals (and also Dan Stoddard and Mike Springfield) believe their participation in non-restricted oil and gas development will also be guaranteed to be free of legal consequence and not a personal concern? I would hope they consider their personal liability and begin to take their responsibilities as commissioners and p&Z staff in representing the residents of this county seriously and step up to their sworn duties.

Enough is enough!

Stephen Farkash
2104 Gila River Rd. NE
Rio Rancho, NM 87144

Sent from [Mail](#) for Windows 10

Quit playing politics

Margaret McHenney <margaretmchenney@gmail.com>

Mon 9/24/2018 4:06 PM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Public comment,

Stop putting the gas and oil industry's interests above clean drinking water and individual citizens health and well being:

- Commissioners should consider the CWG drafts only! Industry drafts such as the Block or Baseline lack protections of our water, lack protections of the health, safety and welfare of residents, and lack inclusion of tribal input.
- All citizens of the county have a right to a public hearing when heavy industry is being proposed in their areas! Only the CWG Ordinance Team draft allows for this provision across the county.
- The application for each and every drilling project should be evaluated for the appropriateness of its' proposed project in terms of geology, hydrology, seismology and cultural effects. This approach is generally termed "*Site-Specific*".
- Only the CWG Ordinance Team draft provides for a *Site-Specific* approach. This approach avoids blanket approaches, such as; 'permissive use' ...no public hearing or 'ban on fracking' ...which still allows for vertical drilling, for example, in the Rio Grande Basin.

Margaret McHenney, a concerned resident

CWG ordinances

J Campbell <jnr200396@yahoo.com>

Mon 9/24/2018 9:20 PM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Dear Sandoval County Commissioners,

As a resident of Sandoval Co., I feel it is imperative to consider only the CWG ordinances for future oil and gas production in the county. Fracking is definitely too dangerous in the broken geology of the Rio Grande Valley. If our water is poisoned as it most assuredly will be if fracking is permitted, property values and our quality of life will be irreparably negatively impacted. The rights and concerns of the pueblos must likewise be considered and respected. You must do the right thing for the citizens of the Rio Grande Valley in Sandoval County.

Roger Southward
165 Camino Barranca
Placitas
Sent from my iPad

No more fracking in Sandoval County

Karen M. A. <karen77@cableone.net>

Tue 9/25/2018 9:12 AM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Sandoval County Commissioners

I am opposed to any additional fracking in Sandoval County.

We must protect our water resources. Fracking will contaminate the aquifer.

Fracking will reduce air quality, increase noise levels in the areas and lower property values.

Why do some Sandoval County commissioners refuse to listen to their constituents, of which an overwhelming majority are opposed to fracking?

Do the right thing! Stop pushing a fracking agenda!

Karen Alexander

104 Villa Verde Dr., Rio Rancho

Comment on the Gas and Oil Ordinance

JOHN WEGRZYNEK <lwegrzynek@cableone.net>

Tue 9/25/2018 10:03 AM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

To Whom It May Concern:

We are current residents of Corrales Heights, in Rio Rancho, NM. My husband has been in the same home since the late 70's and I myself, a native of Albuquerque, have lived and worked here in Rio Rancho since the early 90's. We are both registered voters and love our home here in New Mexico. We are writing to you in regards to the proposed Sandoval County Oil and Gas Ordinance. We realize that there is a huge amount of information out there in regards to both the pros and cons for the industry coming to our neck of the woods. We are also confident that you have the most current and accurate, non-biased information in regards to any benefits or ill effects the industry would have on our daily lives.

We went to Carlsbad Caverns on Spring Break this year, and we have also been to this area several times during our lives. The air quality was markedly worse than our last visit and my asthma was much harder to control. The street traffic was flooded with water and oil tankers, and workers and our opinion is they didn't seem to care much about traffic laws. This seemed to be happening 24/7. The restaurants and businesses we visited seemed to solely depend on the workers themselves as the primary customers, other than, of course, the Cavern visitors, and some longtime residents of the small town. The town did not seem to be booming by any means. At night, as far as the eye could see the flares from the many wells was an eerie sight, and during the day you could see the haze on the horizon from the burn off and never a blue sky or fresh air the entire week we were visiting. The air in the cavern was actually a relief. From White's City you could hear a constant drumming, kind of like a radio in the car next to you with the bass turned up way too high and the windows up. According to our hotel manager this was the fracking noise. We drove through a stretch of Highway 137 that had warning signs and lights posted, stating that if conditions were present, the air was toxic and that we needed to stop, turn around immediately and proceed back from where we came. It was hard to believe what we were seeing. It was like something out of a Science Fiction Movie.

We would like to ask you, if you haven't already, please take the time to visit an area that has allowed this industry in. Somewhere like Carlsbad or the 4 corners and ask yourself is this what we want for our City? Is this what we want for our children or grandchildren? Let's try to think beyond the immediate future and monetary needs and look to the longer term. Let's take the time to look at other more progressive, more successful cities across the nation. Are they investing in gas and oil or are they investing in other technology and industry? What truly is the best for the future of our children, grandchildren and city? We would love for them to enjoy the same blue skies that we have become so used to. We are so lucky to enjoy beautiful landscapes here. What about our balloon fiesta? Look what the fires to the west of us have done to our valley in the past. Personally, we don't think a continual haze will be attractive to tourists or to our city. The air quality is affected by the industry, we have experienced it first hand, and unfortunately, how many people will that impact? We know many residents move here for health reasons. The CO methane plume that will be created will be continual.

Please also ask yourself could this industry potentially devastate the economic growth of Sandoval County for anything other than the industry itself? We wonder what sound industry with good paying jobs would come here with the above described environmental and living conditions. As parents, who

would want to raise their children in that environment? Indeed, the influx of cash generated from this proposal will no doubt boost schools, and in good times add substantial monies for the county and state. However, we do believe the schools are doing a pretty good job at the present with what they have, there is overcrowding and it could be alleviated with new schools built. However, the situation has to start at home with parent involvement no matter how many schools you have. Don't forget there are a lot of good kids, not just troubled ones. Teachers and staff are doing their best and should not bear the brunt of the nationwide low ranking. If as much energy which is being put into this oil and gas regulatory discussion would be put into education and campaigns aimed at parents being more involved and responsible for their children, we would see greater change. Political will tends to follow money, and understandably, but this could be an opportunity to take the next step in a more progressive direction for our state and county, and long term solution to our problems. It may not be the easy way, but what good ever came from easy?

When you take away all the rhetoric on both sides, the decision to allow the entry of this industry without tough regulations will truly pollute and change our environment for our lifetime and for future generations. No matter how much money is involved, there is just no denying it. We ask that you please just contemplate that on a personal level. Thank you for your time and in advance for your thoughtful and careful consideration in this matter. We look forward to your response.

Most Sincerely,
Mrs. John Wegrzynek

--

sandoval county oil and gas ordinance

ursula shepherd <ulshepherd@yahoo.com>

Tue 9/25/2018 11:00 AM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Dear Commission Members-

I am writing to strongly urge that the county commission remain firm on the position that it took last spring. After much wrangling, public debate, and late night meetings, our commission correctly moved to create a citizens group to develop an ordinance for consideration. Now, it appears that there is a move to bring back the Stoddard document and to muddy the waters further by adding another ordinance to be considered. This is both wasteful of the work and time of the citizens and yourselves, and it is once again creating a sense of distrust with the commission throughout the county.

I urge the commission to require the P and Z committee to bring the two citizens ordinances into agreement with each other, and then to put forward only that one document. It is my understanding that a split occurred early on in the process so that there are two documents which are in general agreement with each other, and that it is really quite possible to bring about agreement on the remaining issues. Either the two groups should do this, or your committee can undertake that process. But to reopen the question of whether the very cursory ordinance proposed previously should be adopted is simply not a wise or thought out option.

Thank you all,

Ursula Shepherd
Placitas resident

Opposition to Oil and Gas Ordinance

Thomas Luparello <ftluparello@gmail.com>

Tue 9/25/2018 11:40 AM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Cc: Dave Heil <dheil@sandovalcountynm.gov>; James Holden-Rhodes <jholden-rhodes@sandovalcountynm.gov>; Jay Block <jblock@sandovalcountynm.gov>; Don Chapman <dchapman@sandovalcountynm.gov>; Kenneth Eichwald <keichwald@sandovalcountynm.gov>;

I am writing you as a property owner in 87048 to express my opposition to any establishment or expansion of oil and gas drilling or fracking in the area. We live in an area with a fragile and limited water table and to unnecessarily put that at risk is unconscionable for any steward of the land or public trust. Please protect our lands.

Thank you for your time and attention.

Best,

--

F. Thomas Luparello
ftluparello@gmail.com

Sandoval County Oil & Gas comment

Jackie Allen <jbirdallen71@gmail.com>

Tue 9/25/2018 2:51 PM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Cc: Dave Heil <dheil@sandovalcountynm.gov>; James Holden-Rhodes <jholden-rhodes@sandovalcountynm.gov>; Jay Block <jblock@sandovalcountynm.gov>; Don Chapman <dchapman@sandovalcountynm.gov>; Kenneth Eichwald <keichwald@sandovalcountynm.gov>;

Dear County Commissioners -

As residents of Sandoval County and retired geologists, we are concerned with the anticipated increase in oil and gas drilling.

We strongly believe that each proposed drilling project should be individually evaluated for its site-specific environmental and cultural impacts.

We also strongly believe that proposed increases in oil and gas drilling deserve hearings with maximum public input. We support the CWG Ordinance Team draft that will come before the Planning and Zoning Commission on September 25.

Sincerely,

Carlton Allen and Jaclyn Allen
4 Spur Rd.
Placitas, NM 87043

SANDOVAL COUNTY OIL & GAS DRAFT ORDINANCE COMMENT -- CWG Ordinance Team revised ordinance - 21 Sep 2018

David Craig <dtc.bayern@gmail.com>

Tue 9/25/2018 2:54 PM

To: Public Comment <PublicComment@sandovalcountynm.gov>;

Cc: Aparcio C. Hererra <ahererra@sandovalcountynm.gov>; Peter J. Adang <padang@sandovalcountynm.gov>; James G. Maduena <JMaduena@sandovalcountynm.gov>; Keith Brown <kbrown@sandovalcountynm.gov>; Daniel J. Stoddard <DStoddard@sandovalcountynm.gov>; Geoffrey Stamp <gstamp@sandovalcountynm.gov>; Dennis R. Trujillo <DTrujillo@sandovalcountynm.gov>; Dave Heil <dheil@sandovalcountynm.gov>; James Holden-Rhodes <jholden-rhodes@sandovalcountynm.gov>; Jay Block <jblock@sandovalcountynm.gov>; Don Chapman <dchapman@sandovalcountynm.gov>; Kenneth Eichwald <keichwald@sandovalcountynm.gov>; Michael Springfield <MSpringfield@sandovalcountynm.gov>; Makita Hill <mhill@sandovalcountynm.gov>;

📎 1 attachments (2 MB)

CWG OT Revised Draft Ordinance 9_21_2018 for Sandoval County P&Z Commission SEP 21 SUBMISSION TO P&Z.pdf;

[[County PIO - Please accept this email as my public comment for the county's Oil & Gas ordinance review process. Please also include in full all the attachments which may appear in this email so all readers of this comment in the county's weekly oil & gas public comment compilation will be able to read these attachments. Thank you.]]

Attached is a copy of the Citizens Working Group (CWG) Ordinance Team most recent revised ordinance dated 21 Sep 2018.

I am submitting this ordinance as a public comment for Sandoval County's current oil and gas ordinance review process. Given the county Planning & Zoning (P&Z) department failure to post this ordinance on its 25 Sep 2018 meeting agenda web page, I think county residents with an interest in the county's oil & gas ordinance efforts may wish to see this ordinance to better understand how it addresses oil & gas extraction and water protection.

As of the submission date/time of this public comment (25 Sep 2018 2:35 PM), the county P&Z has not posted this ordinance on its meeting web page and instead has the older 23 Aug 2018 ordinance.

The CWG Ordinance Team submitted their 21 Sep 2018 revised ordinance on 21 Sep 2018 at 1:53 PM Friday to the following P&Z members:

Michael Springfield
Sandoval County Planning & Zoning Department
Director, ph 505-867-7628
mspringfield@sandovalcountynm.gov

Makita Hill
Sandoval County Planning & Zoning Department
Deputy Director, ph 505-867-7656
mhill@sandovalcountynm.gov

Aparcio C. Hererra, Jr.
Sandoval County NM, Planning & Zoning Commissioner
Chairman, ph 575-289-3754
aherrera@sandovalcountynm.gov

P&Z chairman Hererra was also on 25 Sep 2018 at 2:06 PM asked to update the P&Z meeting web page. See end of this email for a copy of that emailed request.

- David Craig
- Cochiti Lake - New Mexico
- 505.465.0087 / dtc.bayern@gmail.com
-
- Sandoval County Aquifer Water Protection &
Oil and Gas Citizens Working Group (CWG)
- Secretary & CWG Ordinance Team member

Subject: Re: CWG Ordinance Team revised ordinance submission to P&Z for Sep 25 meeting

Date: Tue, Sep 25, 2018 at 2:06 PM

From: David Craig <dtc.bayern@gmail.com>

To: "Aparcio Herrera, Jr. (Sandoval County Planning and Zoning Commission, Chairman)"
<aherrera@sandovalcountynm.gov>

Cc: Mary Feldblum <feldblum2487@gmail.com>, "Aparcio C. Herrera, Jr. (Sandoval County NM, Planning & Zoning Commissioner - Chairman)" <aherrera@sandovalcountynm.gov>, "Peter J. Adang (Sandoval County NM, Planning & Zoning Commissioner)" <padang@sandovalcountynm.gov>, "James G. Maduena (Sandoval County NM, Planning & Zoning Commissioner)" <jmaduena@sandovalcountynm.gov>, "Keith Brown (Sandoval County NM, Planning & Zoning Commissioner)" <kbrown@sandovalcountynm.gov>, "Daniel J. Stoddard (Sandoval County NM, Planning & Zoning Commissioner)" <dstoddard@sandovalcountynm.gov>, "Geoffrey Stamp (Sandoval County NM, Planning & Zoning Commissioner)" <gstamp@sandovalcountynm.gov>, "Dennis R. Trujillo (Sandoval County NM, Planning & Zoning Commissioner - Vice-Chairman)" <dtrujillo@sandovalcountynm.gov>, "Michael Springfield (Sandoval County Planning & Zoning Department, Director)" <mpringfield@sandovalcountynm.gov>, "Makita Hill (Sandoval County Planning & Zoning Department, Long Range Senior Planner)" <mhill@sandovalcountynm.gov>, "David J. Heil (Sandoval County NM, Commissioner - Chairman)" <dheil@sandovalcountynm.gov>, "Dr. James F. Holden-Rhodes (Sandoval County NM, Commissioner)" <jholden-rhodes@sandovalcountynm.gov>, "Jay C. Block (Sandoval County NM, Commissioner)" <jblock@sandovalcountynm.gov>, "Don G. Chapman (Sandoval County NM, Commissioner)" <dchapman@sandovalcountynm.gov>, "F. Kenneth Eichwald (Sandoval County NM, Commissioner - Vice-Chairman)" <keichwald@sandovalcountynm.gov>, "Dianne Maes (Sandoval County NM, County Manager, ph 505-867-7538)" <dmaes@sandovalcountynm.gov>, "Robin S. Hammer (Sandoval County NM, County Attorney, ph 505-404-5812)" <rhammer@sandovalcountynm.gov>

Bcc: ...many...

Chairman Herrera,

As you are the chair of the Sandoval County Planning and Zoning Board, I please ask that you direct the P&Z department to post the Citizens Working Group (CWG) Ordinance Team most recent revised ordinance dated Sep 21, 2018 on the P&Z meeting agenda web site for the meeting scheduled for today Sep 25, 2018.

This ordinance was submitted via email on Sep 21, 2018 Friday at 1:53 PM to P&Z director Springfield, you as P&Z chair and also to P&Z staff member Hill. This submission is well before the county's 72-hour agenda material submission deadline for the Sep 25 4:30 pm meeting.

The CWG Ordinance Team ordinance dated Sep 21, 2018 is attached to this email.

As of Sep 25, 2018 1:42 the CWG Ordinance Team ordinance on the P&Z meeting web site is the prior ordinance dated August 23, 2018.

I think it is important that the P&Z commission have access to the most up to date oil and gas ordinance proposals so you and the other members of the P&Z commission can adequately review and make informed decisions about all the proposed ordinances.

Thank you for correcting this ordinance posting omission and for your time.

- David Craig
- Cochiti Lake - New Mexico
- 505.465.0087 / dtc.bayern@gmail.com

From: David Craig <dtc.bayern@gmail.com>

Subject: CWG Ordinance Team revised ordinance submission to P&Z for Sep 25 meeting

Date: September 21, 2018 at 1:53:11 PM MDT

To: "Michael Springfield (Sandoval County Planning & Zoning Department, Director)"

<mspringfield@sandovalcountynm.gov>

Cc: "Aparcio C. Hererra" <aherrera@sandovalcountynm.gov>, "Makita Hill (Sandoval County NM Planning and Zoning Dept., Long Range Senior Planner)" <mhill@sandovalcountynm.gov>



Aquifer Water Protection & Oil and Gas Ordinance Citizens Working Group (CWG) Ordinance Team

Revised Draft

September 21, 2018

Submission for the Sandoval County New Mexico Planning & Zoning Commission

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Submitted via email to P&Z Dept. on Sep 21, 2018 at 1:53 PM -- Springfield (director), Herrera (chair), Hill (staff)

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CWG-OT 9/21/18

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Citizens Working Group Ordinance Team
DRAFT UPDATE – SANDOVAL COUNTY OIL AND GAS ORDINANCE

ARTICLE I. GENERAL.

A. Short Title.

This Ordinance shall be officially cited as the “Sandoval County Oil and Gas Ordinance”.

B. Statutory Authority. Applicability.

This Ordinance is promulgated pursuant to the authority set forth in Art. X and XIII of the New Mexico Constitution (1912); N.M.S.A. 1978, § Section 4-37-1 (1975), N.M.S.A. 1978, §§ Sections 3-21-1 et seq., N.M.S.A. 1978, §§ Sections 3-19-1 et seq.; N.M.S.A. 1978, §§ Sections 3-18-1 et seq., and N.M.S.A. 1978, §§ 19-10-4.1, 4.2 and 4.3 (1985). This Ordinance constitutes an exercise of the County’s independent and separate but related police, zoning, planning and public nuisance powers for the health, safety and general welfare of the County and applies to all areas within the exterior boundaries of the County that lie outside of (1) the incorporated boundaries of a municipality; (2) any tribal trust lands owned by the Pueblo of Laguna, the Pueblo of Sandia, the Pueblo of Santa Ana, the Pueblo of San Felipe, the Pueblo of Cochiti, the Pueblo of Santa Domingo, the Pueblo of Zia, the Pueblo of Jemez, the Navajo Nation, and the Jicarilla Apache Nation; (3) lands owned by the state of New Mexico; and (4) lands owned by the United States, including, but not limited to, lands that are managed by the Forest Service and the Bureau of Land Management. Additionally, this Ordinance does not apply to the construction and operation of Oil or Gas Facilities where the mineral right(s) associated with such Facilities are owned partially or in their entirety by the United States government, the State of New Mexico, or a Tribe or Pueblo.

C. Scope

This ordinance is intended to address oil and gas exploration, drilling, production, transportation, abandonment and remediation within the County zoning jurisdiction as described above.

In the event that lands under State, Federal, or Tribal ownership are conveyed to private ownership, following the adoption of this ordinance, such lands are subject to the provisions of this ordinance.

D. Purpose

This ordinance is a zoning and public nuisance ordinance enacted to protect and promote the health, safety and general welfare of present and future residents of the County while at the same time providing for the responsible and economically viable extraction of oil and gas minerals. This ordinance is a police power, public nuisance and land use regulation designed to establish separate land use, environmental, traffic, cultural, historical and archeological, emergency service and preparedness, health and safety, and other standards to protect the quality of life of Sandoval residents, to conserve the value of property and to protect the County from any possible adverse public nuisance effects and impacts, including economic,

resulting from oil and gas exploration, drilling, extraction (production) or transportation in the County.

This ordinance ensures county public input into County oil and gas Development decisions.

This ordinance acknowledges that the Tribes and Pueblos located within Sandoval County are sovereign nations and therefore it includes processes that require reasonable efforts for the County to collaborate and receive input from the Tribes and Pueblos in order to protect ground and surface water, the environment and Cultural Properties on and off the reservations.

No oil or gas Development shall take place in the County without a permit or prior authorization in accordance with the provisions of this ordinance. Prior to authorizing any oil or gas Development operation, the County shall require the Operator or the Mineral Estate Owner or oil or gas lessee of the mineral estate, to apply for, and obtain the approvals, permits, and/or authorizations required herein.

E. State and Federal Statutes.

This Ordinance does not replace, alter or amend any Federal and State statutes applicable to the oil and gas industry, including but not limited to the statutes listed below. This list includes, but is not limited to:

- (1) The Surface Owners Protection Act, N.M.S.A. 1978, §§ 70-12-1 et. seq.;
- (2) The Oil and Gas Act, N.M.S.A. 1978, §§ 70-2-1 et seq.;
- (3) The Water Quality Act, N.M.S.A. 1978, §§ 74-6-1 et seq.;
- (4) The Solid Waste Act, N.M.S.A. 1978, §§ 74-9-1 et seq.;
- (5) The Rangeland Protection Act, N.M.S.A. 1978, §§ 76-7B-1 et seq.;
- (6) The Emergency Planning and Community Right To Know Act, 42 U.S.C.A. §§ 11001 et seq.;
- (7) The New Mexico Public Health Act, N.M.S.A. 1978 §§ 24-1-1 et seq.;
- (8) The Wildlife Conservation Act, N.M.S.A. 1978, §§ 17-2-37 et seq.;
- (9) The Cultural Properties Act, N.M.S.A. 1978, §§ 18-6-1 et seq.;
- (10) The National Historic Preservation Act, 16 U.S.C.A §§ 470 et seq.;
- (11) The Uniform Trade Secret Act N.M.S.A. 1978, §§ 57-3A-1 et seq.;
- (12) The Prehistoric and Historic Sites Act, N.M.S.A. 1978, §§ 18-8-1 et seq.;
- (13) The Cultural Properties Protection Act, N.M.S.A. 1978, §§ 18-6A- 1 et seq.;
- (14) The Archaeological Resources Protection Act, 16 U.S.C.A. § 470 aa et seq.;
- (15) The Energy Policy Act, 42 U.S.C.A. § 6201 et. seq.;
- (16) The Clean Water Act 33 U.S.C.A §1251 et seq.;
- (17) The Occupational Safety and Health Act, 1970, U.S.C.A. 651 et seq.;
- (18) The New Mexico Night Sky Protection Act, N.M.S.A. 1978, 74-12-1 et seq.;
- (19) The New Mexico State-Tribal Collaboration Act, N.M.S.A. §§11-18-1 et seq.;
- (20) The National Environmental Policy Act, 42 U.S.C. § 4321 et seq.;
- (21) The American Indian Religious Freedom Act, 42 U.S.C. ch. 21, subch. I §§ 1996 & 1996a

- (22) The Native American Graves Protection and Repatriation Act, 25 U.S.C. ch. 32 § 3001 et seq.;
- (23) National Scenic Byways Program 23 USC § Sec. 162 et seq.; and
- (24) Scenic Highway Zoning Act NMSA 1978 §§ 67-3-1 et seq.

F. Findings. Declarations. Determinations.

All forms of development have the potential to impact negatively County resources and the environment through the introduction of contaminants and surface disturbance, which can lead to habitat degradation, fragmentation, and loss as well as degraded qualities of air, soil, and water. Considering oil and gas activities as a form of development, the County designs this Ordinance as a means to allow for the economically feasible development of oil and gas resources, which benefits the economy of the County, while ensuring the minimal possible impact on the environment and fulfilling the County's interest in protecting the health, welfare, quality of life and value of property of County residents.

The Board of County Commissioners hereby finds, declares, and determines that this Ordinance:

All forms of development have the potential to impact negatively County resources and the environment through the introduction of contaminants and surface disturbance, which can lead to habitat degradation, fragmentation, and loss as well as degraded qualities of air, soil, and water. Considering oil and gas activities as a form of development, the County designs this Ordinance as a means to allow for the economically feasible development of oil and gas resources, which benefits the economy of the County, while ensuring the minimal possible impact on the environment and fulfilling the County's interest in protecting the health, welfare, quality of life and value of property of County residents.

- (1) Promotes the health, safety, and welfare of the County, its residents, its environment, including its flora and fauna, by regulating the potentially adverse impacts and effects resulting from the exploration, drilling, operation and transportation of oil and gas;
- (2) Ensures that decisions include our sovereign neighbors, the Tribes and Pueblos, who reside within the County and may be impacted by oil and gas development on private County lands;
- (3) Ensures that decisions take into consideration the impact of oil and gas development on surrounding land uses, particularly in residential and agricultural areas, and that these decisions take into consideration its impact on the availability of public services and adequate infrastructure;
- (4) Protects the County's unique and irreplaceable historic, cultural and archaeological resources;
- (5) Ensures that decisions regarding oil and gas development do not pollute our air and water;
- (6) Ensures that oil and gas sites are properly restored to their natural state after the area is no longer actively used;
- (7) Recognizes the rights of Surface Property Owners;

- (8) Allows for the responsible and economically feasible development of oil and gas mineral resources;
- (9) Implements the goals and objectives of, and is otherwise in accordance with, the County's Comprehensive Plan; and
- (10) Attains the foregoing objectives while also promoting the efficient and appropriate regulation of the oil and gas industry in the County.

ARTICLE II. RULES OF INTERPRETATION AND DEFINITIONS.

A. Rules of Interpretation

- (1) Words, phrases, and terms defined in this Ordinance shall be given the meanings set forth below. Words, phrases, and terms not defined in this Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- (2) The text shall control captions, titles, and maps.
- (3) The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.
- (4) Words used in the singular include the plural; words used in the plural include the singular.
- (5) Words used in the present tense include the future tense; words used in the future tense include the present tense.
- (6) Within this Ordinance, sections prefaced "purpose" and "findings" may be included. Each purpose statement is intended as an official statement of legislative purpose or findings. The "purpose" and "findings" statements are legislatively adopted, together with the formal text of the Ordinance. They are intended as a legal guide to the administration and interpretation of the Ordinance and shall be treated in the same manner as other aspects of legislative history. Additionally, such purposes and findings shall be considered part of the County's Comprehensive Plan.
- (7) In their interpretation and application, the provisions of this Ordinance are considered minimal in nature.
- (8) In computing any period of time prescribed or allowed by this Ordinance, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is a Saturday, Sunday or holiday recognized by the State of New Mexico or the federal government, in which event the period runs until the next day that is not a Saturday, Sunday or such holiday.

B. Definitions

Words with specific defined meanings are as follows:

Applicant: The owner of a mineral estate, oil and gas lessee, operator, or duly designated representative who shall have express written authority to act on behalf of the owner or oil and gas lessee for the purposes of submitting and representing an application for a permit for review and approval by the Director for a Preliminary Oil and Gas Exploration Permit or to be reviewed

and approved by the Planning and Zoning Commission an Oil and Gas Exploration Drilling Permit, or an Oil and Gas Development Permit.

Area of Review (AOR): The area surrounding an oil and gas well within a two-mile radius of the vertical well bore, except any Tribal, Federal, State, or Incorporated land.

Board: The Board of County Commissioners of Sandoval County, New Mexico

Clear and Convincing Evidence: A medium level of burden of proof which is a more rigorous standard to meet than the preponderance of the evidence standard, but a less rigorous standard to meet than proving evidence beyond a reasonable doubt. In order to meet the standard and prove something by clear and convincing evidence, a party must prove that it is substantially more likely than not that it is true.

Closed Loop System: A system that uses above ground steel tanks for the management of drilling fluids.

Collocation: The placement of two or more well bores on a single well pad or well site, or the placement of two or more drilling pads, towers and sites contiguous to each other.

Completion: A well that has been completed and is ready for production.

Comprehensive Plan: The “Sandoval County Comprehensive Plan” adopted by the Board of County Commissioners, as amended from time to time.

Confining Zone: A geological formation, group of formations, or part of a formation that is capable of limiting fluid movement from a zone of stimulation and production.

County: Sandoval County, New Mexico

CZO: The Sandoval County Comprehensive Zoning Ordinance

Critical Habitat: Areas of habitat essential for the conservation of endangered or threatened species under the Endangered Species Act.

Cultural Properties – See Cultural Property

Cultural Property: A structure, place, site or object having historic, archeological, scientific, architectural, or other cultural significance.

Degradation of Water Quality: A change in ground or surface water chemical content that unreasonably reduces the quality of such water compared to the standards, as required pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 to 1387 and Regulations, 40 C.F.R. Part 130 or the New Mexico Water Quality Act, NMSA 1978, §§ 74-6-1 et seq., whichever is stricter.

Development: Any man-made physical change in improved or unimproved sub-surface mineral and surface estates, including, but not limited to: construction and erection of buildings or other structures; oil and gas drilling, dredging, filling, extraction or transportation of oil and gas, grading, paving, diking, berming, excavation, exploration, or storage of equipment or materials, whether in structures, ponds, containers, landfills or other detention facilities.

Director: Director of Sandoval County Planning and Zoning Department or any person or persons assigned or delegated to perform some portion of the functions exercised by the Director.

Drilling: The act of boring a hole (1) to determine whether minerals are present in commercially recoverable quantities or (2) to accomplish production of the minerals (including drilling to inject fluids).

Easement: A right to the use of, or access to, land owned by another.

Exploration Activities: Oil and Gas activities, excluding Drilling, that include geophysical surveys, seismic surveys, gravity surveys, magnetic surveys, and other exploratory activity that may cause surface disturbance for the purpose of ascertaining the existence of or location of hydrocarbons.

Exploratory Drilling Well: A well that is drilled for the purpose of securing geological or geophysical information to determine whether oil and gas mineral resources are present in commercially viable quantities.

Floodplain: Any land area susceptible to being inundated by water from any source.

Flowback: A mixture of drilling, hydraulic fracturing and formation fluid that moves up the well bore to the surface after a well is completed.

Flowline: A segment of pipe transferring oil, gas, or condensate between a wellhead and processing equipment to the load point or point of delivery or a segment of pipe transferring produced water between a wellhead and the point of disposal, discharge, or loading. This definition of flowline does not include a gathering line.

Fracturing: A method of stimulating oil or gas production by opening new flow channels in the formation surrounding a production well. It ~~involves~~ may include pumping of crude oil, diesel, water, or chemical into a reservoir with such force that the reservoir rock is broken and results in greater flow of oil or gas from the reservoir. Also known as hydraulic fracturing or fracking.

Gas: Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or gaseous components or vapors occurring in or derived from petroleum or natural gas, or any gaseous derivatives of those extraction processes, such as carbon dioxide; whenever “gas” is used in this ordinance it includes “natural gas” and/or “methane.”

Habitat Fragmentation: The partitioning of larger habitats into smaller more isolated parcels, usually as a result of development.

Hazardous Waste: A non-exempt waste that exceeds the minimum standards for waste hazardous by characteristics established in RCRA regulations, 40 CFR 261.21-261.24, or listed hazardous waste as defined in 40 CFR, part 261, subpart D, as amended.

Horizontal Drilling: A drilling technique where a well is drilled vertical to a certain depth and then drilled at a right angle so that the borehole penetrates a productive formation in a manner parallel to the formation.

Hydrocarbons: A compound formed from carbon and hydrogen including but not limited to oil and gas.

Injection Well: A well used for the injection of air, gas, water or other fluids into an underground stratum and regulated under the Underground Injection Control Program.

Lessee. A person, corporation or other legal entity that has been granted an oil or gas lease from the owner of a mineral estate or who has received an assignment of all or a portion of a previously granted oil or gas lease.

Livestock: All domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico. Livestock does not include canine or feline animals.

Lot: A tract, parcel, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for development.

Lot Line: The boundary of a recorded lot.

Luminaire or fixture: See **Outdoor Lighting Fixture**

Major Release:

1. An unauthorized release a volume, excluding gases, of 25 barrels or more;
2. An unauthorized release of a volume that:
 - (a) Results in a fire or a fire causes;
 - (b) May with reasonable probability reach a watercourse;
 - (c) May with reasonable probability endanger public health; or
 - (d) Substantially damages property or the environment;
3. An unauthorized release of gases exceeding 500 MCF; or
4. A release of a volume that may with reasonable probability be detrimental to fresh water.

Mineral Rights Owner: The record owner of the fee sub-surface mineral estate, a contract purchaser holding equitable title, an oil and gas lessee, or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in an oil or gas lease.

Mitigation: Actions taken to avoid, minimize, rectify, or compensate for any adverse environmental or public health and safety impact.

Monitoring: Periodic or continuous collection and analysis of air, soil, water, groundwater, or other samples to determine the level of contaminants in various media or in humans, plants, and animals.

Material Safety Data Sheet or “MSDS”: A document containing important information about the characteristics and actual or potential hazards of a substance. It identifies the manufacturer of the material (with name, address, phone, and fax number) and usually includes (1) chemical identity, (2) hazardous ingredients, (3) physical and chemical properties, (4) fire and explosion data, (5) reactivity data, (6) health hazards data, (7) exposure limits data, (8) precautions for safe storage and handling, (9) need for protective gear, and (10) spill control, cleanup, and disposal procedures.

New Mexico State Historic Preservation Division: The Historic Preservation Division of the Department of Cultural Affairs of the State of New Mexico.

NMED: The State of New Mexico Environment Department.

NORM: The naturally occurring radioactive materials regulated by 20.3.14 NMAC.

OCD: The Oil Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico.

Oil: Petroleum hydrocarbon produced from a well in the liquid phase and that existed in a liquid phase in the reservoir. This definition includes crude oil or crude petroleum oil.

Oil or Gas Facility (or Facilities): A new well or wells and the surrounding Well Site and well pad, constructed and operated to explore for or produce crude oil and/or gas: includes auxiliary and associated equipment and facilities, such as derricks, separators; dehydrators; pumping units; tank batteries; tanks; metering stations and equipment; any equipment for the reworking of an existing well bore; workover rigs; compressor stations and associated engines, motors, facilities and equipment; water or fluid injection stations and associated facilities and equipment; storage or construction staging yards; flowlines, gathering systems and associated facilities and equipment, collection lines, drip stations, vent stations, pigging facilities, chemical injection stations, transfer pump stations and valve boxes; any other structure, building or facility, temporary or permanent, mobile or stationary, associated with or used in connection with a new oil or gas well or the installation, construction or operation of the oil or gas well; and the roads used for ingress and egress to and from a new oil or gas well or surrounding well site.

Oil and Gas Permits: Sandoval County required oil and gas permits include: (1) Preliminary Oil and Gas Exploration Permit or (2) Oil and Gas Exploratory Drilling Permit or (3) Oil and Gas Development Permit.

Oil and Gas Exploratory Drilling Permit (“Exploratory Permit): A permit that is required to authorize an Applicant to drill a well for the purpose of securing geological or geophysical information to determine whether oil and gas mineral resources are present in commercially viable quantities.

Oil and Gas Development Permit: A permit that is required to authorize an Applicant to engage in oil and gas activities that include production and transportation of oil and gas but does not include Exploration Activities and Drilling.

Oil or Gas Well: Any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of exploring for, producing, and recovering any oil, gas, liquid, hydrocarbon, or any combination thereof.

Onsite Visit: The meeting conducted at the proposed Oil or Gas Well Site before consideration of a decision on a development permit, exploratory permit, or special use permit.

Operator: A person who, duly authorized, manages a lease’s development or a producing property’s operation, or who manages an Oil and Gas Facility’s operations.

Outdoor Lighting Fixture: An outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights and floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, billboards or street lighting.

Permitee: The Applicant/Operator who has been approved for a (1) Preliminary Oil and Gas Exploration Activities Permit or (2) Oil and Gas Exploratory Drilling Permit or (3) Oil and Gas Development Permit.

Planning and Zoning Commission: The Planning & Zoning Commission of Sandoval County, State of New Mexico.

Planning and Zoning Department: The Planning & Zoning Department of Sandoval County, State of New Mexico.

Police Power: Delegated, or authorized legislative power for purposes of regulation to secure health, safety, and general welfare and to prevent public nuisances.

Pollution: Introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or property use.

Preliminary Oil and Gas Exploration Activities Permit (“Preliminary Exploration Permit”): A permit that is required for Oil and Gas Exploration Activities that may disturb the surface and excludes Drilling.

Produced Water: Water that is an incidental byproduct from drilling for, or the production of, oil and gas.

Public Hearing: A proceeding preceded by published notice and actual notice to certain persons and at which certain persons, including the Applicant, may present oral comments or documentation. In a quasi-judicial or administrative hearing, witnesses are sworn in and are subject to cross-examination.

Public Works Department: The Public Works Department of Sandoval County, State of New Mexico.

Pueblo and Tribal Leadership: The Governors of Pueblos and the Presidents of Tribes and Chapters.

Rangeland: A type of land on which the native vegetation, climax, or natural potential consists predominately of grasses, grasslike plants, forbs, or shrubs. Rangeland includes lands revegetated naturally or artificially to provide a plant cover that is managed like native vegetation.

Re-use Water: Any water that is generated from an oil or natural gas well, undergoes significant treatment, and is used again in an oil or natural gas well prior to disposal in an underground injection well.

Recycled water: Any water that is generated from an oil or natural gas well, undergoes significant treatment, and is used again in an oil or natural gas well prior to disposal in an underground injection well.

Registered Cultural Property: A cultural property that has been placed on the official register on either a permanent or temporary basis by the Cultural Properties Committee.

Scenic Historical Marker Easily recognizable, large brown roadside signs dotting the New Mexico landscape providing vignettes on local history, geographic marvels, notable persons and political events that shaped New Mexico’s heritage.

Seismic Disturbance: An instance of agitation of the earth's crust such as earthquakes.

Seismic Vibrator: A truck-mounted or buggy-mounted device that is capable of injecting low-frequency vibrations into the earth.

Setback: The minimum allowable horizontal distance between a structure and every road or lot boundary line as measured perpendicularly from the edge of the road right-of-way or lot boundary line to the structure.

Shielded: A fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted

Shielding: See **Shielded**

Significant Deterioration: An increase in the ambient concentrations of an air contaminant above the levels allowed by the federal act or federal regulations for that air contaminant in the area within which the increase occurs.

Slope: The ratio of elevation change to horizontal distance, expressed as a percentage computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by one hundred (100).

Spill Light. The presence of lighted area(s) beyond the primary area which the source is intended to light. Also known as light trespass.

Storage Tank (or Tanks): Any tank, excluding sumps and pressurized pipeline drip traps, used for the storage of condensate and crude oil or other liquids produced by and/or used in conjunction with any oil or gas productions. There are below-grade tanks where a portion of the tank's sidewalls is below the surrounding ground surface's elevation, and above ground storage tanks where the tank is located above or at the surrounding ground surface's elevation and is surrounded by berms.

Substantial Modification: Any modification to an oil or gas well site or to an oil or gas facility beyond normal operation, reworking, recompleting, monitoring and maintaining that results in an increase in the size or area of the surface disturbance for which approval was granted under this Ordinance.

Surface Disturbance: Any activity that disturbs the surface of the land (a) as a result of exploration for, drilling for, and production of oil or gas or (b) as a result of the construction, development, operation, or abandonment and plugging of an Oil or Gas Facility.

Surface Owner: A person who holds legal or equitable title, as shown in the records of the county clerk, to the surface of the real property on which the operator has the legal right to conduct oil and gas operations.

Surface Use Agreement: An agreement between an operator and a surface owner specifying the rights and obligations of the surface owner and the operator concerning oil and gas operations.

Toxic gas emissions: The emission of gases that are harmful to humans when inhaled or ingested in various quantities.

Traffic: pedestrians, bicyclists, ridden or herded animals, vehicles, streetcars, and other conveyances either singularly or together while using for purposes of travel any highway or private road open to public travel.

Tribe or Pueblo: Any federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico.

Underground Source of Drinking Water (USDW): An aquifer that supplies water for human consumption or that contains ground water having a TDS (total dissolved solids) concentration of 10,000 mg/l or less and that is not an exempted aquifer.

Watercourse: A river, creek, arroyo, canyon, draw or wash or other channel having definite banks and bed with visible evidence of the occasional flow of water.

Well Pad: A work area (surface location) that is used for drilling an oil and gas well or wells and producing from the well once it is completed.

Well Site: That portion of the surface of land used for the drilling, development, production, operation, abandonment, and plugging of an Oil or Gas Well or collocated oil and gas wells, including, but not limited to, the area of land in which all equipment, excavations, and facilities used for oil and gas operations are located. A Well Site shall include, at a minimum, the area of surface disturbance associated with such uses but excluding the area of surface disturbance necessitated for the construction and use of roads.

Wildlife Corridor: Tracts of land or habitat that are linked and allow wildlife to travel from one location to another to find food, shelter, a mate and a place to raise their young.

Wildlife Habitat: The area where an animal that is not domestic lives under natural conditions and which provides all requirements for food and shelter.

ARTICLE III. PROVISIONS APPLICABLE TO OIL AND GAS PERMITS COVERED BY THIS ORDINANCE

A. Referrals.

Unless required in the submittal of the Application, at any time during the review process for a permit hereunder, the Director, Planning and Zoning Commission, or the County Commission may refer an application to other government agencies, cities, counties, Tribes, Pueblos or entities having a statutory or regulatory interest in the matter, or otherwise affected by the application, for review and comment. The application review process shall not be delayed pending review or commentary from a referral agency(ies).

B. Consultants.

If at any time during the review process for a permit hereunder, the Director, Planning and Zoning Commission, the County Commission, the Public Works Department Director or the

Fire Chief determines that the application for a permit for oil or gas development may present serious impacts on Wildlife Habitat, Cultural Properties, ground or surface water quality, air quality, sound, traffic or otherwise believe that they require outside expertise to discharge their duties, they may, at the expense of the Applicant, hire experts to review an application or to evaluate specific technical issues related to those matters. If they determine that the County should retain such experts for a specified period of time, they shall notify the Applicant and the Applicant shall have the opportunity to provide recommendations of experts to the County; but the final decision on which consultant(s) to be used shall be that of the County official(s) involved. Fees shall be charged based on reasonable and actual expenses. The Applicant shall give the County a certified or bank check, wire transfer or letter of credit deposit in an amount to be determined by the requesting authority for each application submitted, to cover all of the County's expenses incurred to engage such consultants and experts as are considered necessary and appropriate.

C. Burden of Proof.

It shall not be the responsibility of the County to disprove any claims or assertions made by an Applicant or Operator under this Ordinance. In every case where an application is made for any permit hereunder, the Applicant shall demonstrate by clear and convincing evidence that any claim or assertion that it makes is true.

D. Compliance

Where the Director is charged in this ordinance with the responsibility of ensuring compliance with Oil and Gas Permits, the Director may, at the expense of the Operator, hire such experts, consultants, companies or agencies as are deemed necessary to perform this function. The Operator shall give the County a certified or bank check, wire transfer or letter of credit deposit in an amount to be determined by the Director to cover all of the County's expenses as are considered necessary to ensure compliance.

ARTICLE IV. APPLICATION PROCESS FOR PRELIMINARY OIL AND GAS EXPLORATION ACTIVITIES PERMIT.

A. Preliminary Oil and Gas Exploration Activities Permit.

A Preliminary Oil and Gas Exploration Activities Permit ("Preliminary Exploration Permit") is required for all Preliminary Oil and Gas Exploration Activities including geophysical surveys, seismic surveys, gravity surveys, magnetic surveys, and other exploratory activity that may only cause surface disturbance and do not include Drilling. A Preliminary Exploration Permit is not required for aerial surveys, mapping activities, and other exploratory activities that do not result in surface disturbance.

B. Application Process for a Preliminary Oil and Gas Exploration Activities Permit

The application shall include the following information:

- (1) The name(s) and contact information for all companies that will conduct Exploration Activities and documentation of their liability and workers compensation insurance

coverage.

- (2) A schedule describing the beginning and ending dates of the Exploration Activities.
- (3) A map showing all areas to be explored, all access roads and the location of any historical, archeological or cultural sites (Cultural Properties) listed in the Register of Cultural Properties of the New Mexico Historic Preservation Division.
- (4) The map shall also show where any potentially hazardous materials will be stored.
- (5) Certification, signed by an officer of the Company, that the Applicant will comply with all applicable local, state and federal laws listed under Article I, Section E of this Ordinance regarding the protection of Cultural Properties and describe the preventive measures that shall be taken to protect Cultural Properties from damage during the Exploration Activities.
- (6) A list of the surface exploration technologies and equipment to be used in carrying out the activities.
- (7) Legal proof that Applicant is a Mineral Rights Owner.
- (8) A notarized letter from the Surface Owner(s) granting access for the Exploration Activities.
- (9) Copies of Easement agreements including any such agreements with Tribes and Pueblos for all access to and from the area to be explored.
- (10) The Director may require the Applicant to provide a cash bond security to cover any repairs or restoration of any Surface Disturbance or Cultural Property damages during the Exploration Activities.
- (11) The Director may require a Road Improvement Agreement for use of County and private roads.
- (12) The Director may require the Applicant to provide Environmental Compliance History and verification of Financial Solvency, as described in Article VI, Sections H and I in this ordinance.
- (13) All Pueblo and Tribal Leadership located within the County shall be notified, paid for by the Applicant of the request for a Provisional Exploration Activities Permit.
- (14) The Director may require public notice of the proposed Exploration Activities, to be paid for by the Applicant.
- (15) Any additional information reasonably necessary, as determined by the Director.

C. Review for Administrative Completeness of Application.

- (1) The Director shall review all submitted materials and information for the Preliminary Exploration Permit for completeness within thirty (30) days. If an application for a permit is deemed incomplete the Director shall provide a written determination to the Applicant explaining why the application is incomplete and the manner in which the application can be made complete.
- (2) Applicants have thirty (30) days to submit the additional required materials unless the Director agrees in writing to a longer time period.
- (3) If the required materials are not submitted within the given time period, the application shall be deemed withdrawn and the Applicant will not be entitled to a refund of any application fees.
- (4) Upon submission of the additional materials, the application shall be reviewed again for completeness according to the appropriate review schedule and the Applicant shall have another opportunity, if necessary, to complete the application.

D. Review Process and Criteria for Preliminary Exploration Permits.

- (1) Completed applications for Preliminary Exploration Permits shall be reviewed by the Director within twenty (20) days.
- (2) The Director shall consider the following criteria when making a determination for approval or denial of an application for a Preliminary Exploration Permit.
 - (a) Whether the Application includes all required documentation including proof of Mineral Rights Ownership, a notarized statement from the Surface Owner, proof of notice to Pueblo and Tribal Leadership, Easements and a map showing the location of Hazardous Materials,
 - (b) Whether the proposed Exploration Activity includes appropriate and sufficient measures to mitigate any public nuisance or adverse impacts on public safety, traffic, Cultural Properties, on wildlife habitat and livestock.
 - (c) Whether the Applicant has demonstrated that any Surface Disturbance will not have a negative impact on storm water drainage. cause erosion and create permanent damage.
 - (d) Whether the Applicant has demonstrated how all areas that have been disturbed will be restored and returned to their natural state.
 - (e) Whether the Applicant certifies that the area will be kept free of rubbish and trash.
- (3) Any decision denying an application for a Preliminary Exploration Permit shall be in writing, and the Applicant shall be given a maximum of three opportunities to cure or correct, if possible, those grounds given as the basis for denial. In the event that the Applicant cannot cure or correct the grounds of denial within the time frame established by the Director in the initial letter of denial, a final decision indicating denial shall be provided to the Applicant upon the expiration of that period.

E. Application Fee.

Each application shall be accompanied by a nonrefundable application fee in the amount of two hundred fifty dollars (\$250.00). The application fee shall be paid by certified or bank check, wire transfer or certified funds.

F. Appeal.

A decision by the Director to approve or deny a Preliminary Exploration Permit is subject to appeal in the same manner and in accordance with the procedures outlined in the CZO No. 10-11-18.7A, Section 22.

G. Duration of Preliminary Oil and Gas Exploration Activities Permits.

A Preliminary Exploration Permit shall not exceed one hundred twenty (120) days and shall expire if the Exploration Activities have not commenced within that period.

H. Authority.

- (1) The Director is granted the authority to impose any necessary conditions and mitigation requirements on a Preliminary Exploration Permit to carry out the intent, purpose and the requirements of this ordinance.

- (2) The Director is granted the authority to ensure Permittee's compliance with the conditions and mitigation requirements imposed in the Preliminary Exploration Permits.

I. Effect of Approval.

- (1) When a Preliminary Exploration Permit has been granted, such permit, along with any other required County permits and any conditions associated therewith, shall constitute sufficient authority for the commencement of the approved Preliminary Exploration Permit.
- (2) Approval of a Preliminary Exploration Permit provides no vested right in, or assurance of, the granting of any other permit for oil and gas activity by the County.

ARTICLE V. OIL AND GAS EXPLORATORY DRILLING WELL PERMITS

A. Oil and Gas Exploratory Drilling Well Permit.

No oil and gas Exploratory Drilling Well shall be permitted within the County unless an application in compliance with this ordinance has been filed and an Oil and Gas Exploratory Drilling Well Permit ("Exploratory Drilling Permit") for such activities has been approved by the Planning and Zoning Commission.

B. Onsite Visit.

- (1) The Director retains the right to request or participate in an onsite visit prior to the consideration of an Exploratory Drilling Permit application.
- (2) Upon submission of the application, the Director shall determine whether or not an onsite visit is necessary based on the site-specific information presented in the application.
- (3) Where an onsite visit shall be required, the Director shall provide the Applicant with a written request for such visit.

C. Application Process for Exploratory Drilling Well Permit.

Applicants seeking to drill an Exploratory Drilling Well for hydrocarbons in areas of the County under county jurisdiction shall submit an application to the Director. The application shall include:

- (1) All required drilling permits from OCD.
- (2) Signed and notarized letter from the Surface Owner stating that the Applicant has complied with the Surface Owner Protection Act NMSA 1978, §§ 70-12-1 et. seq. (SOPA) or proof of bonding as required by SOPA.
- (3) Legal proof of Mineral Rights Ownership.
- (4) Copies of Easement agreements including any written Easement agreements with Tribes and Pueblos for all access roads to and from the Oil or Gas Facility.
- (5) Copies of any other agreements or permits requested by the Director.
- (6) A schedule showing beginning and ending dates of Exploratory Drilling Well activities, including Well Site construction start-up dates.
- (7) The name(s) and contact information for all companies that will conduct Exploratory Drilling Well activities and documentation of their liability and workers compensation insurance coverage.