


SANDOVAL COUNTY OIL & GAS DRAFT ORDINANCE COMMENTS: Major concerns about Sandoval County's oil and gas ordinance submission process and seriousness of county commissioners to develop an ordinance that really protects residents

David Craig <dtc.bayern@gmail.com>

Tue 10/2/2018 2:59 PM

To: Public Comment <PublicComment@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>; 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>; Robin S. Hammer <rhammer@sandovalcountynm.gov>; Dianne Maes <dmaes@sandovalcountynm.gov>;

Cc: Stephen Montoya (Rio Rancho Observer, Assistant Editor) <smontoya@rroobserver.com>; George Franzen (ES-CA, President) <president@es-ca.org>;

 6 attachments (6 MB)

CWG OT Revised Draft Ordinance 9_21_2018 for Sandoval County P&Z Commission CWG MANDATE.pdf; CWG OT Revised Draft Ordinance 9_21_2018 for Sandoval County P&Z Commission SEP 21 SUBMISSION TO P&Z.pdf; County Oil Gas Ordinance Public Comments 2018-08-23 - Sandia Pueblo.pdf; Oil and Gas Ordinance Comparison - Sandoval County NM Citizens' Study Group (24 Sep 24 2018).pdf; CWG Charter - Approved County Commission 15 Mar 2018.pdf; SLSW handout (generic) 2018-09-29.pdf;

SANDOVAL COUNTY OIL & GAS DRAFT ORDINANCE PUBLIC COMMENTS

County Commission Chairman Heil and all other County Commissioners,

As a member of the Citizens Working Group (CWG) and its Ordinance Team, and also as a resident of Sandoval County, I have major concerns about how the Sandoval County Planning & Zoning (P&Z) commissioners and the County Commissioners are handling the submission of oil and gas ordinance proposals to the county and seriousness of county commissioners to develop an ordinance that really protects residents.

Concern summary ...

Do county commissioners really understand the serious consequences to them individually and collectively of failing to create an oil & gas ordinance that really protects county residents?

County attorney requirement to review ordinance submissions

County communication failure

County failure to post oil & gas ordinances on county oil & gas info web site page

Stoddard/Block/baseline ordinance still an ugly pig

P&Z commissioners fail to submit CWG ordinance team ordinance to county commissioners for consideration

P&Z commission meeting cancellation intentional or stupidity?

Do county commissioners really want to meet the needs of the county communities?

Summary

CONCERN: DO COUNTY COMMISSIONERS REALLY UNDERSTAND THE SERIOUS CONSEQUENCES TO THEM INDIVIDUALLY AND COLLECTIVELY OF FAILING TO CREATE AN OIL & GAS ORDINANCE THAT REALLY PROTECTS COUNTY RESIDENTS?

This protection includes:

- o Protect county aquifer and surface water
- o Protect residents health, safety, welfare with drilling hearings and notifications
- o Protect tribal waters, notification and cultural, historic and sacred areas

I think the Citizens Working Group Ordinance Team ordinance (attached) satisfies these protections in an elegant way. I ask that all readers of this email please consider reading this ordinance and the others and decide for yourself what ordinance you think provides the protections you think are important to you.

Developing an oil & gas ordinance is an extremely complex endeavor that requires serious effort on the part of many people from many disciplines. The county does not employ such people and will need to seek such experts from outside firms.

The county attorney is not qualified to review an oil & gas ordinance for legal issues. Only an attorney who is very knowledgeable about New Mexico oil & gas legal topics can review an oil & gas ordinance. The county must invest in such a legal review.

The county P&Z staff is not qualified to develop the administrative and technical standard operating procedures for such an ordinance. Outside contractors with the necessary skills will need to be hired to at least even determine the requirements for other contractors (this means the P&Z staff will not have the necessary knowledge to even write the RFPs that will be needed for outside contractor selection).

The details behind implementing what a completed ordinance procedures require are mind numbing. This implementation cannot be done by county staff, people who know what they are doing will need to be involved. The county expense to do this will be significant. If the county thinks spending \$62,000 on the NM Tech report was a lot of money, that was just chump change.

If the county commissioners are truly serious about developing a serious oil & gas ordinance that achieves the requirements stated in the county commissioner's March 2018 Citizens Working Group mandate, the county will need to expend serious financial, technical, and legal effort.

This is not a short term endeavor. If the county commissioners think selecting an oil & gas ordinance in the next few months will complete this process, they are delusional. This is only the beginning if the county commissioners are serious about doing what is right and not just what is convenient in the short term for them and the county. Developing a realistic ordinance by the end of 2019 (yes, 19) I suspect is an overly generous estimate.

Once the county commissioners select an ordinance the county commissioners, if they are serious here, will need to hire several people to review the ordinance in extreme detail. Then these people, or selected individual/firm, will need to be hired to actually write a final ordinance. Attempting to just tweak one of the proposed ordinances or merge two or more will be a wasted effort and an exercise in futility.

The CWG mandate to provide an ordinance in 4 months was an intentional county joke whose goal some may say was to cause the CWG efforts to fail and could be used as a scapegoat by the county to provide a warped rationale to regurgitate the county's Stoddard/Block/Baseline/PigWithLipstick ordinance.

The county P&Z commissioners and county commissioners have played games with this oil & gas ordinance process. Putting roadblocks in place to deny ordinance submissions to P&Z commission meetings and failing to have serious ordinance reviews is childish, unprofessional and an insult. These games will continue.

Some people may challenge the county commissioners (P&Z + county) sincerity given their past abysmal actions and strongly suspect this behavior will continue since this is the simple, convenient, least time consuming course of action for the commissioners.

CONCERN: COUNTY ATTORNEY REQUIREMENT TO REVIEW ORDINANCE SUBMISSIONS

A recent ordinance submission concern I have is I was told today by Mary Feldblum that in an October 1, 2018 meeting you had with several CWG Ordinance Team members (Mary Feldblum, Alan Friedman, Phoebe Suina) that you said this team's September 21, 2018 ordinance (attached) was not accepted by the county or posted on the county web site for the upcoming September 25, 2018 P&Z commission meeting was this ordinance needed to be first reviewed by the county attorney ("Robin S. Hammer (Sandoval County NM, County Attorney, ph 505-404-5812)" <rhammer@sandovalcountynm.gov>) and oil & gas ordinances needed to be submitted a week in advance of a meeting.

Did you really say this at this meeting?

This is the first I have heard of such an ordinance submission requirement.

Is this requirement something that is in writing and which the county has provided to all the oil & gas ordinance groups? If so, where is this written requirement and when was it provided to the ordinance groups?

If this is really a county ordinance submission requirement, why was I not informed of this requirement when I emailed this team's ordinance on September 21, 2018 to the P&Z staff director MICHAEL SPRINGFIELD (Michael Springfield (Sandoval County Planning & Zoning Department, Director, ph 505-867-7628)" <mspringfield@sandovalcountynm.gov>), P&Z staff MAKITA HILL (Makita Hill (Sandoval County Planning & Zoning Department, Deputy Director, ph 505-867-7656)" <mhill@sandovalcountynm.gov>), or P&Z commission chairman APARCIO HERERRA (Aparcio C. Herrera, Jr. (Sandoval County NM, Planning & Zoning Commissioner - Chairman)" <aherrera@sandovalcountynm.gov>)?)

Has the county attorney ever really reviewed any oil & gas ordinances before they were submitted for a county meeting? What are the attorney's requirements for this "review"? Can the attorney reject an ordinance submission? is the attorney required to report her review results to the county commissions?

I ask that you or any of the county commissioners please provide me with all the communication you have with the county attorney concerning oil & gas ordinances she has reviewed so I can see if these reviews are actually done. Attorney-Client privilege excuse is not acceptable here.

If you say this an ordinance submission requirement and the county attorney has not actually reviewed the ordinance submissions, then I suggest the county commission fire Hammer and hire a new county attorney who actually does the job required by this position.

CONCERN: COUNTY COMMUNICATION FAILURE

Communicating with the P&Z staff (SPRINGFIELD, HILL) and chairman (HERERRA) is a one way street. When ordinance submissions are emailed there is no feed back from the county that the submissions were received. When called about the submissions the answer is they will check, but they never return the call or on vacation.

CONCERN: COUNTY FAILURE TO POST OIL & GAS ORDINANCES ON COUNTY OIL & GAS INFO WEB SITE PAGE

The county has not posted any of the submitted ordinances on the county's oil & gas information web site page (Oil, Gas & Water Matter/Proposed Ordinance; <https://www.sandovalcountynm.gov/ogordinance/>).

This request was made to P&Z chairman Hererra who has done nothing here. The ordinances may be found embedded in the P&Z meeting agendas, but this is a rather obtuse and extremely non-transparent way for

people with an interest in these ordinances to find them.

Having a folder on the county Oil, Gas & Water Matter/Proposed Ordinance web page with all of the ordinances with their date would provide county residents with easy access to these ordinances. This may make some people question if the county really wants residents seeing all the oil & gas proposed ordinances? P&Z chairman Herrera, when asked that county do this, said it would be difficult for the county staff to do this. Seriously, how difficult is it for someone who works 40 hours a week to post a few files every few weeks to a county web site page? If this is too difficult, then hire competent knowledgeable staff who can do this.

CONCERN: STODDARD/BLOCK/BASELINE ORDINANCE STILL AN UGLY PIG

The submission of the old Daniel Stoddard ordinance ("Daniel J. Stoddard (Sandoval County NM, Planning & Zoning Commissioner, ph 575-791-3393)" <dstoddard@sandovalcountynm.gov>) from 2017 in the slightly altered form of what is now being called the BLOCK ORDINANCE and the BASELINE ORDINANCE is in my opinion an insult to the county residents. Putting lipstick on this pig still results in an ugly pig!

Residents, organizations and tribes very vocally objected to this ordinance and will do the same if the county commissioners proceed with this charade to seriously consider this pro-industry, anti-resident, anti-tribe ordinance again.

The BLOCK ORDINANCE is named after county commissioner Jay Block (Jay C. Block (Sandoval County NM, Commissioner, ph 505-252-6218)" <jblock@sandovalcountynm.gov>). His county district covers Corrales and Southeastern Rio Rancho. Block claims that he follows processes. But it sure seems that Block only follows processes when they suite Block, otherwise Block does whatever he wants. Block's submission of an oil & gas ordinance to the P&Z commission did not in any way follow the process as described in the county commission's March 2018 Citizens Working Group mandate in which a Citizens Working Group ordinance recommendation was to be the P&Z commission end product. The P&Z commission, which is really controlled by staff director Springfield, never approved this ordinance submission and just let the P&Z staff dictate what ordinances they wanted the subservient P&Z commission to consider.

CONCERN: P&Z COMMISSIONERS FAIL TO SUBMIT CWG ORDINANCE TEAM ORDINANCE TO COUNTY COMMISSIONERS FOR CONSIDERATION

The P&Z commissioners failed to submit the Citizens Working Group Ordinance Team ordinance to the county commission for consideration.

The P&Z commissioners, who have shown they have no real interest, aptitude or time in reviewing the various ordinance proposals should have just submitted all the ordinances to the county commissioners and let them attempt to decide what they want to do here.

Instead the P&Z commissioners decided in their (oops, Springfield's) September 25, 2018 meeting not to submit all the oil & gas ordinance proposals en mass but instead vote on each ordinance for county commissioner submission. The P&Z commissioners chose to forward the BASELINE (Block/Stoddard) ordinance and the CWG Science Team ordinance.

The CWG Ordinance Team Ordinance was not even voted on by the P&Z commissioners -- it was disgracefully completely ignored.

CONCERN: P&Z COMMISSION MEETING CANCELLATION INTENTIONAL OR STUPIDITY?

The P&Z commissioner (oops, Springfield) meeting scheduled for September 10, 2018 was canceled around 2 hours before the meeting due to what the county attorney ("Robin S. Hammer (Sandoval County NM, County Attorney, ph 505-404-5812)" <rhammer@sandovalcountynm.gov>) and P&Z chairman (Aparcio C. Herrera, Jr. (Sandoval County NM, Planning & Zoning Commissioner - Chairman)" <aherrera@sandovalcountynm.gov>) described as meeting notice problems in which the wrong time as posted (6:00 PM instead of 4:30 PM) by mistake by county staff.

This cancellation inconvenienced many residents many of whom travel a long distance and leave work to attend these county meetings that they think are important. Some people may see this cancellation as an intentional

insult to the county residents by the P&Z (oops, Springfield) commission.

Some may wonder if this "mistake" was really a mistake and not just a feeble excuse by the P&Z commissioners to not have to deal with more ordinance issues?

Seems the county P&Z staff make lots of job-related mistakes. Some could say these mistakes are really just stupidity, but stupidity should never be an excuse.

The county P&Z commission still does not comprehend when it comes to scheduling their meetings. The next P&Z meeting scheduled for October 9, 2018 will be cancelled for this same time problem due to more staff "mistakes" that currently already exist.

CONCERN: DO COUNTY COMMISSIONERS REALLY WANT TO MEET THE NEEDS OF THE COUNTY COMMUNITIES?

The county's web site (<https://www.sandovalcountynm.gov/about/>) contains the following statement:

"Yet, the only way we can truly meet the needs of our communities is by hearing from you."

It may be worthwhile for all the county commissioners to actually read this statement on the county web site to see if they really want to help their communities and listen to what the community members have to say. Or, if the commissioners find reading this a chore or waste of time, then just delete this statement from the county web site or change it to the more truthful:

"Sandoval County commissioners really have no interest in meeting the needs of the county communities and we definitely don't want to hear from community members who may suggest we do actually something that will help these community members."

This county web site also says:

"We're Here for You"

I'm not sure what "you" means here?

CONCERNS: SUMMARY

It is hoped that the Sandoval County commissioners will seriously consider how best to project the county water, people, Tribal interests and county infrastructure (e.g. roads) while being legally defensible and at the same time requiring responsible oil & gas extraction.

You commissioners have a unique opportunity to create an oil & gas ordinance that could be used as a model for other counties (e.g. Bernalillo), other towns (e.g. City of Albuquerque) and even for a New Mexico state-wide oil & gas statute.

For an example of an area in the county which currently has lots of gas production, please see the following county resident-produced documentary about the town of Aztec near Farmington and how oil & gas development has been a double edged sword. Oil & gas development has provided a living to this town's people, but at the same time it has caused a lot of problems for these same people. I suspect none of you commissioners would want to live in Aztec especially if you have kids or know neighbors with kids.

Oil & Gas Drilling - Sandoval County NM - 21 Aug 2018
Aztec NM "Toxic Tour of Hell"
<https://www.youtube.com/watch?v=0le8gpjOe3s>

Commissioner kowtowing to the oil & gas industry without considering the impact of such kowtowing on the county residents and their precious limited water, could cause what has happened in Aztec happen more frequently elsewhere.

Another recent documentary about the potential negative effects of oil & gas development in the Albuquerque basin is titled;

SACRED LAND, SACRED WATER: Confluences in the Rio Grande Valley

This may be viewed on the film's web site:

www.sacredlandsacredwater.com

A short handout is also attached here which describes the key features of this film.

If you Sandoval County commissioners are not dedicated to creating a serious oil & gas ordinance which follows the commission Citizens Working Group mandate which is titled "Sandoval County Aquifer Water Protection & Oil and Gas Citizens Working Group" with objective "preservation and protection of drinking water aquifers, groundwater, and surface water and development of a county oil and gas ordinance", then I ask the commission to be honest with the county residents and say you are unable and unwilling to do this. Please be honest to those people who pay taxes to the county and your commissioner salaries with the expectation that the county is really there to help and not hurt people.

Or, if the commissioners don't want to seriously address this issue, then let the residents of Sandoval County decide by a binding vote what type of county oil & gas ordinance they think is best for their health, safety and welfare.

Sandia Pueblo Governor James Richard Bernal in a August 23, 2018 letter to you Sandoval County Commissioners eloquently said the following (see attached):

"Where the appointed officials of the P&Z Commission fail to fulfill their mandate, as given by the Board of County Commissioners, we believe the matter should be put to a public referendum."

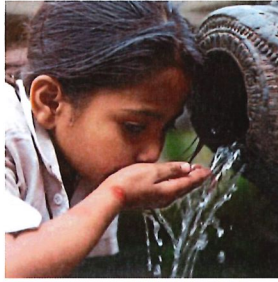
YOU COMMISSIONERS NOW HAVE THE OPPORTUNITY TO DO WHAT IS RIGHT. DON'T BLOW IT.

YOU HAVE THE CHOISE OF EITHER DOING THIS RIGHT OR QUICK -- YOU ONLY HAVE ONE CHOISE.

IF YOU DO WHAT IS RIGHT, YOU WILL BE PRAISED.

IF YOU SCREW THIS UP, YOU WILL BE FOREVER HELD DIRECTLY ACCOUNTABLE BY THE PEOPLE OF SANDOVAL COUNTY.

- 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)
- CWG Secretary & CWG Ordinance Team member



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

COUNTY COMMISSION MANDATE FOR CITIZENS WORKING GROUP



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.

March 11, 2018

Pueblo: Myron Armijo
Former Governor, Santa Ana Pueblo; Chairman, Southern Sandoval Investments, Ltd.
Tribal Liaison, NM Office of the State Engineer, Interstate Stream Commission

Pueblo: Derrick Lente
Attorney
New Mexico State Representative, District 65
Represents Pueblos (Cochiti, Jemez, Sandia, San Felipe, Santa Ana, Santo Domingo, Zia)
Navajo Tri-Chapter and Jicarilla Apache

Navajo Tri-Chapter Rep: To be named [Pending]

Rio Rancho: Edward Paulsgrove
Geologist (BS)
U.S. Army Corps of Engineers (Geotechnical and Environmental Divisions)
U.S. Army Paratrooper (509 Airborne combat infantry)

County Support Liaisons (non-voting):

- Peter Adang (Planning and Zoning Commissioner)
- Keith Brown (Planning and Zoning Commissioner)

Participation

- Maximum citizen participation
- Each member is encouraged to contact interested citizens and solicit input from their area
 - A call for papers from interested Sandoval County citizens
- Pueblo and Navajo members are citizen representatives only and do not in any way reflect individual tribal government decisions or formal communications with the Sandoval County government

Technical/Scientific Reviews

- Sandoval County commissioned New Mexico Tech Study
- Albuquerque Bernalillo County Water Advisory Board commissioned aquifer study
 - Other pertinent studies
- Experts invited to present (O&G, Environmental, Water, Legal, Health, etc.)

Consultation and Coordination with Other Governments

All local governments in:

- Sandoval County
- Bernalillo County
- Valencia County
- All Pueblo Nations
- Navajo, Jicarilla Apache

End Product

- Present a joint recommendation for action directly to the Sandoval County Commissioners
- Produce a comprehensive oil and gas ordinance directly to the Sandoval County Commissioners that includes aquifer source water, groundwater, and surface water protection.

Recommended Timeline

- Four months

Operating Guidelines

- Meeting times, frequency, other details, etc. to be set by CWG members (Provided to SCC)
 - Full meeting agendas posted 72 hours in advance
 - Public invited to attend with structured open comment
- Progress updates to SCC prior to every regularly scheduled county commission meeting

See change at bottom

Commission voted to have End Product first go directly to County Planning & Zoning Commission



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)

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.

- (8) The Director may also 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.
- (9) Property Details
 - (a) The legal property description and a map at a scale of 1:2,000 feet showing the location and size of the Lot on which one or more Well Pads will be located.
 - (b) The number of Exploratory Drilling Wells to be drilled on each Well Pad.
 - (c) The estimated depth of each proposed Exploratory Drilling Well.
 - (d) The location of occupied dwellings, schools, churches, hospitals, clinics, assisted living homes or cemeteries, parks, recognized open space and wildlife corridors, ranches and farms, within a one (1) mile radius of the Well Site;
 - (e) Fresh water supply wells, and fresh water storage reservoirs and Watercourses and lakes within a one (1) mile radius of the Well Site.
 - (f) Major geographic features including Slopes and Floodplains;
 - (g) The location of any historical, archeological or cultural sites listed in the Register of Cultural Properties of the New Mexico Historic Preservation Division and those identified by Tribes and Pueblos in Sandoval County within a one (1) mile radius of the Oil or Gas Facility.
 - (h) The location of all fire, police, and emergency response service facilities. If these facilities are not located on the map, the Applicant shall provide the contact information, address, direction, and mileage to the nearest emergency response facility.
 - (i) Recorded utility and access easements.
- (10) A site plan shall provide the following information for the Exploratory Drilling Well at a scale of 1:2000 feet:
 - (a) The estimated location of tanks, compressors, dehydrators and other equipment and facilities, gates pump stations, tank batteries. The site plan shall be updated as built and include the permanent location and the GPS coordinates for each well, equipment and buildings on the Oil or Gas Facility.
 - (b) All state, county, private, Tribal and Pueblo roads, including bridges, overpasses and culverts, that will be used to access the Well Site within a one (1) mile radius of the Oil or Gas Facility.
 - (c) Existing Flowline routes, including gathering lines and transmission lines on and off the Oil or Gas Facility.
- (10) An emergency services map showing the name, description and location of all Hazardous Materials on the Oil or Gas Facility and their GPS coordinates. The map shall include the size, type and content of 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 upon completion within five (5) business days to the County Fire Chief.
- (11) A narrative of proposed Exploratory Drilling Well activities that includes the following:
 - (a) Road Plan.

- 10) The applicant shall submit an Oil and Gas road route plan that identifies roads for oil and gas related truck traffic for Exploratory Drilling Well activities, including the average and maximum gross weights of any trucks and other heavily laden vehicles. The Plan shall identify all access roads that are used including roads that will be upgraded or new roads that will be constructed. The Plan shall be reviewed and approved by the County Department of Public Works which may request revisions as needed.
 - (ii) The Plan must describe how all upgraded and new roads will comply with County Road Standards as specified in Article II, Section 32 of the Sandoval County, New Mexico Code of Ordinances.
 - (iii) The County may require the applicant to secure Easements for County roads, for municipal, State and/or Tribal and Pueblo roads where needed.
 - (iv) The County may require the applicant to provide a cash bond security, a letter of credit, escrow deposit or other security acceptable to the County, and/or a Road Improvement Agreement for use of County roads.
- (b) Terrain Management Plan.
- (i) The Terrain Management Plan shall address the restoration of all areas of the development where there is Surface Disturbance should the Exploratory Well be plugged and abandoned or receive an approved temporary abandonment permit, as required by OCD.
 - (ii) 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.
 - (iii) The Terrain Management Plan shall be approved by the Director. It shall include, but may not be limited to, the following information.
 - (aa) A schedule and description of terrain management activities to be conducted following the temporary or finally approved plugging and abandoned Well Site.
 - (bb) A drainage map identifying natural drainage and a description how storm water will be managed with the project area to prevent the travel of runoff. Where appropriate, the drainage map shall include a watershed map showing all the upper watershed area draining into or through the site. The map and the description shall be reviewed and approved by the County Engineer;
 - (iv) A schedule and description of proposed restoration activities to be completed after OCD temporary or finally approved plugging and abandonment of the Exploratory Drilling Well including a discussion of how those restoration activities will impact the anticipated future uses of the property.
 - (v) All restoration activities described in the Terrain Management Plan shall provide a Grading and Drainage Plan which shall include the following, where appropriate:

- (aa) Configuration of the reshaped topography and restored drainage;
- (bb) Soil treatments;
- (cc) Reseeding materials and revegetation methods;
- (dd) Backfill or grading requirements; and
- (ee) Soil stabilization techniques.

(c) Cultural Properties Plan.

- (i) The Plan shall include steps that will be taken to protect Cultural Properties prior to the commencement of Exploratory Drilling Well activities. The Applicant must certify, signed by an officer of the company, that they will comply with all applicable local, state and federal laws listed under Article I, Section E of this ordinance
- (ii) It is the responsibility of the Applicant to pay for any damages to Cultural Properties. Violations under applicable state and federal laws listed under Article I Section E of this Ordinance may be subject to the enforcement provisions of Article XIV in this Ordinance.

(d) Waste Management Plan.

All solid and liquid wastes must be managed in accordance with Federal, State and County law and in a manner so as to prevent pollution of the environment, conserve fresh water, and protect the public health and safety.

- (i) Applicant must submit a waste management plan that identifies the type and volume of solid and liquid waste that will be generated at the Oil and Gas Facility and how and where that waste will be properly stored, transported and disposed of.
- (ii) To the maximum extent practicable and in accordance with OCD Rules, as required in 19.15.34 NMAC as amended, the applicant must describe if any Produced Water generated at the Well Site will be recycled or reused for onsite reinjection purposes.
- (iii) The applicant must include copies of the original agreements between the applicant and any OCD licensed waste disposal facilities, including injection wells, and copies of the OCD permits for such licensed waste disposal facilities.
- (iv) The applicant must include the following information regarding the transportation of off-site of any solid and liquid wastes.
 - (aa) Copies of the applicant's original agreements with companies that will transport solid and liquid wastes off-site; and copies of OCD permits authorizing the companies to transport solid and liquid wastes off-site to licensed OCD waste disposal facilities.
 - (bb) The Director may require that companies transporting solid or liquid wastes be fitted with GPS tracking systems in order to help identify responsible parties in the case of accidents or spills.

(e) Any additional information as determined by the Director.

D. Public Notice and Hearing Requirements for Exploratory Drilling Well Permits.

- (1) Applicant shall provide notice of the hearing as required under Article VI, Section F in this ordinance.
- (2) Hearings shall be held before the Planning and Zoning Commission.
- (3) Hearings shall be held within reasonable proximity to the proposed Exploratory Drilling Well location as determined by the Director so affected property owners may attend the meeting within a reasonable distance from the proposed Exploratory Drilling Well.

E. Review for Administrative Completeness of Exploratory Drilling Well Permit Application

- (1) The County shall review submitted applications for completeness within thirty (30) days of receipt.
- (2) 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.
- (3) Applicants have thirty (30) days to submit the additional required materials unless the Director agrees in writing to a longer time period.
- (4) 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,
- (5) Upon submission of the required submittals, the application shall be reviewed again for completeness according to the appropriate review schedule and the Applicant shall have two other opportunities, if necessary, to complete the application.
- (6) After an application is deemed complete, the Director may nevertheless request additional information or studies if the Director determines that new or additional information is required in order to assess the application for compliance with this ordinance or if there is a substantial change in the proposed exploration that is the subject of a pending application.

F. Review Process and Criteria for Exploratory Drilling Well Permits.

- (1) Completed applications for Exploratory Drilling Well Permits shall be reviewed by the Director within sixty (60) days for compliance with the purpose, design and performance standards of this ordinance.
- (2) Upon completion of the review, the Director shall submit a written report, together with a recommendation, on whether the Exploratory Drilling Well Permit application shall be granted or denied, to the County Planning and Zoning Commission.
- (3) Upon submission of the Director's report to the Planning and Zoning Commission, the matter shall then proceed through a review and final decision by the Planning and Zoning Commission.
- (4) The Planning and Zoning Commission shall consider the following criteria when making a determination for approval or denial of an application for an Exploratory Drilling Well permit.
 - (a) Whether the application is consistent with the goals and strategies of the Sandoval

County Comprehensive Plan and the purposes and intent of the Sandoval County Comprehensive Zoning Ordinance.

- (b) Whether the application identifies appropriate and sufficient measures to be taken to mitigate any public nuisance or negative impacts on public safety, noise, glare, odors, property values, traffic, historic, cultural and archaeological resources, on wildlife and livestock, on roads and traffic, and on the county budget.
- (c) Whether the proposed Exploratory Drilling Well will cause harm to the public health, safety and welfare of the residents of the county.
- (d) Whether the application contains all required permits, agreements, including easements, and reports.
- (e) Whether the Applicant has received approval of a Road Plan from the County Public Works Department that complies with County road standards as described in Article II, Section 32 of the Sandoval County, New Mexico Code of Ordinances.
- (f) Whether the application demonstrates that the Oil or Gas Facility is able to handle emergency situations that may include explosions, fire, spills and leaks.
- (g) Whether the Applicant has provided to the County Fire Chief an emergency services map that includes all potentially dangerous storage facilities and equipment on the Exploratory Well site, including a list of dangerous chemicals and where they are stored.
- (h) Whether the Applicant certifies that the area will be kept free of rubbish and trash.
- (i) Whether the application demonstrates that there are adequate protections for ground and surface water and which satisfactorily comply with the regulations of those Tribes and Pueblos that have TAS (“Treatment as a State”) status as approved by the US Environmental Protection Agency.
- (j) Whether the application has demonstrated that the Oil and Gas Facility will be properly restored to its natural state after OCD has granted a permit to temporarily abandon or permanently plug and abandon the Exploratory Drilling Well.
- (k) Whether the Applicant has demonstrated through written documentation that he has consulted with and addressed concerns of Tribes and Pueblos in the area regarding the proposed Exploratory Drilling Well.

G. Effect of Approval.

- (1) When an Exploratory Drilling Well 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 exploration well drilling activity.
- (2) Approval of an Exploratory Drilling Well Permit provides no vested rights in, or assurance of, the granting of any other permit for oil and gas activity by Sandoval County.

H. Authority

- (1) The Director is granted the authority to impose any necessary conditions and mitigation requirements on an Exploratory Drilling Well 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 Exploratory Drilling Well Permits.

I. Application Fee.

Each application shall be accompanied by a nonrefundable application fee in the amount of five thousand (\$5,000). The application fee shall be paid to the County by certified or bank check, or wire transfer. The County shall have authority to adjust from time to time the fee set forth in this Section.

J. Appeal.

A decision by the Director to approve or deny an exploratory 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, governing appeals from a decision of the Planning and Zoning Director or the Planning and Zoning Commission.

K. Expiration of Exploratory Drilling Well Permits.

An exploration permit issued pursuant to this ordinance shall expire if exploration activities have not commenced within one (1) year of the date on which the exploration permit was issued. This one (1) year period shall be tolled pending the exhaustion of any administrative and judicial appeals.

ARTICLE VI. OIL AND GAS DEVELOPMENT PERMIT

A. No oil or gas drilling, and no construction of an oil and gas facility, shall take place within the County unless an application in compliance with this Ordinance has been filed, and an Oil and Gas Development Permit (“Development Permit”) has been approved and granted in accordance with this ordinance.

B. Pre-Application Meetings.

No less than thirty (30) days prior to the submission of an application for an oil and gas and gas development permit, the Applicant shall meet with the Director and such other County employees, consultants or representatives as the Director may designate, in order to discuss the anticipated application including, but not limited to, a discussion of the application process, the materials to be included in the application, the results of any prior exploration activities, including drilling, of the Applicant, the coordination of a required on-site visit, and the manner in which the Applicant intends to comply with the requirements for the submission and processing of the application.

C. Onsite Visit.

- (1) All Oil and Gas Development Permit applications require an onsite visit to be arranged and conducted by the Applicant.
- (2) Prior to the onsite visit, at the request of the Director the Applicant shall flag selected proposed access roads to and from the site.

D. Review for Administrative Completeness of Application.

- (1) Applications for Oil and Gas Development Permits shall comply with the requirements

of Articles VI and VII of this ordinance. The Director shall review submitted applications for Development Permits for completeness within thirty (30) days of receipt.

- (2) 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.
- (3) Applicants shall have thirty (30) days within which to submit the additional required materials unless the Director agrees in writing to a longer time period.
- (4) 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.
- (5) Upon submission of the required submittals, the application shall be re-reviewed for completeness according to the appropriate review schedule and the Applicant shall have two other opportunities, if necessary, to complete the application.
- (6) After an application is deemed complete, the Director may nevertheless request additional information or studies if the Director determines that new or additional information is required in order to assess the application for compliance with this ordinance or if there is a substantial change in the proposed development that is the subject of a pending application.

E. Review Process and Criteria for Oil and Gas Development Permits.

- (1) Completed applications for Oil and Gas Development permits shall be reviewed by the Director within sixty (60) days for compliance with the purpose, design and performance standards of this Ordinance.
- (2) Upon completion of his review, the Director shall submit a written report, together with a recommendation, on whether the oil and gas development permit application should be granted or denied, to the County Planning and Zoning Commission.
- (3) Upon submission of the Director's report to the Planning and Zoning Commission, the matter shall then proceed through a review and final decision by the Planning and Zoning Commission.
- (4) The Planning and Zoning Commission shall consider the following criteria when making a determination for approval or denial of an application for an Oil and Gas Development Permit.
 - (a) Whether the application is consistent with the goals and strategies of the Sandoval County Comprehensive Plan and the purposes and intent of the Sandoval County Comprehensive Zoning Ordinance.
 - (b) Whether the application identifies appropriate and sufficient measures to be taken to mitigate any public nuisance or negative impacts on public safety, noise, glare, odors, property values, traffic, historic, cultural and archaeological resources, on wildlife and livestock, on roads and traffic, and on the county budget.
 - (c) Whether the proposed Oil or Gas Facility will cause harm to the public health, safety and welfare of the residents of the county.
 - (d) Whether the application contains all required permits, agreements, including easements, and reports.
 - (e) Whether the Applicant has received approval of a Road Plan from the County Public

Works Department that complies with County road standards as described in Article II, Section 32 of the Sandoval County, New Mexico Code of Ordinance.

- (f) Whether the application demonstrates that the Oil or Gas Facility is able to handle emergency situations that may include explosions, fire, toxic spills and leaks.
- (g) Whether the Applicant has provided to the County Fire Chief an emergency services map that includes all potentially dangerous storage facilities and equipment on the Oil or Gas Facility, including a list of dangerous chemicals and where they are stored.
- (h) Whether the application demonstrates that there are adequate protections for ground and surface water and which satisfactorily comply with the regulations of those Tribes and Pueblos that have TAS (Tribes as States) status as approved by the US Environmental Protection Agency.
- (i) Whether the application has demonstrated that the Oil and Gas Facility will be properly restored to its natural state after OCD has granted a permit to temporarily abandon or permanently plug and abandon oil and gas wells on the Well Site.
- (j) Whether the Applicant certifies that the area will be kept free of rubbish and trash.
- (k) Whether the Applicant has demonstrated through written documentation that he has consulted with and addressed concerns of Tribes and Pueblos in the area regarding the proposed Oil or Gas Facility.

F. Notification Requirements for an Exploratory Drilling Well Permit and an Oil and Gas Development Permit, Variances and Appeals.

- (1) Notification of the time and place of any public hearing shall be displayed on the County website and published in a newspaper of general circulation in the County at least fifteen (15) days prior to the hearing. This notice shall appear in either the classified or legal advertisements section of the newspaper and at one other place in the newspaper calculated to give the general public the most effective notice and, when appropriate, shall be printed in both English and Spanish. In addition, the notice shall be posted on the proposed or existing Oil and Gas Facility entrance to the property on which the facility is or is proposed to be located and posted in at least four conspicuously publicly accessible places in the closest incorporated municipality located near the existing or proposed Oil and Gas Facility. To ensure reasonable notice to affected persons the Director may require additional postings.
- (2) The notice shall give the name of the Applicant, and the location and description of the proposed hearing.
- (3). Notice of the public hearing shall be mailed, at the expense of the Applicant, by certified mail, return receipt requested, to:
 - (a) The applicant(s);
 - (b) The owner(s), as shown by the records of the County Assessor, of the property on which the Facility is proposed to be located, if different from the applicant(s);
 - (c) The owners, as shown by the records of the County Assessor, within a two (2) mile radius of the exterior boundary of the lot on which the proposed Oil and Gas Facility is or will be located, excluding public right-of-way. If any notice is returned undeliverable, the County shall attempt to discover the addressee's most recent address and shall remit the notice by certified mail, return receipt requested;

- (d) 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;
- (e) All state and federal agencies responsible for state and federal lands and incorporated municipalities within five (5) miles of the proposed well site shall be notified by the County.
- (f) The County shall provide notice by email to any other person, municipality, agency or organizations that has previously filed a request with the Director to receive hearing notices for an Application for an Oil and Gas Exploratory Well Permit, for an Oil and Gas Development Permit, for variances or for appeals.

G. Public Hearings. Locations.

- (1) Hearings for Oil and Gas Development Permits shall be held before the Planning and Zoning Commission.
- (2) Hearings shall be held within reasonable proximity to the proposed or existing Oil or Gas Facility at a location as determined by the Director so affected property owners may attend the meeting within a reasonable distance from the proposed or existing Oil or Gas Facility.

H. Authority.

- (1) After receiving the Director's written report and recommendation, the Planning and Zoning Commission shall hold a hearing to determine whether to approve or deny an Oil and Gas Development Permit in accordance with the purpose, requirements and standards of this ordinance.
- (2) The Planning and Zoning Commission has the authority to impose any conditions and mitigation requirements, on an Oil and Gas Development Permit, as necessary, to carry out the intent, purpose, and the requirements and standards of this ordinance.
- (3) The Director is granted the authority to ensure Permittee's compliance with the conditions and mitigation requirements imposed in the Oil and Gas Development Permits.

I. Effect of Approvals.

When an Oil and Gas Development permit has been granted within the County in accordance with this Ordinance, such permit, together with any other required County permits and any conditions associated therewith, shall constitute sufficient authority for commencement of drilling, operation, production, maintenance, repair and testing, and all other usual and customary activities associated with oil and gas development.

J. Application Fees.

Each application shall be accompanied by a nonrefundable application fee in the amount of Ten thousand dollars (\$10,000.00). The application fee shall be paid by company check, cashier's check, wire transfer or certified funds. The County shall have authority to adjust from time to time the fee set forth in this Section

K. Appeal.

The decision by the County Commission to approve or deny an Oil and Gas Development Permit is subject to appeal in accordance with Section 22 of the CZO governing appeals from a decision of the Zoning Commission.

L. Expiration of Oil and Gas Development Permit.

A Development permit issued pursuant to this ordinance shall expire if drilling and/or construction of at least one of the oil or gas facilities approved under the Oil and Gas Drilling Permit has not commenced within two (2) years of the date on which the permit was approved by the Planning and Zoning Commission. This two (2) year period shall be tolled pending the exhaustion of any administrative and judicial appeals.

ARTICLE VII: OIL AND GAS DEVELOPMENT PERMITS REQUIRED APPLICATION AND DOCUMENTS

A. General Information

- (1) The name, address and contact information of the Operator and the name, title and local contact information, if different.
- (2) The names and contact information for all companies that will conduct any operation at the Oil or Gas Facility and proof that each company carries sufficient liability and workers compensation insurance coverage. Names and contact information should be updated at least three days before a previously unlisted company begins operations at the well site.
- (3) The name and contact information of property owners, lease owners and mineral rights owners.
- (4) A list of all Oil or Gas Facilities owned or operated in New Mexico by the Applicant.
- (5) A schedule showing beginning and ending dates for each major phase of operations at each well site including facility construction estimated start-up dates.

B. Required Permits and Agreements

- (1) Approved permits to drill from OCD and an approved Oil and Gas Form C-104 (Request for Allowable and Authorization to Transport).
- (2) If applicable, an approved Air Quality Permit from the Air Quality Division of the New Mexico Environment Department.
- (3) Approval from the Office of State Engineer where required
- (4) Copies of Easement agreements including any written Easement agreements with Tribes and Pueblos.
- (5) Signed and notarized letter signed 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.
- (6) Legal proof that Applicant is a Mineral Rights Owner.
- (7) Copies of any other agreements or permits requested by the Director.

C. Scope of Operations

- (1) The number of wells to be drilled on each well pad.
- (2) The estimated depth of each proposed well.
- (3) If horizontal bores are to be used, the likely direction and proposed length of each bore, and proof that, if the Applicant does not own sub-surface rights, permission from the sub-surface rights holder to drill the proposed horizontal bores and to extract hydrocarbons from those bores.
- (4) The number and function of any necessary ancillary facilities.

D. Property Details

The Application shall include a map of the Facility, drawn at a scale of 1:2000 feet and depicting the following features:

- (1) Section, township, range.
- (2) The location of the proposed well(s) and Oil and Gas Facility equipment;
- (3) Major geographic and topographic features such as slopes, and floodplains.
 - (a) Fresh water supply wells, fresh water storage reservoirs and Watercourses and lakes within one (1) mile of the proposed Oil and Gas Facility.
 - (b) All state, county and private roads, existing and proposed, and bridges, overpasses and culverts, that will be used to access the Facility within a one (1) mile radius of the Oil and Gas Facility.
 - (c) Existing and proposed Flowline routes, including gathering lines and transmission lines.
 - (d) The location of all fire, police, and emergency response service facilities. If these facilities are not located on the map, the Applicant shall provide the contact information, address, direction, and mileage to the nearest emergency response service.
 - (e) Occupied dwellings, schools, churches, hospitals, clinics, assisted living homes or cemeteries, parks and recognized open space, farms, ranches, wildlife habitat as defined by the New Mexico Fish and Wildlife Service, each within a one (1) mile radius of the Facility.
 - (f) Federal and state lands within a one mile radius of the Oil or Gas Facility;
 - (g) Incorporated and unincorporated municipalities within one (1) mile of the proposed Facility.
 - (h) The location of any historical, archeological or cultural sites listed in the Register of Cultural Properties of the New Mexico Historic Preservation Division and those identified by Tribes and Pueblos in Sandoval County within a one (1) mile radius of the Oil or Gas Facility.
 - (i) Recorded utility and access easements.

E. Site Plan.

The site plan for the Oil and Gas Facility with a map showing the proposed location of:

- (1) Oil or Gas Wells with GPS coordinates for each well.
- (2) Tanks, pits, compressors, dehydrators, tank batteries, and other equipment

- (3) Parking facilities
- (4) Other ancillary buildings
- (5) Flowlines and gathering lines

F. Easement.

In order to allow for the county's post-abandonment remediation the application shall include a 20-foot access Easement to the proposed well and a 30-foot radius Easement around each well. Within thirty days after the granting of a Development Permit, the Director shall have the easement recorded in the office of the County Assessor.

G. Housing.

The estimated number of non-local personnel for each phase of the Operation and a description of the housing plans for non-local personnel.

H. Environmental Compliance History.

The Applicant shall provide a list, certified by an officer of the company, of Oil and Gas Facilities where Applicant, or Applicant's parent company, has had a permit suspended or revoked or been cited for violations of any laws or regulations, both in- and out-of-state, during the past five years, and whether any of these violations are still outstanding.

I. 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.

J. Required Reports

The following reports must be submitted with the Application for the Application to be considered.

(1) Aquifer Protection Siting Report - Process.

Unless it has been demonstrated to the satisfaction of the Director with the advice of the Consultant that there is no USDW present in the Area of Review, the Applicant shall submit an Aquifer Protection Siting Report describing the hydrology, geology, hydrogeology and seismology within the Area of Review. The Report shall demonstrate to the satisfaction of the Director, with the advice of the Consultant, that the proposed drilling site has minimal potential of leading to the Degradation of identified USDW (Underground Sources of Drinking Water) in the Area of Review.

- (a) Existing data: To perform the analyses required by Article VII.J.(2), the Applicant may use existing geological, hydrological and seismological data that comes from

reputable sources, which include academic and peer reviewed studies or government reports, and which are publicly available. If the applicable existing data is insufficient to perform the analyses required by Article VII.J.(2), the Applicant must develop his own applicable data.

- (b) If the proposed site lies in a known un-faulted region, a previously submitted Aquifer Protection Siting Report may be included in the Report instead of new analyses, provided that the prior Report pertains to an Oil or Gas Well sited within 2 miles of the proposed Well Site.
- (c) The Director shall hire a Consultant, paid for by the Applicant, to review and evaluate the Applicant's report. Based on the information required to be submitted under Subsection (2)(b)(i) – (iii), the Consultant shall make a recommendation to the Director on the geological, hydrological, seismological suitability of the proposed Well Site for oil and gas development.
- (d) Approval of Site: Based on the Report and the recommendation of the Consultant, The Director may approve the requested Well Site.
- (e) The Report shall be included in the Application for final approval by the Planning and Zoning Commission.

(2) Aquifer Protection Siting Report - Analysis Requirement.

- (a) The Aquifer Protection Siting Report shall contain an analysis performed by the Applicant, except when the proposed site lies in a known un-faulted region as described in Article VII.(1).(b)) or when there are no USDWs within the Area of Review as described in Article VII.J.(1). The analysis must demonstrate that geologically, hydrologically and seismologically the proposed Well Site has minimal potential of leading to the Degradation of identified USDW (Underground Sources of Drinking Water) in the Area of Review. At the request of the Applicant the Director may determine that the analysis is confidential information as defined by Section 2–174 of the Sandoval County Code of Ordinances.
- (b) The analysis performed by the Applicant shall include the following information:
 - (i) An analysis of the structural and stratigraphic geology, the hydrogeology, and the seismicity within the Area of Review;
 - (ii) An analysis of the local geology and hydrology of the Area of Review, including, at a minimum, detailed information regarding stratigraphy, structure and rock properties, aquifer hydrodynamics and mineral resources.
 - (iii) Based on the analysis provided under (b)(i) and (ii) the Report shall demonstrate that fluids from the Oil and Gas Development Area have minimal potential for moving into any USDW, and
 - (aa) the Confining Zone is laterally continuous and free of transecting, transmissive faults or fractures over an area sufficient to prevent the movement of fluids into USDW and;
 - (bb) the Confining Zone contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing vertical propagation of fractures; and

- (cc) the Confining Zone is separated from the base of the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for USDW.

(2) Cultural Properties Report.

- (a) The Applicant shall make a good faith effort to obtain the following information prior to the submission of the Application for a Development Permit.
- (b) Identification of all Cultural Properties within a one (1) mile radius of the Facility and of any upgraded or new roads to and from the Facility, that are listed under the National Register of Historic Place and the State Register of Cultural Properties.
- (c) The Applicant shall submit copies of all written communication with the New Mexico Historic Preservation Division regarding any registered and unregistered Cultural Property that may be impacted by oil and gas development within a one (1) mile radius of the proposed Facility and of any upgraded or new roads to and from the Facility. Copies of the NM Historic Preservation Division written recommendations to address potential threats to these Cultural Properties shall be included in the Cultural Properties Report.
- (d) The Applicant shall submit copies of written communication to Pueblo and Tribal Leadership (“Leadership”) within the County by registered mail, return receipt requested. The written communication must inform the Leadership of the proposed oil and gas development including the specific location of the facility and all access roads as required under Article VII Section D. The Applicant shall also include information regarding estimated traffic and the type of drilling equipment that will be used, including vibrating equipment, during each phase of oil and gas development. The Applicant’s written communication must contain the name, address and phone number of the individual with whom the Tribe or Pueblo shall communicate. Any responses from the Tribal or Pueblo Leadership must be in written form, including any requests for additional information, and submitted with the Application. If there is no response from a Tribe or Pueblo within twenty-one (21) calendar days, the Applicant shall state that in the Cultural Properties Report.
- (e) A Tribe or Pueblo concerned about unmarked sacred sites or any cultural sites that are confidential to that Tribe or Pueblo may work with the Director to develop a confidentiality agreement to ensure the protection of those sites and their non-public disclosure.
- (f) When all required Cultural Property information and comments are received, as required in this Section, the Applicant shall describe how to ensure that cultural, historical, archeological sites or unmarked burial grounds located on the Oil or Gas Facility and on improved and new roads will be protected from the impacts of oil and gas Development. This information shall be submitted in the Cultural Properties Report.

(3) Wildlife Habitat and Livestock Report.

- (a) Purpose of Report
Oil and gas development can have a significant impact on wildlife and critical

wildlife habitats. Preserving these habitats is economically important to County tourism and recreation being important revenue generators. In addition to these direct economic benefits, indirect economic benefits to the County include pollination and pest insect predation by birds and bats, flood control, maintenance of or increased property values, rangeland productivity, and retention of the County's rural way of life. There are also unquantifiable cultural, spiritual, historic and other quality of life factors to consider.

In rural areas oil and gas Development can also have a significant impact on livestock and rangeland due to such factors as, but not limited to, noise, odors, and traffic.

- (b) The Report shall include the following information:
- (i) The location of key Wildlife Habitat and Critical Habitat areas, as mapped and defined by the New Mexico Department of Game and Fish and the US Fish and Wildlife Service, within ½ mile of the perimeter of the proposed Oil and Gas Facility.
 - (ii) The identification of livestock and rangeland areas within ½ mile of the perimeter of the Oil and Gas Facility.
 - (iii) A list of mitigation measures recommended by the NM Department of Game and Fish to the Applicant to address potential Habitat Fragmentation and other Wildlife Habitat concerns specific to the Facility location.
 - (iv) A list of mitigation measures recommended by the NM Livestock Board to the Applicant to address potential livestock concerns specific to the Facility location.
 - (iv) Input sought by the Applicant from any Tribes and Pueblos that may have concerns and suggestions for addressing Wildlife Habitat and Livestock issues. Written communications between these Tribes and Pueblos shall be included in the application along with the Report.
 - (v) Mitigation measures may include the following:
 - (aa) Limiting the total area of disturbed ground for well pads
 - (bb) Limiting the number of and distance of new roads.
 - (cc) Reducing noise levels as required in Article VIII Section E
 - (dd) Offsite monitoring systems to reduce vehicle traffic.
 - (ee) Fencing or other measures to protect wildlife and livestock from oil and gas operations.
 - (ff) Burying power lines, Flowlines and gathering lines in or adjacent to roads to eliminate or reduce clearing of vegetation and habitat fragmentation.
 - (c) After review, the Director shall include appropriate mitigation measures as a condition of the Permit to Drill.

K. Road Plan

The Applicant shall submit a Road Plan, prior to the beginning of Facility construction, to identify and mitigate the impact likely to be created by the proposed Oil and Gas Facility on existing roads, bridges, overpasses and culverts, including the impact on road capacity, traffic

flow, the surface materials and conditions, safety, and any Cultural Properties in the area. The Road Plan shall include the following information:

(1) Plan Requirements:

- (a) The location of existing paved and unpaved private and public roads, highways, bridges, overpasses and culverts that will be used during each phase of oil and gas operations including construction, drilling, production, transportation and closure.
- (b) The structural integrity of bridges, overpasses and culverts and their ability to handle heavy oil and gas trucks and trailers carrying weights of 80,000 pounds.
- (c) heavily laden vehicles traveling to and from the site.
- (d) Identify roads that require upgrading to standards capable of handling heavy oil and gas trucks and trailers carrying weights of 80,000 pounds.
- (e) The proposed traffic route plan, including the number of daily and peak hour trips to and from the site, and the duration, for each phase of operations.
- (f) Identify any schools, licensed daycare or medical facilities, churches or public facilities that may be impacted by the proposed traffic route plan.
- (g) A description of existing traffic conditions of the proposed traffic circulation plan including weekday peak hours.
- (h) The projected daily traffic impact on residential roads, including weekends and evenings.
- (i) Existing traffic control measures including speed limits, traffic signals, and potential existing driveway and turning movement problems.
- (j) Where traffic from the proposed Oil or Gas Facility will impact any location with an incidence of high accident frequency, the accident history shall be evaluated. The Plan shall address how the increase in oil and gas traffic to and from the site will not further aggravate the situation.
- (k) Copies of right of way or easement agreements including any agreements with Tribes and Pueblos.
- (l) Onsite Facility vehicle circulation, parking patterns and exits from the site.
- (m) Signs and Markers.
 - (i) The operator shall provide perimeter and other on-site and off-site signs and markers advising the public of the oil and gas Development activity and related hazards that may be present including, but not limited to, warning of truck traffic.
 - (ii) The operator shall submit a signage plan that shows the number, type, size and location of signs and markers.
- (n) Identify maintenance and upgrading costs of existing county and private roads.
- (o) The design and cost of any new roads projected to be constructed.
- (p) A schedule of any Surface Disturbance activity that may cause dust, and the proposed dust mitigation or remediation techniques, including, but not limited to, watering, surfacing, and speed control.
- (q) Any additional information required by the Director.

(2) Other Plan Requirements.

- (a) The Plan shall include an identification of any Cultural Properties in or near the routes

to and from the Oil and Gas Facility. If such sites are identified, the Plan, with input from the affected Tribes and Pueblos and the NM Historic Preservation Division, shall describe site-specific protection measures and how these will be implemented prior to the commencement of construction and drilling operations. Written communications between the Applicant, the New Mexico Historic Preservation Division and affected Pueblos and Tribes shall be included in the application for an Oil and Gas Development Permit. It is the responsibility of the Applicant to ensure that any identified Cultural Properties are protected from any potential damages due to oil and gas Development including transportation.

- (b) The Plan must identify any federally and state designated historic and scenic highways and by-ways near or on the routes to and from the Oil and Gas Facility and how to mitigate potential damages to those historic and scenic highways.
- (c) The Plan must address how to minimize the impact of oil and gas Development related traffic in residential neighborhoods and near homes, schools, hospitals, churches, businesses, farms and ranches, and wildlife corridors.

(3) Road Plan Approval.

- (a) The Planning and Zoning Department Director or designee shall send the Road Plan to the Public Works Department Director or designee for review. The Public Works Department Director may approve the Road Plan as submitted, request additional information, require changes before approval, or deny approval of the Road Plan. All upgraded and new roads must be in accordance with the County road standards as required under Article II, Section 32 of the Sandoval County, New Mexico Code of Ordinance.
- (b) Public Works Department Director, as part of his/her review, may require the Applicant to secure Right-of-Way (ROW) Permits for County roads. The Applicant may also be required to secure Easements for Tribal and Pueblo, municipal and/or state roads where needed.
- (c) The Public Works Department Director may require the Applicant to provide a cash bond security, a letter of credit, escrow deposit or other security acceptable to the County, and/or enter into a Road Improvement Agreement for the use of County roads.
- (d) The Public Works Department Director shall accept or deny the Road Plan within thirty (30) business days of receipt of the Plan from the Planning and Zoning Department Director. The Applicant or the Public Works Director may ask the Planning and Zoning Department Director, 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 plan.
- (e) Applicant may appeal the Public Works Director's denial of a Road Plan to the Planning and Zoning Commission.

L. Sound Management Plan

- (1) 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.
- (2) 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.
 - (3) The Plan shall identify any sound sensitive locations within a one-half (1/2) mile radius, including, schools, libraries, hospitals, group homes, recreation areas, Livestock and Wildlife Habitats.
 - (4) 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 Section E.
 - (5) Sound measurements shall be taken by a qualified sound Consultant approved by the Director and paid for by the Applicant.

M. Emergency Response Plan

The Emergency Response Plan shall include the following:

- (1) 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.
- (2) Describe any emergency services that will be available on-site.
- (3) Identify all fire, police and emergency response services in or near the County that are within a two (2) mile radius of the Facility. Identify other possible fire, police and emergency response services outside the two-mile area.
- (4) 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.
- (5) An Oil or Gas Facility emergency services map showing the name, description and location of all Hazardous Materials and equipment on the Facility and their GPS coordinates. The map shall also include the size, type and content of all Flowlines, gathering lines, 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 after completion submitted within five business days to the County Fire Chief.
- (6) 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 Response 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.

N. Air Quality Protection Plan

- (1) The Applicant shall submit copies of any permits that have been approved by the Air Quality Control Bureau of the New Mexico Environment Department. If no Air

Quality Permit has been obtained, Applicant shall provide written documentation as to why the Oil and Gas Facility does not need an Air Quality permit. The Air Quality Protection Plan shall also include specific regulated compounds projected to be released during each phase of the oil and gas operations and measures to be used to ensure air emissions will not exceed federal and state standards.

- (2) Air Quality Plan Approval.
 - (a) The Director shall seek comments on the Air Quality Plan from the County Fire Chief, from County Health departments and other County departments, from municipalities and neighboring Tribes and Pueblos.
 - (b) The Director may approve the Air Quality Plan as submitted, request additional information, require changes before approval, or deny approval of the plan.
 - (c) The Applicant may appeal the Director's denial of the Air Quality Plan to the Planning and Zoning Commission.
 - (d) Once the Air Quality Plan is approved, the Director shall ensure that the plan is made available to County Departments, local municipalities and Tribes and Pueblos. The Fire Chief shall assist municipalities that request help in preparing for any potential air quality emergency identified in the plans.

O. Water Use and Protection Plan.

The Water Use and Protection Plan shall contain sufficient information to demonstrate to the Director with the advice of the Consultant that the proposed oil and gas Development activity protects surface and ground water for present and potential use as domestic, agricultural, and wildlife water supply.

(1) General requirements.

- (a) The Applicant shall submit an Aquifer Protection Siting Report as required under Article VII, Section J (1) that demonstrates that the proposed oil and gas Well Site has a minimal likelihood of leading to Degradation according to USDW standards.
- (b) If, after receiving the Consultant's evaluation of the Aquifer Protection Siting Report, there is minimal likelihood of the Degradation of USDW, the monitoring requirements described below may be waived by the Director with the advice of the Consultant.
- (c) The Water Use and Protection Plan shall describe in detail how the Operator will meet the requirements of Article VIII Section N that include:
 - (i) Initial baseline testing of surface and ground water;
 - (ii) Ongoing testing and monitoring of on-site ground water during Drilling and Production;
 - (iii) Leak and spill protection measures; and
 - (iv) Any other protection measures as determined by the Director with the advice of the Consultant and in consultation with the Applicant.
- (d) The Applicant shall demonstrate how the Plan complies with downstream water quality standards established by Tribes having "Treatment as a State" status.

- (e) The Applicant shall include a certification signed by an officer of the company that it will comply with requirements of the OCD, NMED and the New Mexico State Engineer relating to water.

(2) Water Usage and Sources.

- (a) The following information regarding water usage shall be submitted as part of the application:
 - (i) Volume of water to be used, the type of water to be used including fresh, effluent, brackish and produced, and the source of the water; and
 - (ii) Copies of written approvals from any public or private well owners from the appropriate governmental agencies, Tribes and Pueblos must be provided for all sources of water to be used in the drilling for, and the production of, oil and gas.
 - (iii) Non-potable water shall be used whenever possible.

(3) On-Site Ground Water Monitoring Measures.

The Water Use and Protection Plan shall describe the Applicant's proposed design and plans for baseline and on-site ground water monitoring to protect water quality, unless the Applicant has received a waiver as described in Article VII, Section O (1)(b), or can demonstrate how existing monitoring wells provide adequate ground water monitoring. The Plan shall include the following:

- (a) The number and placement of monitoring wells as determined by the Director with the advice of the Consultant and in consultation with the Applicant prior to the construction of the Oil or Gas Facility. The monitoring wells shall be designed and constructed according to the New Mexico Environment Department's Monitoring Well Construction and Abandonment Guidelines (March 2011) and any additional below the surface requirements recommended by the Consultant.
- (b) A system of prompt detection and reporting of leaks and spills that could potentially lead to the Degradation of ground water quality according to the requirements and standards of the New Mexico Water Quality Act.
- (c) A set of analytes and measurements related to water quality and oil and gas drilling and production activities to be monitored for with the aid of monitoring wells. The final list of analytes will be selected by the Consultant with input from the Applicant, for baseline and ongoing measurement. For automated sensor systems a small sample of analytes and measurements, including methane or a methane surrogate, and specific conductance may be chosen by the Applicant and approved by the Consultant. Should the automated sensors flag an above baseline measurement, a full sampling of the complete analyte and measurement list agreed to must be immediately taken.
- (d) The set of analytes and measurements for baseline and ongoing measurement shall include but not be limited to Naturally Occurring Radioactive Materials (NORM), pH, specific conductance, total dissolved solids, methane, alkalinity, total dissolved gases including methane, major anions, major cations, total petroleum hydrocarbons and BTEX compounds (benzene, toluene, ethylbenzene and xylenes).

- (4) The Plan shall include the methods the Applicant will use to perform an initial baseline sampling of any watercourses and lakes within the Area of Review. With the approval of the Consultant the applicant shall select from the list of analytes and measurements used for groundwater sampling defined in Section O.(3)(d) above.
- (5) The Plan shall include a description of measures that the Operator will implement to ensure the containment of any leaks or spills that could impact surface water and USDWs. These measures may include the following:
 - (a) Physical barriers to be installed and maintained under and around the facility or group of facilities.
 - (b) A description of the method and frequency of on-site inspections for spills or leaks that will be performed by the Operator.

P. Waste Management Plan.

All solid and liquid wastes must be managed in accordance with Federal, State and County law and in a manner so as to prevent pollution of the environment, conserve fresh water, and protect the public health and safety.

- (1) Applicant must submit a waste management plan that identifies the type and volume of solid and liquid waste that will be generated at the Facility and how that waste will be properly stored, transported and disposed of.
- (2) To the maximum extent practicable and in accordance with OCD Rules, as required in 19.15.34 NMAC as amended, the applicant must describe how any Produced Water generated at the Facility will be recycled or reused for onsite reinjection purposes, if any.
- (3) The Applicant must include copies of the original agreements between the Applicant and any OCD licensed surface waste management facilities, including injection wells, and copies of the OCD permits for such licensed waste disposal facilities.
- (4) The Applicant must include the following information regarding the transportation off-site of any solid and liquid wastes.
 - (a) Copies of the applicant's original agreements with companies that will transport solid and liquid wastes off-site; and copies of OCD authorizing the companies to transport solid and liquid wastes off-site to licensed OCD waste disposal facilities.
 - (b) The Director may require that companies transporting solid or liquid wastes be fitted with GPS tracking systems in order to help identify responsible parties in the case of accidents/spills.
- (5) The Plan shall describe all the roads that will be used to transport off-site the solid and

liquid waste produced by the Oil or Gas facility and the estimated number of trips per week needed to remove that waste from the site. This information must be included in the Road Plan required under Article VII Section K to be reviewed and approved by the Department of Public Works.

Q. Terrain Management Plan.

- (1) The Terrain Management Plan shall include restoration activities that will be conducted before and after each phase of development with the site. The Terrain Management Plan shall include but not be limited to the following information:
 - (a) Number of acres disturbed during each phase of development and a description of current land use and reasonably foreseeable future land use on the property. The description of current land use should, at a minimum, list the current land use designation of the property as designated by the County Planning and Zoning Department.
 - (b) The pre-drilling grades of the entire site.
 - (c) A soil analysis describing the soil characteristics of the site and any limitations those characteristics may pose to the proposed development.
 - (d) A description of any erosion mitigation techniques to be used such as silt fencing, vegetative buffers, and berms.
 - (e) A description of the noxious and invasive plant species of concern within the vicinity of the Well Site and the proposed mitigation techniques to prevent the appearance or spread of these species. The Applicant shall consult with the local agricultural extension office and the local Natural Resources Conservation Service office for information about noxious and invasive plant species that exist in the area and the best methods available to contain or eliminate them. Any written recommendations from these offices shall be submitted with the Plan.
 - (f) A schedule and description of interim activities following the completion of each phase of Development within the Facility to include but not be limited to, grading, erosion control, revegetation methods and materials, and soil amending.
 - (g) A schedule and description of proposed final restoration activities to be completed once OCD final approval has been received for the plugging and abandonment of the well or for temporary abandonment. These restoration activities described in the Terrain Management Plan may include but are not limited to the following:
 - (i) Configuration of the reshaped topography and restored drainage to its natural state that existed on the site prior to development.
 - (ii) Soil treatments
 - (iii) Reseeding materials and revegetation methods
 - (iv) Backfill or grading requirements
 - (v) Soil stabilization technique
 - (h) A description of how those restoration activities will impact the anticipated future use of the property, including written approval from the surface owner and the owner of the mineral rights.
 - (i) A drainage map identifying natural drainage and a description how storm water will be managed with the project area to prevent the travel of runoff. Where appropriate, the drainage map shall include a watershed map showing all the upper watershed area

draining into or through the site. The map and the description shall be reviewed and approved by the County Engineer.

- (2) The Terrain Management Plan shall be submitted to the local Flood Control Authority and the Soil and Water Conservation Districts, if any, located near the Oil and Gas Facility for their review.
- (3) The Terrain Management Plan shall be submitted to Pueblo and Tribal Leadership within the County located near the Oil and Gas Facility.
- (4) The Applicant shall submit a certification signed by the chief officer of the company that the Applicant shall not deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, arroyo, storm drain, sewer, gutter, creek, stream, river, lake or lagoon, any oil or liquid containing any chemicals, hydrocarbons, or any drilling mud, sand, water or saltwater, or in any manner permit, by any means, any of such substances to escape from any property owned, leased or controlled by the Applicant.

R. Proof of Plugging Bond.

Applicant must provide certification that OCD's financial assurance requirements, as set forth in 19.15.8 NMAC as amended, have been satisfied.

ARTICLE VIII. GENERAL PROVISIONS FOR OIL AND GAS DEVELOPMENT PERMITS

A. Light Direction

- (1) All lighting must comply with the New Mexico "Night Sky Protection Act", *NMSA 1978, supra*.
- (2) The Oil and Gas Facility shall use lighting Fixtures or Luminaires that are hooded, shielded, directed downward and inward to prevent glare and Spill Light that goes beyond the primary area where the light source is intended.
- (3) Light sources should be chosen for energy efficiency, long life and low maintenance.
- (4) Nothing in this section should be construed to compromise the safety of operations at the drilling site in accordance with the requirements of the Federal and State Occupational Health and Safety laws and rules.

B. Visual Impact

- (1) Oil & Gas Facilities shall be painted or otherwise made to be harmonious with the surrounding environment in uniform or camouflaging non-contrasting, non-reflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system. Color matched to land, not sky, and slightly darker than adjacent landscape.
- (2) To the extent possible, Oil and Gas Facilities shall not be located so as to impair or obstruct federally or state designated historic and scenic byways and sites designated as Scenic Historic Markers by the NM Historic Preservation Commission. Such sites and byways are significant to New Mexico and the County's visual beauty and are important to tourism and to local property owners. Any agreements with the Surface Owner as required under the SOPA shall be taken into consideration.

C. Setback Requirements

- (1) No oil or gas facility shall be permitted within a floodplain as mapped and designated by the Federal Emergency Management Agency (FEMA).
- (2) Setbacks shall not apply to roads used solely for the purpose of accessing oil or gas facilities.
- (3) Setbacks shall be measured from the center of roads and from the seasonal high-water mark of watercourses, or the outer boundary of the affected surface water feature.
- (4) No oil or gas facility shall be permitted within the following distances:
 - (a) Distance from lot line or property where a residential structure is present: 1,500 feet;
 - (b) Distance from lot line or property where schools or playgrounds: ½ mile;
 - (c) Distance from lot line or property where places of worship, hospitals or institutions are present: 1,500 feet;
 - (d) Distance from lot line of property where electrical, natural gas, solar, wind and related public water utility structures are present: 1 mile;
 - (e) Distance from lot line of property where non-residential occupied structures are used, excluding A (4) (b) and (c), including agricultural and livestock structures: 400 feet;
 - (f) Distance from existing water wells permitted by the NM Office of the State Engineer: 1,000 feet for individual wells; 2,000 feet for wells serving 5 or more households;
 - (g) Distance from Continuously Flowing Water Courses and Lakes: 1,000 feet;
 - (h) Distance from a cultural, historic, or archaeological resource as recommended by New Mexico Historic Preservation Division. This distance may be increased upon written request by a Tribe or Pueblo for the preservation of a Cultural Property;
 - (i) Distance from a county, state or federal designated trail or open space, whether part or not part of a state or federal forest or preserve: 500 feet;
 - (j) Distance from a public road or highway: 250 feet;
 - (k) Distance from lot line of property where non-occupied agricultural facilities are used including acequias, stock ponds and irrigation structures: 500 feet.
- (5) These setbacks are minimal standards. The Director may recommend greater setbacks depending on topography, Cultural Properties, livestock, wildlife habitat and other factors.
- (6) Surface Owner agreements establishing setbacks shall not be subject to A (4).

D. Fencing.

Unless provided for in an agreement with the applicable surface owner, all Facility locations shall have perimeter fencing and a locked gate to prevent harm to the public, Livestock and wildlife. The design and construction of the required fencing shall be a chain link fence to a minimum height of six (6) feet as approved by the Director. The Director shall have a key or other access mechanism to any locked gates on the site.

E. Sound Control Standards

- (1) All operations during the construction, maintenance, and operation of the oil and gas facility shall be conducted in such a manner as to minimize to the greatest extent practical all types of sound emissions at the property boundary of the permitted Oil and Gas Facility.
- (2) Intermittent operations including mobile vehicles or equipment, drilling and work-over rigs, will conduct their operations in a manner that does not create a noise nuisance to surrounding residents, schools, hospitals, group homes, public gathering areas, or to Livestock and wildlife.
- (3) Continuous operations including well site compression and pump- jacks, shall use the following noise mitigation measures to minimize disturbance
 - (a) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented away from the closest existing residences unless otherwise specified by NMED permit restrictions.
 - (b) All facilities with engines or motors not electrically operated shall be equipped with hospital grade mufflers. Such equipment shall be installed and maintained in proper working condition.
 - (c) All mechanized equipment associated with the oil and gas facility shall be anchored or mounted on vibration dampeners so as to minimize transmission of vibration through the ground.
 - (d) All Oil and Gas Facilities that have compressors, engines or motors which generate sound will be placed behind a maintained, acoustically designed barrier or be contained within a maintained, acoustically insulated structure to further reduce sound and to provide less visual impact.
 - (e) The Director may require additional noise abatement measures, which include, but are not limited to, the following:
 - (i) Installation of electric engines and/or motors.
 - (ii) Vegetative screening consisting of trees and shrubs placed within the fenced enclosure.
 - (iii) Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
- (4) Acceptable Sound Levels
 - (a) Based on the default baseline limits on noise levels for areas zoned as rural, residential, commercial or industrial in the Sandoval County Comprehensive Zoning Ordinance, the following acceptable sound levels shall apply.
 - (b) Sound levels during daytime hours from 7AM to 7PM shall not exceed 15 dB(A) above the following default baseline ambient noise levels for rural, industrial, commercial or industrial areas where the Oil and Gas Facility is located.

Zone	Default Baseline	Increase	Day Maximum
Rural	30 dB(A)	+15 dB(A)	= 45 dB(A)
Residential	40 dB(A)	+15 dB(A)	= 55 dB(A)
Commercial	50 dB(A)	+15 dB(A)	= 65 dB(A)

Industrial	60 dB(A)	+15 dB(A)	= 75 dB(A)
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- (c) During nighttime hours from 7PM to 7AM, sound levels shall not exceed 5 dB(A) above the following default baseline ambient noise levels for rural, industrial, commercial or industrial areas where the Oil and Gas Facility is located.

Zone	Default Baseline	Increase	Night Maximum
Rural	30 dB(A)	+5 dB(A)	= 35 dB(A)
Residential	40 dB(A)	+5 dB(A)	= 45 dB(A)
Commercial	50 dB(A)	+5 dB(A)	= 55 dB(A)
Industrial	60 dB(A)	+5 dB(A)	= 65 dB(A)

(5) Sound Measurement.

- (a) Prior to the start-up of a new well or modification to an existing well, the operator shall demonstrate initial compliance with this section by requesting a site-specific ambient baseline sound level measurement from a qualified sound expert to be approved by the Director and paid for by the Applicant.
- (b) The sound pressure level shall be measured at the property boundary in the direction of the area receiving the noise, or as close as practical to this location.
- (c) In all sound level measurements, the existing ambient noise level from all other sources in the area shall be considered to determine the contribution to the sound level by the oil and gas operation.
- (d) Sound pressure levels shall be measured to determine average dB(A) over a period of time in order to be able to compare the site specific ambient daytime and nighttime noise levels to the default baseline levels as described in Section A (4) (b) and A (4) (c).

(6) Emergencies.

The provisions of this section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

(7) Complaints.

- (a) Upon receipt of a noise complaint that appears to originate from the oil and gas facility, the Director shall within 24-hours investigate the complaint. The Director may hire a qualified sound consultant, who shall be paid for by the Operator, to set up an independent sound measuring system to verify the situation. The Operator shall be given 24-hours to correct the problem from the source.
- (b) The Director shall maintain records of all noise complaints, the dates when filed and how the outcome, including any mitigation measures, the Operator may have been required to take.

F. Waste Disposal.

- (1) On-site surface disposal of wastes of any kind is prohibited.
- (2) The Operator shall ensure that all solid, liquid and sewage waste are securely contained on the site and properly disposed of according to all applicable Federal, State and County regulations. The Operator shall remove all on site Oil and Gas Facility Produced Water unless it is stored and used for reuse or recycling.
- (3) All oil and gas produced solid and liquid waste must be transported and disposed of in permitted OCD Facilities.
- (4) All solid Drilling Wastes including cuttings, spent drilling muds, membranes, filters and other solid wastes and Produced Water shall be tested and disposed of as required by OCD rules (19.15.35 NMAC as amended).
- (5) To minimize the volume of waste, whenever possible the applicant shall reuse or recycle Produced Water on the pad site where the waste was generated in accordance with OCD rules. These include provisions requiring that the recycling or re-use of Produced Water not be permitted for any use which involves contact with fresh water zones. In addition, the permittee shall comply with the OCD rules regarding hydrogen sulfide gas and NORM (19.15.11 NMAC as amended and 19.15.35 NMAC as amended.)
- (6) Closed-loop systems for Produced Water, fracturing fluids are required. The use of on-site injection wells, pits, temporary or permanent, and ponds will require that the applicant apply for a variance as described in Article XIII of the CZO and that includes the following information:
 - (a) A detailed statement explaining the need for a variance; and
 - (b) A detailed written demonstration that the variance will provide equal or better protection of fresh water, public health and the environment.

H. Flowlines and Gathering Lines

- (1) Operator may construct Flowlines and gathering lines on the approved site but no pipeline shall exceed the size necessary for transporting oil and gas produced on the site. Applicant/Operator shall bury all permanent Flowlines and gathering lines no less than thirty-six (36) inches below the surface, include a leak detection system that includes pressure flow meters, flow balancing, and a computer alarm and communication system in the event of a suspected leak and restore the Surface as nearly as possible to its former condition. Operator shall use steel pipe in all pipelines in which pressure is anticipated to be in excess of 300 psi unless the material transported is highly corrosive, in which case other types of pipe meeting industry standards may be used.
- (2) Applicant must ensure that all Flowlines and gathering lines are platted and filed as built within five days after completion in the office of the Sandoval County Assessor.

I. Storage Tanks

- (1) Except as otherwise specifically mandated by OCD, tanks used for the storage of condensate, crude oil, or other liquid hydrocarbons produced by and/or used in conjunction with any Oil and/or Gas Facility or Facilities, shall be equipped with vapor recovery units and managed such that there are no emissions.
- (2) All above ground storage tanks shall be equipped with a secondary containment system including lining to protect against leaks and spills, sufficient to contain the volume of fluid in the tanks, as approved by OCD.

- (3) All below grade tanks shall be constructed and maintained according to applicable OCD regulations.

J. Trash and Debris.

Operator will maintain all locations and well sites upon which operations have taken place clear of all litter, trash, and other waste and shall not store unused equipment at the location or site.

K. Road and Traffic Standards.

(1) Road Improvements Agreement

In order for the County to be assured of the completion of required road improvements, the Operator shall agree to one of the following:

- (a) The Operator shall install and construct such roads, bridges, overpasses and culvert improvements, if any, as are required by this ordinance and in the manner and to the design standards provided in Article II. Section 32 of the Sandoval County New Mexico Code of Ordinances. Prior to the construction of any improvements or the submission of any bond or other improvement guarantee, the Operator shall furnish the County with all plans necessary for the construction of such improvements. These plans shall be reviewed and approved by the County Public Works Department.
- (b) The Operator shall provide a cash bond security, letter of credit, escrow deposit or other security acceptable to the County, in which case, the County shall install and construct such road improvements.

(2) Roads and Traffic Standards

- (a) Chains on heavy equipment shall not be permitted on paved County roads. All damage to County roads directly attributable to the installation, construction and operation of oil or gas facilities shall be promptly repaired at the Operator's expense.
- (b) Heavy equipment shall not be used on roads with ruts measuring six (6) inches or more in depth.
- (c) Speed limits shall be set at a level to prevent the creation of excessive dust and erosion.
- (d) The amount of traffic generated by the proposed development shall not cause public roads to operate at a level less than what can be met by current capacity and structural conditions.
- (e) In the event that traffic generated by the development increases the burden on or causes a deterioration of County roads, the Operator shall be required to pay a pro-rata share of the costs incurred to improve the County road. The pro-rata share shall be determined by the County's Public Works Director and the Operator.
- (f) Trucks and all other vehicles shall not exceed the regulated weight limits as defined by the New Mexico Department of Transportation for each class and type of vehicle on

any roadway, bridge, overpass or culvert.

(3) Timing of Transportation Activities

- (a) Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation, and other related work conducted on the oil or gas facility shall be limited to between the hours of 8:00 AM and 5:00 PM except in cases of fires, blowouts, explosions and any other emergency or where the delivery of equipment is necessary to mitigate the emergency.
- (b) In coordination with County and/or municipal officials and the Pueblo and Tribal Leadership of any impacted tribes or pueblos, the Operator shall avoid truck traffic under the following conditions:
 - (i) During times of school bus transport of children to and from school locations.
 - (ii) During public events, festivals and feast days.

L. Well Sites and Facilities.

- (1) The Oil or Gas Facility shall not be used for the storage of flowlines or other equipment or materials except during the drilling, operating, or servicing of Oil or Gas Wells. Where not already required by another permitting agency, the Operator may seek a written exception/permission for staging of Flowlines or other equipment from the Director which shall be approved upon a demonstration of need, for a length of time to be determined by the Director and the Surface Property Owner. Where storage permitting is authorized by another permitting agency, a copy of the storage permit or authorization shall be submitted to the Director.
- (2) Site dimensions for an Oil or Gas Facility or Facilities, shall be the size necessary to provide a safe work area and minimize surface disturbance.
- (3) Following the Completion of an Oil or Gas Well, the pad shall be reduced to the minimal size required to operate the site, and the surrounding disturbed surface shall be reclaimed.

M. Gas Flaring and Venting.

Flaring and venting of gases from an approved Oil and Gas Facility shall be in accordance with 19.15.18.12 NMAC.

N. Water Protection.

The Operator shall take all measures necessary to avoid Degradation of surface water and ground water.

- (1) Ground water monitoring requirements at the Well Site.
 - (a) Unless the Operator has received a waiver under Article VII, Section O(1)(b), the Operator shall establish an onsite ground water monitoring system and conduct baseline testing in accordance with the approved Water Use and Protection Plan.

- (b) If an Operator who has received a waiver as provided in Article VII, Section O(1)(b), encounters a USDW during drilling operations the Operator shall immediately cease drilling operations and inform the Director by phone and by email. With the advice of the Consultant, the Operator shall install a monitoring well system before drilling or production operations continue.
- (c) Prior to commencing construction of the Well Site, the Operator shall, with the advice of the Consultant, take water samples from the approved on-site ground water monitoring wells.
- (d) The Operator shall also sample monitoring wells for baseline data before any hydraulic fracturing activity takes place. The analysis, not the sampling, of fracturing chemicals deemed proprietary may be delayed until after the Operator provides OCD with the list of substances actually used as required by NMAC 19.15.16.19 B and 19.15.16 C.
- (e) The Operator shall report all baseline and ongoing sampling analysis results to the Director, the Consultant, OCD and NMED.
- (f) In the event that ongoing, on-site, ground water monitoring samples at the well site indicate a potential violation of the New Mexico Water Quality Act the Operator shall have the test repeated. If the violation is confirmed by the laboratory, the Operator shall immediately take measures to reduce these contaminants to acceptable legal standards. The Operator shall immediately notify, in writing, private and public well owners within the Area of Review as well as Tribes and Pueblos whose land is within the Area of Review, the Director, the Consultant, NMED and OCD, providing them with copies of the results of the tests and the measures taken to reduce contaminants to acceptable legal standards.

(2) Public and Private Wells Baseline Testing Requirements.

- (a) Subject to surface owner permission and prior to the commencement of drilling, the Operator, at his expense, shall sample four (4) private wells and each public water well within one (1) mile of the Well Site for the baseline analytes and measurements agreed to as required under section O(3)(d) of the Water Use and Protection Plan. Subsequent sampling shall be done at Operators expense between 6-12 months and 60-72 months after completion.
- (b) The Operator shall provide the baseline testing results to the sampled public and private water well owners, to the Director and the Consultant, to OCD and to NMED;
- (c) If a private water well owner refuses to have the Operator test the well, the Operator shall make a good faith effort to ensure that a waiver form, developed by the Director, is signed. The form, requesting a signature, shall be sent to the well owner by registered mail, return receipt. Both the Director and the Operator shall maintain a copy of the signed waiver form and a list of those who have not signed the form.

(3) Surface Water Baseline Testing Requirements.

- (a) Subject to owner permission and with the advice of the Consultant, the Operator shall sample Watercourses and lakes within the Area of Review prior to the commencement of drilling to establish baseline information.

- (b) The Operator shall report all baseline and ongoing sampling analysis results to the Director, the Consultant, OCD and NMED.
- (4) All sampling and testing required in this section must be conducted by an independent Consultant and analyzed in a NMED certified laboratory, both of which are to be approved by the Director with the advice of the Consultant. These services shall be paid for by the Operator.
- (5) Spills and Leaks.
 - (a) The Operator shall install and maintain the spill and leak protection measures described in the Water Use and Protection Plan.
 - (b) The Operator shall perform regular inspections of the facility to detect leaks, spills or maintenance needs as described in the Water Use and Protection Plan.
 - (c) In the event of a detected spill or leak, the Operator shall comply with OCD protocols as required by 19.15.29 et seq. NMAC. In addition to the required notification of NMED and OCD, notify and inform the Director and the Consultant of the required remediation plan and the results.
 - (d) The Operator shall promptly notify Pueblo and Tribal Leadership, the Mayors of municipalities, as well as private land owners, within the Area of Review of any Major Release, as defined by OCD, and inform them of the measures that are being taken to remedy the problem. Copies of these notices shall be filed with the Director, who shall maintain a record of each Operator's spill and leak history.

O. Air Quality Protection.

The oil and gas operations shall, to the maximum extent practicable, avoid causing a Significant Deterioration of air quality. In no event shall the oil and gas operations be operated in a manner that allows emissions from the operations to create a public nuisance, and specifically, venting or flaring operations shall not be carried out in a manner that is injurious to the health, safety or property of neighboring residents.

P. Emergency Response

- (1) A list including quantities of chemicals, fluids, and other dangerous Hazardous Materials used in drilling, fracking, production and transportation, where they are stored, and any corresponding Material Safety Data Sheets, must be provided to the County Fire Chief before beginning operations. The list of fluids used in the fracturing of a well shall be provided in a sealed envelope which shall be securely stored but immediately accessible should an incident posing a threat to health, safety and the general welfare occur.
- (2) If the Operator, or any of the Operator's contractors, store any chemicals and other Hazardous Materials used for Fracturing or other purposes at any location in the County, the following information shall be provided to the Fire Chief.
 - (a) The GPS coordinates of each location where the chemicals are stored;
 - (b) A complete list of all Hazardous Materials stored at each location in a sealed envelope, to be securely held by the Fire Chief but immediately accessible should

- an incident occur;
 - (c) The location of the nearest fire station or fire-fighting equipment; and.
 - (d) Assurances that any fire, flood or other incident at a storage site posing a threat to health, safety or the general welfare will be immediately reported to emergency services, and that Applicant or contractor will fully cooperate with emergency services efforts to contain the threat.
- (3) The Emergency Response Plan, including the list of chemicals, shall be updated and resubmitted to the county on a semi-annual annual basis or within ten business days if the conditions change such as change of ownership or Operator.
- (4) The County must be immediately notified of any emergency contact information changes.
- (5) The County shall be immediately notified of any emergency even those that may be handled on-site.
- (6) If the County determines that emergencies are due to Operator negligence the County may request reimbursement for its share of the cost of those emergency services.
- (7) Hydrogen Sulfide Contingency Plan.
- (a) Applicant shall provide a copy of the Hydrogen Sulfide Contingency Plan submitted to OCD according to 19.15.9 NMSA to the Director.
 - (b) The Director shall send a copy of the Applicant's Hydrogen Sulfide Contingency Plan to the municipalities – incorporated and unincorporated Pueblo and Tribal Leadership within one mile of the Facility.

Q. Cultural, Historical and Archeological Sites.

- (1) All Cultural Properties as identified in the Cultural Properties Report must be protected. Prior to the commencement of oil and gas operations, there shall be written agreements between the Applicant and the NM Historic Preservation Division and between the Applicant and all Tribes and Pueblos that have identified Cultural Properties. These agreements shall specify all measures to be taken to ensure the protection of identified Cultural Properties.
- (2) In the event that a cultural, historical or archeological site, including unmarked burial grounds, is discovered or identified during any phase of the development and the production of oil and gas at the Facility, or during the repair of roads and the construction of new roads that are required for traveling to and from the site, the Operator shall comply with all applicable local, state and federal laws listed under Article I, Section E of this ordinance. These include: the American Indian Religious Freedom Act; the Archaeological Resources Protection Act; the NM Cultural Properties Protection Act; the National Environmental Policy Act; the National Historic Preservation Act; the National Scenic Byways Program; the Native American Graves Protection and Repatriation Act; the NM Prehistoric and Historic Sites Act; and the NM Scenic Byways Program.
- (3) A violation under this section may be subject to the enforcement provisions of Article XIV in this ordinance.

R. Abandonment, Plugging and Restoration.

- (1) The Operator shall submit to the County copies of all OCD approved plugging and abandonment forms whether temporary or permanent.
- (2) The Operator shall include a written certification that all Flowlines and gathering lines have been removed and a statement of the use to be made of the Facility following restoration, including a discussion of the utility and capacity of the reclaimed land to support the Surface Owner's preferred use and the consideration which has been given to making restoration operations consistent with surface owner plans, and the terrain in its natural state prior to drilling.
- (3) Soils.
 - (a) Soils having severe limitations, or which are shown as unsuitable for the intended purposes, shall not be used for those purposes unless the Operator has clearly demonstrated in the Terrain Management Plan how the soil limitations are to be overcome or mitigated.
 - (b) All topsoil stripped from the surface and retained on or off the site shall be carefully stockpiled in a manner to prevent its erosion or loss, contamination by on-site operations, and in a state to facilitate its re-application to the disturbed areas during restoration.
 - (c) Any necessary grading or clearing should, to the extent possible, follow, preserve, match, or blend with the natural contours and vegetation of the land and should not increase the possibility for erosion.
 - (d) All changes made to the existing soil composition and arrangement shall be compatible with the soil stability and erodibility as demonstrated in the soil survey, if a soil survey was required in the application.
 - (e) The Operator shall take sufficient measures to prevent dust arising from any area where the surface is disturbed; however, oil and gas waste water shall not be used for dust suppression.
- (4) Drainage and Erosion.
 - (a) Using appropriate grading and erosion control methods throughout all Oil and Gas operations, including any soil and terrain restoration, the maintenance and restoration of natural or well-controlled drainage flows shall be preserved.
 - (b) To the extent possible, the Operator shall preserve the natural drainage existing on the Facility prior to Development.
 - (c) Water that drains from the well site shall not contain pollutants or sedimentary materials at a greater concentration than would occur in the absence of the development.
 - (d) Drainage from the Facility shall not cause erosion outside of the Facility boundary to a greater degree than would occur without the presence of the Development.
- (5) Vegetation.
 - (a) During development and operation, the Operator shall minimize damage to existing vegetation.
 - (b) There shall be no introduction of, or increase in the prevalence of, invasive or noxious plant species within the well site or associated areas also under restoration as a result of oil and gas Development.
- (6) Restoration.

- (a) The Operator shall begin interim and final restoration activities as soon as practical upon completion of each phase of development.
- (b) The Operator shall reseed by drilling on the contour, or any other method approved by the Director.
- (c) The Operator shall obtain vegetative cover that equals at a minimum 70% of the native perennial vegetative cover, which has not been impacted by overgrazing, fire, or some other damaging intrusion, and shall maintain that vegetative cover for at least two (2) successive seasons.
- (d) The Operator shall remove from the areas under restoration all buildings, equipment, materials, Flowlines and gathering lines, and waste and debris related to the Oil and Gas activities.
- (e) The Operator shall notify the County at least 10 days in advance of the date that final restoration activities are to begin and also notify the County when restoration activities have been completed.
- (f) Revegetation shall be monitored semi-annually for three (3) years; planted vegetation or seedlings which are not established after two (2) years shall be replaced.

ARTICLE IX. INSURANCE REQUIREMENTS.

In addition to the financial assurance required by the OCD and other laws, 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 immediate corrective actions to reinstate the insurance policy or policies, and notify the County of said corrective action.

A. General Requirements.

- (1) The County, its officials, employees, agents and officers shall be endorsed as an "additional insured" on the required policies.
- (2) Certificates of insurance shall be delivered to the Sandoval County, Planning and Zoning Commission, 1500 Idalia Road, Building D, Bernalillo, NM 87004, evidencing all the required coverage, including endorsements, prior to the commencement of operations requiring notice.
- (3) 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.

B. Standard Commercial General Liability Policy.

- (1) 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.
- (2) This coverage shall further provide a limit of liability of not less than Five Million Dollars (\$5,000,000) per occurrence.

- (3) The policy or policies shall provide that they may not be cancelled without written notice to the County of at least thirty (3) days prior to the effective date of such cancellation.

C. Pollution Insurance:

- (1) 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.
 - (2) 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, OCD regulations, and the Terrain Management Plan as approved by the County Engineer.
 - (3) 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).
 - (4) 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.
- D. The Applicant, if 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.

ARTICLE X. NOTICE OF DECISIONS.

The County shall notify Applicants in writing of decisions regarding application for Oil and Gas Facilities by the Director and by Planning and Zoning Commission. The County shall also notify, in writing, all government agencies involved in the review process for Oil and Gas Facilities, and the Leadership of the Tribes and Pueblos who received notices of meetings for application review.

ARTICLE XI. CHANGE OF OPERATOR.

- A. If a permitted facility undergoes a change of Operator or a change of Operator name, the new Operator shall submit a copy of the applicable OCD permits within ten (10) business days of the permit being approved by OCD.
- B. The new Operator shall provide updated emergency and other contact information within ten (10) days of the change.
- C. The new Operator shall also present proof of adequate insurance as required in Article IX.
- D. The new Operator must demonstrate that it is financially solvent, as required under Article VII Section I, and has no outstanding environmental violations, as required under Article VII Section H.

- E. The new Operator must provide a statement signed by a corporate officer that the Operator will abide by all the terms of the permit that was granted to the prior Operator.
- F. Once the information required under sections A – E above has been provided and found complete by the Director, the county permit may be transferred to the new Operator.

ARTICLE XII. NONCONFORMITIES

The procedures for evaluation of a potential Non-Conforming Use are established in Section 18 (1), Nonconformities, Sandoval County Comprehensive Zoning Ordinance.

ARTICLE XIII. VARIANCES.

Application for variance of any of the standards associated with any permit contained within this Ordinance shall be submitted in accordance with the CZO No. 10-11-18.7A, Section 18

No such variance shall be approved unless the Applicant and/or property owner demonstrates by clear and convincing evidence that, if granted, the variance will have no significant effect on the health, safety and welfare of the County, its residents and other service providers and is consistent with the intent and purpose of this Ordinance.

ARTICLE XIV. ENFORCEMENT

A permittee who fails to comply with the Oil and Gas Ordinance, the Sandoval County Comprehensive Zoning Ordinance or the terms or conditions of any permit issued pursuant to the Oil and Gas Ordinance, shall have committed a violation and shall be held responsible for the violation and be subject to administrative, civil or criminal penalties as well as other equitable and legal remedies.

A. Minor Violations.

- (1) If any permittee violates any provision of this ordinance or any provision of any permit granted under this ordinance, and such violation does not directly cause material harm to the public health and safety of county residents, to the environment and to Cultural Properties, the Planning and Zoning Division Director shall issue a written citation to such person describing the violation and the corrective actions required giving the permittee no more than thirty (30) days to mitigate the violation.
- (2) The citation shall conspicuously and in bold face type state: “If not paid, this fine shall constitute a lawful debt which will be collected pursuant to legal process and may be assessed as a lien upon the property upon which the violation exists. If the violation is remediated by the County or by a contractor hired by the County, the actual costs of remediation shall be added to the fine.”
- (3) The fine for violating Article XIV, Section A of this ordinance shall not exceed \$300 or the maximum legally allowable, or imprisonment for ninety days, or both the fine and imprisonment. The fine shall be payable to the County. The fine may be waived

at the sole discretion of the County if the alleged permittee commences and completes satisfactory actions to remediate the alleged violation within the time allotted to mitigate the violation.

- (4) Each day that a violation exists shall constitute a separate violation of the Ordinance.
- (5) Nothing in this section shall preclude the County from taking such other lawful action as is necessary to prevent or remedy any violation, such as seeking injunctive relief, abatement, suspension or revocation of a permit, or forfeiture of any financial assurance deposited with the County to prevent or remedy a violation of this ordinance.

B. Major Violations.

When a violation of this ordinance or the terms and conditions of any permit issued under this ordinance, results in a significant public safety, health or Environmental risk, the permittee shall be electronically or personally delivered a Cease and Desist Letter, giving the permittee up to thirty (30) days, depending on the seriousness of the alleged violation, in which to correct the violation. The permittee must immediately cure the alleged violation. Failing to do so may result in the permittee receiving a summons for violating the Sandoval County Oil and Gas Ordinance and the provisions of the permit and having the permit suspended or revoked.

- (1) The Director may suspend or revoke the permit after notice and an opportunity for a public hearing. In assessing whether to suspend or revoke the permit, the Division may consider the seriousness of the violation and any good-faith efforts to comply with the applicable requirement.
- (2) The Director may suspend or revoke the permit when the permittee has received a Compliance Order from the New Mexico Oil Conservation Division or from the New Mexico Environment Department.
- (3) Nothing in this section precludes the County from filing a criminal, civil and administrative action simultaneously to stop the permittee from harming the health, safety, environment and the Cultural Properties of the County.
- (4) The violation citations under Subsection A or B shall be issued to the permittee. When possible, the citation shall contain the address of the property on which the violation is alleged to exist, the legal description of the property or both. The citation shall be hand-delivered to the alleged permittee if possible, or may be mailed to the alleged permittee and posted upon the property. Any of the previously listed forms of notice shall constitute sufficient service of notice under the law.
- (5) Any citation issued for violation of this Ordinance shall state the name of the alleged permittee, the date the citation was issued, the type of violation, and the section of this Ordinance under which the violation is issued. The citation shall, if possible, list the action necessary to cure the alleged violation.
- (6) The Director shall maintain a record of minor and major violations committed by permittees, the dates the violations occurred, the type of violations, any mitigating circumstances, the dates when the violations were resolved and the corrective actions taken to resolve the violations.

- (7) The Director is granted the authority to ensure that permitted Oil and Gas Facilities are in compliance with the oil and gas ordinance, including the permit conditions, and the CZO.

ARTICLE XV. INTERPRETATION.

In the event that this Ordinance and the CZO are in conflict, the more stringent provisions shall apply. Otherwise, this Ordinance and the CZO, where applicable, are to be enforced together.

ARTICLE XVI. ASSESSMENTS AND REPORTS.

A. Assessment of Oil and Gas Ordinance

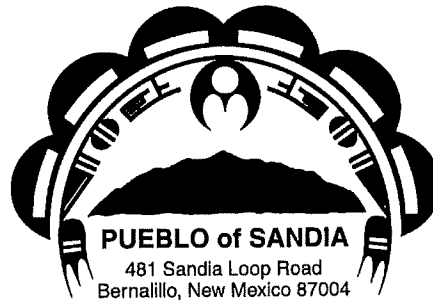
- (1) The Director shall conduct an ongoing assessment of the oil and gas ordinance to determine whether any procedural or operational improvements are needed and to assess any new changes in state or federal laws or regulations or relevant court decisions
- (2) By March of 2021 the Director shall report to the Planning and Zoning Commission the experiences and challenges of the oil and gas ordinance and whether the Commission should consider any additions or modifications to discuss and recommend to the Board of County Commissioners.

ARTICLE XVII. SEVERABILITY AND EFFECTIVE DATE.

- A. If any provision of this ordinance shall be held invalid or non-enforceable by any court of competent jurisdiction for any reason, the remainder of this ordinance shall not be affected and shall be valid and enforceable to the fullest extent of the law.
- B. As necessary to protect the public health and safety, this ordinance proposed for adoption shall take effect 30 days upon approval by the Sandoval County Board of County Commissioners.

James Richard Bernal
Governor

Scott Paisano
Lt. Governor



(505) 867-3317
Fax (505) 867-9235
www.sandiapueblo.nsn.us

August 23, 2018

Sandoval County Board of County Commissioners
1500 Idalia Road, Building D
Bernalillo, New Mexico 87004

Re: Revisions to County's Comprehensive Zoning Ordinance – Oil and Gas

Dear Chairman Heil and Commissioners,

On behalf of the Pueblo of Sandia (Pueblo), please accept this letter of concern relating to the proceedings before the Planning and Zoning Commission ("P&Z Commission") and its development of a recommended zoning ordinance addressing oil and gas exploration and extraction activities within the County. The Pueblo continues to actively attend both P&Z meetings and meetings of the County Commissioners in order to observe the process and participate where appropriate.

The County Commission has directed the P&Z Commission to draft an ordinance which, among other objectives, allows for the preservation and protection of drinking water aquifers, groundwater, and surface water. During its last meeting, Mr. Springfield recommended that the Commission set both draft ordinances offered by the Citizens Working Group ("CWG") to the side and instead to focus on the draft ordinance offered by Commissioner Block last month. Mr. Springfield deemed both CWG ordinances to be "unworkable" and repeated his desire that any ordinance be easy to administer. Without substantive discussion (and with one of the CWG Ordinances only having been presented minutes earlier), the P&Z Commission accepted this recommendation avoiding the directive of the County Commissioners. Decisions appear to have been made behind closed doors and you should expect many county residents to once again express that their voices are not being heard.

We question the **risk/reward ratio for promoting these extractive industries** and will continue to object to any proposed ordinance which fails to address water and other environmental concerns. Our natural resources and our cultural resources are priceless and irreplaceable. We as Pueblo people have a responsibility to be stewards of those precious resources for generations yet to come. Oil and gas exploration, production, and disposal activities can have devastating effects on tribal water sources, regardless of whether the well is placed on tribal lands.

Despite blanket statements by members of the P&Z Commission that what it decides does not "apply" to tribal lands, **horizontal drilling and fracking affects tribal communities** even if those activities do not occur on tribal lands or the county law does not legally apply to tribal governments. The extended reach of horizontal drilling can be a mile away and the land subsidence caused by fracking in areas of seismic activity such as in our corner of the world deserves scrupulous attention

by the P&Z Commission. Pollution of an aquifer does not stop simply because a contamination plume reaches Indian lands.

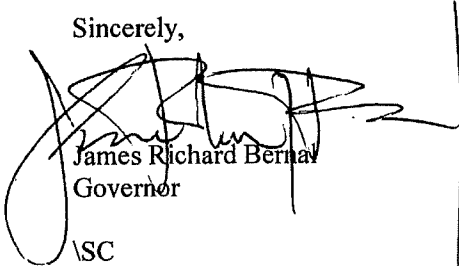
As you are aware, the northern part of the Albuquerque Basin extends northward into south-central Sandoval County from Bernalillo and Valencia Counties. This rifted basin is extensively faulted. Many of the rural communities, including some tribal communities are reliant on groundwater from the Albuquerque Basin as their sole source of drinking water or agricultural waters. As has been noted by experts both retained by the Commission and directly from the community, “the risk of contamination associated with oil and gas operations is high—accidental spills and leaks can have serious consequences for nearby water users.” This cannot be ignored and must be an integral concern to the Commission if its commitment to a meaningful government-to-government relationship with the Pueblo is to have consequence.

Water supplies are uncertain in our arid state. In addition to the threat of water contamination, fracking competes for local water supplies. A single well can require more than 1 million gallons of water. State data indicates that in 2013, the average fracking fluid volume for a well in Eddy County was 1.1 million gallons per well and in San Juan County it was 316,000 gallons per well. In total, hydraulic fracturing fluid volumes in 2013 were 1.7 billion gallons. According to the New Mexico Oil Conservation Division’s 2016 OCD Data and Statistics, in 2015, more than 28 million cubic feet of water was used for hydraulic fracturing. On average, a single hydraulic fracturing operation in New Mexico requires more than one thousand water-hauling trips. Any proposed ordinance must protect this substantial interest for all residents of the County. How is the County going to assure a sufficient quantity of water for these new and additional demands that would come from the oil & gas industry?

We understand that local land use regulations may be Sandoval County’s best approach to addressing the concerns related to oil & gas exploration and extraction. Industry suitability for a particular community is a traditional land use concern. Sandoval County can use its zone, planning and public nuisance powers to protect the health, safety and prosperity of all county residents with federal and state preemption concerns in mind. It should not occur, however, with the central objective of administrative ease. The public deserves more from its elected and appointed officials.

Our history as neighbors has been one that has been largely based on our ability to communicate with one another and to respect our shared goals. The Pueblos are very familiar with the five basic tenets of New Mexico water law – the first being that **all the water in the state belongs to the public**. Where the appointed officials of the P&Z Commission fail to fulfill their mandate, as given by the Board of County Commissioners, we believe the matter should be put to a public referendum.

Sincerely,



James Richard Bernal
Governor

\SC

Cc: Steffani Cochran, Pueblo of Sandia General Counsel (via e-mail)
File

What a Difference an Ordinance Makes ... The September 2018 Choices

On Tuesday, September 25, the Planning and Zoning Commission will decide which ordinances will be recommended to move on to the County Commission for review and approval. These are not final versions so expect future changes.

The Baseline Ordinance is the "Block ordinance" with a few changes.

We hope this chart helps you to understand key differences. We urge you to support the hard work of the Citizens Working Group. Please attend this critical meeting.

Sandoval County Oil and Gas Ordinance Citizens' Study Group Contact: Alan Friedman email: alfreedo@comcast.net

	Citizens Working Group Ordinance Team	Citizens Working Group Science Team	Block/Baseline Ordinance
County areas not addressed in ordinances	Federal lands, tribal reservation lands, state lands, and incorporated municipal lands		
Divides county into districts	No.	Yes. Divides county into northwestern, south eastern and transition areas (CWG Science Team Map) District A = San Juan Basin District B = "Transition Zone" District C = Albuquerque Basin.	Yes. Divides county into eastern and western areas (Block Map / Baseline Map) Area A (western area): Includes San Juan Basin. Area B (eastern area): Includes rest of county (ABQ Basin)
Public notice	<ul style="list-style-type: none"> •Notice of hearing before P and Z published on website, in local newspapers and posted in at least 4 conspicuous public places. •Notice to owners of record within 2 miles, to agencies responsible for public lands and to municipalities within 5 miles of site. •In addition, all others who have requested to be on notification lists. 	<p>District A (San Juan Basin): Notice of application (there is no hearing) published on website.</p> <p>Districts B and C: Notice of hearing published on website, in newspaper of general circulation, owners of record within 2 miles, all government and Native American nation and pueblo "agencies" within 3 miles, municipalities of over 5,000 within 5 miles of proposed site, agencies responsible for public lands.</p>	<p>Notice of "any request for Oil and Gas Facilities" to all government and nation/pueblo agencies within 3 miles and municipalities of over 50,000 within 5 miles of proposed site.</p> <p>Note: Applicant must "certify" compliance with Surface Owner Protection Act so this implies that Surface Owner is notified.</p>
Permits and hearings	<p>Three stages of Permits</p> <ol style="list-style-type: none"> 1. Preliminary Exploration Permit Permissive use: staff decision (no drilling) 2. Exploratory Drilling Well Permit Conditional use: Final decision at Planning and Zoning Commission public hearing 3. Development Permit Conditional use: Final decision at Planning and Zoning Commission public hearing. 	<p>Two Types of Permits.</p> <ol style="list-style-type: none"> 1. Exploratory Permit (surface disturbance with no drilling) 2. Development Permit (includes exploratory with drilling) <p>Hearing requirement depends on District</p> <p>District A: (San Juan Basin) Permissive use: Staff decision (no hearing)</p> <p>District B: (Transition Zone) Planning and Zoning public hearing and final decision</p> <p>District C: (ABQ Basin) Planning and Zoning public hearing and recommendation. County Commission public hearing and final decision..</p>	<p>Two Types of Permits</p> <p>A (western area): Permissive use: Staff decision. No public hearing. See above notice requirements</p> <p>Area B (eastern area): Planning and Zoning public hearing and final decision</p>

Go to the county website (*under County Commission meetings*) to download the four ordinances.

What a Difference an Ordinance Makes The September 2018 Choices

Required application Information	<ul style="list-style-type: none"> Requires documentation of state agency permits/approvals. Surface owner must submit statement that applicant has complied with Surface Owner Protection Act. Requires waste disposal plan that includes copies of agreements and permits from OCD facilities. Requires list of chemicals and other hazardous materials used in drilling and production, including where they are stored. Confidential list to be provided to Fire Chief. Financial solvency information required. Environmental compliance history information required. 	<ul style="list-style-type: none"> Requires documentation of state agency permits/approvals. Applicant may certify compliance with Surface Owner Protection Act. Requires waste disposal plan that includes copies of agreements and permits from OCD facilities. Requires list of chemicals to be used in fracking in sealed envelope to Fire Chief. Financial solvency information required. Environmental compliance history information required. 	<ul style="list-style-type: none"> Applicant must "certify" compliance with state agency requirements. No waste disposal requirement. No financial solvency verification required. No environmental compliance history information requirement.
Water protection – Siting requirements	<p>Site specific determination</p> <ul style="list-style-type: none"> Unless aquifers are protected due to geology (San Juan Basin area) the applicant must demonstrate adequate protection of drinking water based on a geological/hydrological analysis of the proposed drilling site. 	<p>Geology-based districts</p> <ul style="list-style-type: none"> District C (ABQ Basin) only: Only vertical drilling permitted. Districts A and B: Horizontal drilling and fracking as well as vertical drilling are permitted. 	<p>No siting/geological restrictions</p> <ul style="list-style-type: none"> Any drilling – conventional and unconventional – allowed throughout the county. Requires operator to use "best practices" to ensure water protection.
Baseline water testing and monitoring	<ul style="list-style-type: none"> Requires onsite and offsite baseline water testing of public and private wells. May require onsite monitoring wells. 	<ul style="list-style-type: none"> Applicant must submit a plan showing the "steps that will be taken to avoid pollution of surface and ground water." 	<ul style="list-style-type: none"> Requires baseline testing only on any public drinking water wells within one mile. Quarterly ongoing water quality tests.
Who pays for roads and emergency services?	<ul style="list-style-type: none"> Applicant/Operator pays for road upgrades and road deterioration. Operator may pay for special emergency services and equipment. 	<ul style="list-style-type: none"> Applicant may be required to post bond and enter into Road Improvement Agreement. Applicant may be required to pay for any specialized training or equipment needed. 	<ul style="list-style-type: none"> Applicant submits road route plan to site Applicant only required to identify emergency response services close to wells.
Tribal/Pueblo Input	<p>Throughout the ordinance. Examples:</p> <ul style="list-style-type: none"> Notice of application to all tribes with request for input. Proof of easements through tribal lands. Requires compliance with EPA approved tribal environmental rules). 	<ul style="list-style-type: none"> Identify and protect cultural sites as identified by NM Historic Preservation. 	<ul style="list-style-type: none"> No drilling within 1,000 feet of identified cultural sites.
Insurance requirements	<ul style="list-style-type: none"> General liability: \$5 million. Environmental insurance \$15 million. 	<ul style="list-style-type: none"> General liability: \$5 million. Environmental insurance \$10 million. 	<ul style="list-style-type: none"> General liability: \$5 million.
Enforcement	<ul style="list-style-type: none"> Cease and desist order letter if harm to public health, safety, environment. County may suspend or revoke the permit. \$300 fine maximum for any violation. 	<ul style="list-style-type: none"> \$300 fine maximum for any violation. 	<ul style="list-style-type: none"> Cease and desist order letter to be sent when significant safety/environment hazard \$300 fine maximum for any violation.

Go to the county website (*under County Commission meetings*) to download the four ordinances.

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.

March 11, 2018

Pueblo: Myron Armijo
Former Governor, Santa Ana Pueblo; Chairman, Southern Sandoval Investments, Ltd.
Tribal Liaison, NM Office of the State Engineer, Interstate Stream Commission

Pueblo: Derrick Lente
Attorney
New Mexico State Representative, District 65
Represents Pueblos (Cochiti, Jemez, Sandia, San Felipe, Santa Ana, Santo Domingo, Zia)
Navajo Tri-Chapter and Jicarilla Apache

Navajo Tri-Chapter Rep: To be named [Pending]

Rio Rancho: Edward Paulsgrove
Geologist (BS)
U.S. Army Corps of Engineers (Geotechnical and Environmental Divisions)
U.S. Army Paratrooper (509 Airborne combat infantry)

County Support Liaisons (non-voting): •Peter Adang (Planning and Zoning Commissioner)
•Keith Brown (Planning and Zoning Commissioner)

Participation

- Maximum citizen participation
- Each member is encouraged to contact interested citizens and solicit input from their area
 - A call for papers from interested Sandoval County citizens
- Pueblo and Navajo members are citizen representatives only and do not in any way reflect individual tribal government decisions or formal communications with the Sandoval County government

Technical/Scientific Reviews

- Sandoval County commissioned New Mexico Tech Study
- Albuquerque Bernalillo County Water Advisory Board commissioned aquifer study
 - Other pertinent studies
- Experts invited to present (O&G, Environmental, Water, Legal, Health, etc.)

Consultation and Coordination with Other Governments

All local governments in:

- Sandoval County
- Bernalillo County
- Valencia County
- All Pueblo Nations
- Navajo, Jicarilla Apache

See change at bottom

End Product

- Present a joint recommendation for action directly to the Sandoval County Commissioners
- Produce a comprehensive oil and gas ordinance directly to the Sandoval County Commissioners that includes aquifer source water, groundwater, and surface water protection.

Recommended Timeline

- Four months

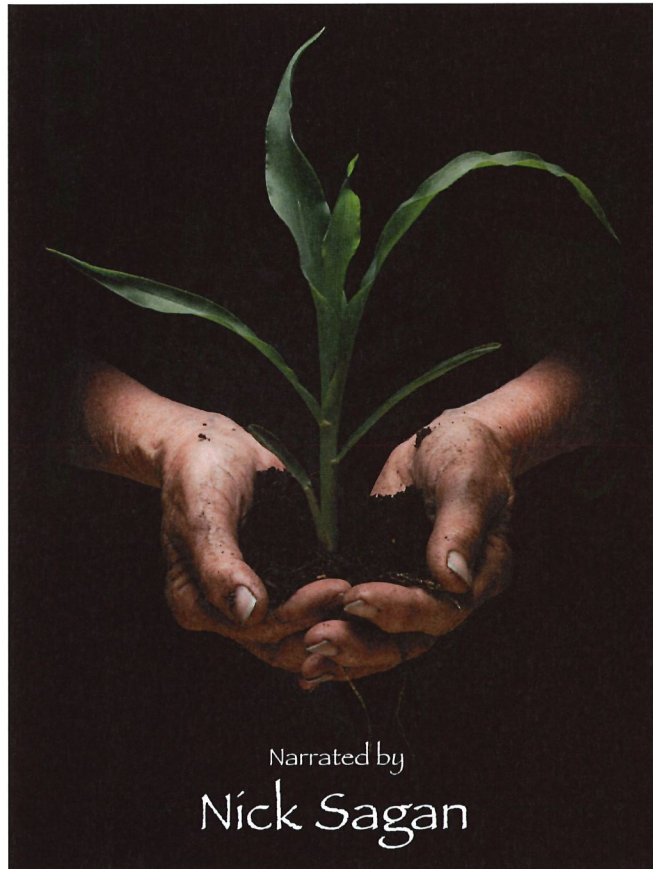
Operating Guidelines

- Meeting times, frequency, other details, etc. to be set by CWG members (Provided to SCC)
 - Full meeting agendas posted 72 hours in advance
 - Public invited to attend with structured open comment
- Progress updates to SCC prior to every regularly scheduled county commission meeting

Commission voted to have End Product first go directly to County Planning & Zoning Commission

Sacred Land, Sacred Water:

Confluences in the Río Grande Valley



www.SacredLandSacredWater.com

FRACKING ALONG THE RIO GRANDE ?????

SACRED LAND, SACRED WATER is the story of science and citizens working together to resist the oil and gas lobby's efforts to pass a fracking-friendly ordinance in Sandoval County. Inspired by the geologist and best-selling author, Donald T. Phillips, this documentary includes interviews with concerned citizens, clips of public testimony, and a highly illustrated presentation of the subsurface geology of the Rio Grande Rift as well as of the techniques of horizontal drilling and hydraulic fracking. Animated sequences demonstrate the dangers fracking poses to the one, continuous aquifer underlying the entire Albuquerque Basin which provides 85% of the drinking water to its 800,000 residents.

Follow us at: [twitter.com/@SacredRioGrande](https://twitter.com/SacredRioGrande)

SACRED LAND, SACRED WATER: A Multimedia Documentaary