

SANTA FE COUNTY**FORUM ON PROPOSED****OIL & GAS DRILLING****December 6, 2007**

This special forum commenced at approximately 6:30 at Santa Fe High School, Santa Fe, New Mexico.

The following individuals sat on the panel:

County Commissioner Virginia Vigil, Chair
 County Commissioner Jack Sullivan, Vice Chairman
 County Commissioner Paul Campos
 County Commissioner Mike Anaya
 County Commissioner Harry Montoya
 County Manager Roman Abeyta
 County Attorney Steve Ross
 City Mayor David Coss
 State Representative Rhonda King
 State Representation Peter Wirth
 State Senator Phil Griego
 Director of State Oil Conservation Division Mark Fesmire
 State Land Office Representative John Bemis

WELCOME & INTRODUCTIONS

STATE REPRESENTATIVE RHONDA KING: At this time I would like to introduce the elected officials that are here as well as state representatives that are here to answer questions and give some brief comments before we open it up to the public. We have Commissioner Anaya, Representative Peter Wirth, unfortunately Secretary Prokup who was at the previous meeting had a conflict and was not able to be here, however, we have Mark Fesmire who is with the State Energy and Minerals and Natural Resource Division and he is the Director of Oil Conservation Division. Then we have John Bemis here who is a representative from the State Land Office. We have Commissioner Virginia Vigil. We have Commissioner Paul Campos. We have Commissioner Jack Sullivan and we have Commissioner Harry Montoya. Also, this evening we have Mayor David Coss with us.

Before we actually get started with the presentation I would like to give a brief overview of the format this evening. In order to cover information that has developed

since the last meeting as well as to provide as much time as possible for the public to provide comments, questions and information to the decision makers, we will not be discussing at length some of the issues that we discussed previously. For instance, the Surface Owner Protection Act that the legislature passed last year. We're not going to provide details on that. However, Representative Wirth and Senator Phil Griego who just arrived and myself will be here to answer questions. So, again, some of those items will not be discussed, however, if you go on the County's website you can see that last forum. So if you have questions about that act or if wanted to know what was discussed at the last forum and you weren't able to attend then you can go on the County website.

This evening we are focusing on two primary areas that are up for discussion permitting of oil and gas and then secondly, Steve Ross the county attorney, will be providing an overview of the moratorium that Santa Fe County has enacted as well as a brief overview of the process for the adoption of the new Santa Fe County Ordinance.

We wanted to let you know that tonight is not an official meeting on the ordinance. This is a public meeting but not an official meeting on the ordinance. The County will be having additional public meetings on the ordinance but Steve Ross is going to provide a brief overview as well as he is going to briefly answer the 10 most frequently asked questions of the county regarding the process. Hopefully, those are questions that people have this evening and we'll be able those answering and, again, that will allow additional time for individual to ask questions that maybe have not been addressed in the previous forum.

At that juncture then we will open it up for comments and questions by the public and individuals that attended the last meeting and were in line to speak and also gave their name to the County but weren't able to speak because of the time factor, will be allowed to go first at this meeting to make sure their voices and comments can be heard.

Again, I want to thank all of you for coming this evening. And I want to personally thank all the people who have contacted me either by phone or by email or sent me a letter about this. It is certainly very important and I appreciate all of you spending your evening here to let all of us know what are the issues that we need to address and what are your concerns.

So, again, thank you for being here tonight and at this juncture I'll go ahead and turn it over to Commissioner Anaya.

✓ COMMISSIONER ANAYA: Thank you very much, Representative King and that you all for being here this evening. I just want to go over a few things here in the gymnasium. [Restrooms and exits were located, and prohibitions against standing on railing or within the aisles were expressed]

It took a lot of work to put this meeting together. I want to thank the public school and a lot of County staff. Jennifer Jaramillo did a lot of work along with the staff. This type of thing does not just happen. I want to thank our Sheriff's Department that is here and our Fire Department – just in case anyone faints we'll have Jim up there to help us out. So thank you all for being here.

The first person that I'd like to call up to speak to you this evening is our Mayor David Coss from Santa Fe. Mayor, could you come to this podium and address the audience.

MAYOR DAVID COSS: Thank you, Commissioner and my thanks to everyone who came tonight and to the County staff and our legislative delegation for

helping put this together. I was asked to come and speak to this but I want to assure the County I am not running for the mayor of Galisteo Basin. I'm the mayor of Santa Fe but I wanted to express the City of Santa Fe's support for good ordinance, for the moratorium and for the work that is going on. So that they can get to hear you, I'm going to be very brief. I apologize for having to leave. I'm trying to do about three events tonight.

But I also wanted to say that I worked for the Environment Department for 12 years. I worked for the New Mexico State Land Office for six years in field operation division and we tried to put oil and gas reclamation into effect. And I can just tell you from personal experience that it's really really hard. I can also tell you that your being gathered together tonight and there is work going on and what you're essentially challenging is what was good enough for Lea County and for Eddy County and for San Juan County – what we accept really every time we fill up our gas tank or heat our homes, what was good enough then, we're saying "that's not good enough." So you're in a position kind of like where we were in the City with the living wage. We need to set a different standard. I worked in those areas and I have a lot of friends in the oil and gas industry. We've worked on wildlife habitat. We worked on water contamination – lots of issues and I would encourage all of us in Santa Fe County to reach out to everybody else in the state that deals with this issue. There's a saying in the southeast that says, "Marry a Hobbs girl because no matter how bad things get, she's seen worse." So you have a lot of people who have lived with this industry a long time and I thought you were really really smart to bring down Tweeti from the northwest, is Tweeti here. I have to be careful, I worked with the Land Office for so long. I would say that there is invaluable expertise and experience there. The other people I would get a hold of is the Lea County Cattle Growers Association. We need to be in touch with all of those folks because the oil and gas industry is one of the most powerful industries in the world and especially in the state of New Mexico.

I know from my experience with the state that their impact on water quality and their impact on air quality is regulated at the state level and it's very certainly regulated at the state level. But I can tell you that Mr. Fesmire on the OCD, now they're criticizing him for trying to regulate oil and gas, but really in the 1970s when they passed the Water Quality Act they made very sure that oil and gas was not regulated by the New Mexico Environment Department and the Water Quality Control Commission, that it was regulated by Oil Conservation Divisions. So now when they try to regulate through the Oil Conservation Division, they don't like that either.

They also have a very strong state law that says air quality standards can not be any stronger than national air quality standards. So who runs the national government right now? You know, I think this is what we're up against. I can tell you from my experience that no industry wants to be regulated. The oil and gas industry did not want to be regulated when oil was \$10 a barrel and they don't want to be regulated when it's \$100 a barrel. But because of the legislature and because of some of the land use struggles that counties and cities have gone through, the authority does exist for local government to regulate land use and therefore to regulate the impact that oil and gas drilling could have in a community.

The last thing I want to say on this is that this is important to get it right and to take your time. You need to find those sufficient controls to minimize impacts to the range, the watershed, the wildlife and especially in the Galisteo Basin to the

archaeological resources. To make sure that happens we need to have sufficient financial incentive to finish the job because they're saying we'll pull the rigs and go to Texas. That can happen and that has happened. That does happen, it has happened, and I've seen it. But if they leave and the road and the pad and spills are not cleaned up a \$25,000 bond ain't going to get it cleaned up. That's not enough.

You've got a great team in the Richardson's Administration with JoAnna and Mark Fesmire. Work closely with OCD, because they're the ones that are going to protect the groundwater. Environment Department is going to protect the air quality.

In closing I would just say that Councilor Karen Heldmeyer introduced a resolution saying we support the three-month moratorium that the County passed and that will pass next Wednesday so the City will be on record. I personally as Mayor support Representative Wirth's call for a six-month moratorium. The oil resource that is apparently underneath us that is underneath all of us is not going anywhere. It's been there for millions of years and it will be more valuable, not less valuable, in the future. So I think Santa Fe County can really make it a positive future, which includes well-regulated energy production and I think if we do that then we're going to be helping the whole state and not just Santa Fe. Thank you.

COMMISSIONER ANAYA: Thank you, Mayor. I know you've got to take off, but thank you for those excellent comments. I would also like to recognize the Santa Fe Audio & Visual for providing all of our audio equipment and recording tonight. Desert Element and Voyageur 360 for their IT support streamline at this meeting live on Santafecounty.org. And, also, KSFR, Bill Dupree. Thank you all for being here.

We do have some draft ordinances that were at the front at the entrance when you walked in. They are walking around handing them out. We made about 1,000 copies and we want to make sure that you have one and can leave home with one so that you can look at it closely.

STATE ENERGY & MINERALS

DIRECTOR of OIL CONSERVATION DIVISION: Mark Fesmire

COMMISSIONER ANAYA: Our next speaker is with the State Energy and Minerals Director of Oil Conservation Division, Mark Fesmire is going to speak to us today.

MARK FESMIRE (Director Oil Conservation Division): I look down here and see a little piece of paper that says one minute. I hope that applies to me. For those of you that were here in the last meeting I'm going to apologize because I'm going to be a little bit redundant. The things that I have to say haven't changed much. We are the Oil Conservation Division. We're about 69 folks and it's our job to regulate the oil and gas industry in the State of New Mexico. Our mandate is basically three fold: to prevent waste, to protect what's called "correlative rights" and to protect human health in the environment. Now the first two parts of that mandate date from the 1935, the original Oil and Gas Act. In the late 60s, 70s and on into the 80s the latter part of that developed to protect human health and the environment. And that I think is of the most concern to the folks here. So I want to assure you that the Oil Conservation Division right now is trying to do that.

The oil and gas industry is a very big part of New Mexico and we can never forget that but the oil and gas is sort of New Mexico's present. Our water resources are our future and one of the things that the Oil Conservation Division is trying to do right now is to make sure that oil and gas operations don't pollute the water while they produce the oil and gas. And we are trying to do that. In the last four years we've introduced new rules on rulemaking so that they're much more inclusive so that everybody has a voice or at least has the opportunity to have a voice in OCD rulemaking. We've passed rules on enforcement. The enforcement rules that OCD uses right now were originally passed in 1935. In 1935 we could fine them \$1,000 a day for a violation or \$1,000 a day for an ongoing violation or \$1,000 for the violation itself. In 2007 if we have a violation we can fine the operator \$1,000 a day for an ongoing violation or \$1,000 for the violation. So one of the things that OCD did was we got to looking at the laws that allow us to operate and we found out that we could pass some rules that would help us enforce the law and one of the things that we did was to pass rules that allow us to prevent an operator from continuing to operate in some cases if they're not in conformance with our rules and regulations. And, that's been extremely effective.

We then started looking at the rules on surface waste management. We passed a series of rules on surface waste management. They have been appealed but so far we've won every decision on the appeal. And now we're in the process of trying to address one of the major causes of water contamination in oil and gas operations in the state and that is waste management. Some of you I recognize have been to those hearings. We've got a lot of good evidence coming out of those hearings. I don't know exactly how those rules are going to come out in their final version. The Commission has yet to deliberate and vote on them but we are making progress.

I can't say exactly what we're going to end up with in terms of rules on the pit, but I can tell you that whether or not we make real substantive changes we've got the oil and gas industry's attention because if they don't clean up their act everywhere they want to drill, they're going to end up greeted with these kinds of concerns. The kind of concerns that you all have here tonight. So what we're trying to do is to get them to recognize that they're on a cusp here and that they need to start paying attention to the water as much as they do to the oil and gas.

I'll be around after the meeting if anyone has any specific questions. But I really like getting a chance to talk to people who don't want to get me fired for a change [*applause*] and I thank you for that opportunity.

COMMISSIONER ANAYA: Thank you very much, Mark. We appreciate you being here and we appreciate the work that you do for the State of New Mexico.

OVERVIEW OF SANTA FE COUNTY DRAFT ORDINANCE

[Exhibit 1: Proposed Draft Ordinance]

COMMISSIONER ANAYA: Next up is Steve Ross our County Attorney and he's going to do an overview of the ordinance. And like I said earlier if you don't

have one, raise your hand we'll get one to you. Steve Ross is going to go over some questions, frequently asked questions that are on the back of the agenda.

STEVE ROSS (County Attorney): Thank you, Commissioner. For those of you who went to the Commission meeting on the 27th or watched it on TV, I gave a fairly lengthy explanation of the draft ordinance that went half-an-hour or 40 minutes. So when we thinking about how to approach such an overview at a meeting like this, we decided that it probably wasn't very practical. I was just talking to Commissioner Sullivan and to our manager we're going to post that explanation on the website of what it says.

As Commissioner Anaya said, what I'm going to do tonight is answer as sort of an overview of sorts of the ordinance, 10 questions that I get over and over and over again in my office. Now I should tell you that the ordinance itself, you have a hard copy of it here tonight, we've posted the ordinance on our website if you want to take a look at it: www.santafecounty.org, just look on the website and you can find the ordinance there and you will find the answers to the questions that I'm about to go into and they're also there. We'll try to keep that site current with the current information that is available and just keep checking back and you'll be on top of what's happening.

In order to answer the first question which is: Why don't we take more time with this? I think I'll just tell you where we are right now. When a county enacts an ordinance, the first thing a county has to do is do what we did on the 27th which is the Commission authorizes staff to publish title and general summary of that ordinance. That's what we did on the 27th. At that time, that starts the process and this is the first step or a step in that process. Ultimately, that process would culminate in two public hearings, because this is a zoning ordinance, that will be conducted as currently planned in January. We've had, like I said, the meeting on the 27th of November where the public was not permitted to comment when you're engaged in publication we generally don't take public comment. But tonight is one of your opportunities to comment as was the meeting we had a couple of weeks ago in Eldorado. We're planning a whole day, nine or ten hour meeting in January where you can comment on the record. We're trying to put the details of that together right now and we're thinking it might be January 7th. But like I said, watch the website and you'll understand what the schedule is looking like if you keep checking that.

As the schedule is currently constituted the ordinance would be up for adoption at the Commission's meeting on January 29th. Now that being said, we're getting a lot of comments that number one, the written comment period which currently is set from the 27th of November to December 21st we getting a lot of comments that that's too short. We'll keep on top of that and if we feel that's correct then watch the website and we'll extend it.

Also, we may consider if it seems appropriate relaxing the remainder of the schedule. Just watch the website, keep an eye on things, keep in touch, keep sending us your comments. That's the schedule that is currently in place.

Question number two, I get this question an awful lot: Why don't you as a County just ban oil and gas drilling in this county? [*applause*] That's a very, very, very difficult question. Let me tell you a little bit about counties. Counties are political subdivisions of the State of New Mexico and the State of New Mexico, the legislature and the governor, have defined the role of counties in statutes. Counties don't have authority under those

statutes to regulate oil and gas drilling, exploration, anything at all. But, counties do have the authority to regulate as a zoning body, and Santa Fe County has a zoning ordinance, it's the Land Development Code, we have numerous committees that process applications under that code and we feel like we have the authority to regulate zoning and to the extent it's permissible under the laws of this state we feel like we have the ability to regulate oil and gas drilling and exploration as a zoning matter. [applause] And that's – the ordinance you have in front of you is a zoning ordinance and that's why it is a zoning ordinance. It looks like a zoning ordinance and it fits into the Land Development Code just like any other zoning ordinance. And that's why it looks like that because that's where authority we're very secure in lies.

Now, let me circle back around to the initial question: can we under a zoning ordinance just outright ban oil and gas development? The answer to that is probably no but we can certainly regulated it very thoroughly and that's what the ordinance that we drafted is intended to do.

Question number three, and I get this one an awful lot: Why is the setback in the proposed ordinance between oil and natural gas facilities and a domestic water well only 200 feet? That's a question I get all the time. I've gotten hundreds of emails concerning that one issue alone. Now bear in mind the residential setback that's proposed in the ordinance is one-half mile. That was last in the ordinance to honor the setback that is in the current mining ordinance. The County also has existing setbacks in the Land Development Code and one of those setbacks concerns water wells and the Land Development Code will not permit things within 200 feet of a water well.

When we were debating the various setbacks we elected to, at least as a preliminary matter, put 200 feet in as a preliminary setback from a water well. I think you can understand that a water well is often located within a few feet of a house, so as a practical matter even as the ordinance is currently drafted the setback from a water well is also a half-mile. But we're looking at that very closely and understand the logic that is in a number of comments that is why not just make those two consistent and have a half-mile setbacks between water wells just like a [applause]

Question number four: Why does the new ordinance permit the operator to seek a variance from the setbacks? The reason that provision was inserted into the draft was because we selected one-half mile as the residential setback. Typically, setbacks from oil and gas wells in ordinances around the country are about 400 feet. Ninety percent of the ordinances that we looked at provide for a setback between 200 and 400 feet. Half a mile is a big setback and because it's such a large setback, it has the effect of restricting the ability of oil and gas operators to locate wells anywhere. Why that's important is because the US Constitution and the New Mexico Constitution provide that if an owner of property is denied all economically viable use of their property the government has to pay. So the reason a variance might be required under certain limited circumstances is to avoid that circumstance. But that being said, the intent of the language in the ordinance is to require that property, in this case a mineral interest owner or an operator of an oil and gas well, is going to have to jump through some pretty high hoops to even be entitled to a variance under the ordinance. And one of the things that they'd have to prove is that operation of this ordinance in conjunction with OCD rules, in conjunction with whatever factors that are relevant deny them all economically viable use of the underground resource. We think this situation is going to be rare.

Five, question five: Why was the review process set up to review each well separately instead of as a group of wells? I think this question originates from the fact that the current mining ordinance seems to provide a process that will evaluate an entire mining operation as a whole. But as I told you a minute ago, one of the things that we're trying to be very careful about is to insure that this is a zoning ordinance. Zoning pertains to a particular piece of land. By its very nature an oil and gas field is composed of, in this case it's eight oil and gas wells. They're not located on one piece of property like a mine is. They're located in a number of different locations and each one of those locations has to be zoned and the characteristics that make up that particular land have to be looked at independently and not necessarily as a group because each property has a different problem. For example, if one well is located next to church, another one might be located next to a floodplain, another well location might be located next to an area that is environmentally sensitive – the possibilities are endless. So we set up a procedure that each one of those places where the well is to be located has to be looked at separately.

Number six, Why was the Mining Plans Review Board not used to review applications under the proposed ordinance? Why were the CDRC and BCC not mentioned? The first question concerns the large mining plans review board that was established by the original mining ordinance back in the 80s. The reason we thought that it might be better to approach this problem by having a discrete oil and gas inspector rather than a large board just arises from what I mentioned a minute ago, that an oil and gas field is composed of numerous wells and an oil and gas well during its lifetime goes through hundreds of different types of operations anyone of which might be scrutiny from the regulator. In this case if the regulator were a large board that had to be convened perhaps dozens of times each year, we thought that it wouldn't be as effective as if we got someone with expertise onboard either as a County employee or a contract employee and charged them with the responsibility of dealing with the oil and gas operations from cradle to grave.

The CDRC and BCC -- are of course, the members of the Board of County Commissioners as are seated here. The Development Review Committee is a review committee that looks at zoning applications that are in the process bound for final decision by the Board of County Commissioners. It's a part of our zoning process. Applications get filed. They're reviewed by staff. They're presented to the CDRC for a recommendation. The CDRC sends those recommendations to the Board of County Commissioners. Those were not mentioned in here because they're part of the process by which an application, any zoning application, are reviewed. So those two bodies are going to review any application for zoning on the part of oil and gas operators.

This is a question I get a lot: Why is there not a distinction drawn in the proposed ordinance between exploration activities and production activities? There's a difference between hard rock mining operations – open pit mines, and the likes, pits – those kinds of operations that we are used to having seen in the Ortiz Mountain area down by Silver City, those large operations. There's a difference between how those operations progress through their life cycle and oil and gas operations. When somebody drills an oil and gas well and they make a well in the sense that they find oil and gas as a result of their exploration activity, the very next thing they do is use that very same well for recovering the oil and gas. There is really no distinction between exploration and production. If there's oil found the product is recovered from the very well that is used for exploration.

It's not as true of mining and the old mining ordinance certainly established the distinction between the two activities.

There's a very different type of activity that goes on when you're looking to create a mine. There's a lot of preliminary activities that go on before you start getting out the dynamite and the trucks and the large machinery to carry rocks around. So that's why that distinction is blurred, it's because the industry is different and the regulatory environment to look at that industry is completely different.

Number eight, I get this question a lot: Why are the bonding requirements so low? What we have established in the proposed ordinance are essentially two techniques to assure that when oil and gas activities are done that the site is cleaned. That the area around the well is restored to its prior condition and that any pollution and/or degradation of water that may have resulted from the operations is dealt with. Dealt with effectively.

There are essentially two ways to do this. Bonding is certainly one route that can be taken but there's a reality that has existed since 9/11 that bonds, large surety bonds are getting increasingly difficult to get. So for example you'll see in the proposed ordinance that it is possible that we could require a bond for a single well between \$5,000 and \$25,000 [*audience booing*] or that – let me explain our reasoning. Let me just explain where we're at. We understand that bonds are getting increasingly difficult to get. So what we plan to use the bonds for are for are to insure that the surface clean up is done and that the site is remediated to the condition that it was in prior to the well drilling.

The other tool [*audience interruption*]

COMMISSIONER ANAYA: Would you let him finish, please. Thank you.

MR. ROSS: The other tool that is established in the ordinance for dealing with these problems is insurance and a lot of insurance. What we're requiring in the ordinance is that each operator have and maintain enforce at all times a \$10 million comprehensive general liability insurance policy and that that policy include coverage for pollution. So, if there is pollution that results from the activities of the oil and gas operator on the site, that insurance company as well as the company itself would have to answer and pay to clean up that stuff. [*disgruntled audience break out*]

COMMISSIONER ANAYA: Please, excuse me. You'll have your chance to ask questions. You will, so please quiet down.

MR. ROSS: We can talk about this for a long time. Let me move on to the rest of the questions and if we need to talk about this more, we will.

Number nine, Why is hydraulic fracturing not regulated? I get this question a lot and particularly in recent days. Hydraulic fracturing a lot of you may know is the process of pumping liquids down a well under extremely high pressure to break up rocks in the formation that is being explored. A lot of companies use different kinds of chemicals in these processes to ensure that the fractures work and that they operate as desired.

The ordinance does regulate hydraulic fracturing but we also are looking at this issue – we're taking another look at this issue. In the ordinance currently the operator must control their fracturing pressures strictly so as to prevent the resulting fractures from extending out of the formation in which they are working and particularly so that they don't extend into any adjoining fresh water zone.

The answer to the question is that we are planning to regulate it. We're going to charge the oil and gas inspector with the responsibility of insuring that any fractures that are done, are done responsibly and that they don't pollute.

Number 10, How will the County assure that the aquifer is not contaminated and what will you do if contamination does occur? On the first point, there are several tools in the ordinance that were established to address this issue. Number one, as a part of the application process for achieving zoning under the ordinance, the oil and gas operator of a proposed well is required to do a baseline survey of wells within a three-mile radius of their well. And then repeat that testing yearly, at least annually or more often if the oil and gas inspector requires it to determine whether the operations that are being conducted have affected the groundwater and if they are, this annually testing hopefully will enable the County and the OCD to address the problem with the operator soon after the problem occurs. Another important protection that is in the ordinance is the requirement that operators use closed loop drilling systems. In other words, no open pits even if they're lined may be used in drilling operations. These area typically used in New Mexico. Mr. Fesmire, the hearing that Mr. Fesmire is in concerns that issue and we don't even want to deal with it. We want the systems to be closed so that there can be no chance of contamination from those operations.

The third element that is included in the ordinance to prevent pollution is the requirement that waste products that are created on the site of the well may not be remediated or dumped on site, buried or whatever, they must be picked up and hauled to an OCD regulated facility by truck. That being said, even if all of those efforts fail – and I think I should point out the fourth leg to that stool is of course the oil and gas inspector who we propose to hire under the ordinance. This person is the eyes and ears of both us and the OCD at the well site to make sure that operators are behaving in a responsible manner at all times.

What will be do if contamination is detected? We will do a lot of things and it is really impossible to say what all of those things might be but at a minimum we would work together with the OCD to address whatever the problem is and insure that the problem is completely cleaned up. If that means suing the company, that's what that means. If it means invoking the company's insurance policy on behalf of the situation, that's what it means. If it means pulling their bonds, that's what it means. But probably the most important tool in my experience that has been effective is we'll make them shut all their wells down until the problem is resolved. Those kinds of tools, all of those kinds of tools, will be employed if we had an issue with contamination.

Those are quick answers to the ten questions. I intend to write these answers up and put them on the website tomorrow and try and post important information on the website. And if we get additional questions, if a lot of people tend to be asking the same question, we'll do exactly the same thing and endeavor to answer those questions right on the website so you can keep up to date of the questions that we're receiving and what we think the answers are. Thank you.

COMMISSIONER ANAYA: Thank you very much, Steve. We forgot to mention that our county manager, Roman Abeyta, is here. Roman, thanks for being here.

And there's two water fountains right behind you all in the corners. I'd also like to thank the Santa Fe High School Assistant Principal, Skip Hempley and Rose Lucero

and the Department of General Services for helping us set up. Michael Mills who helped us set this whole place up, thank you, Michael.

PUBLIC - QUESTIONS/COMMENTS

COMMISSIONER ANAYA: Now we're going to get into the questions and comments from the public and again I want to thank you all for being here. We do want to hear your comments and if we could just not feed off each other. Let's get the comments. We're going to write them down. So be as civil as we can, I would greatly appreciate it and so would the forum.

You will have – at our last meeting we had a two-minute period. We changed it to three minutes. Okay, so you'll have three minutes. But there were some people at the last meeting who didn't get to speak and we had them write their names down and I have them right here. We're going to call these names out first and they will speak first.

There will be a microphone set up here and one at the time. You can form a line after these people that I call out. So the 17 people that did sign up at the last meeting are Anji Estrellas, Carolyn Sigstedt, Sigmund Silber, Diantha McJilton, John Zellmer, David Bacon, Susan Stephens, Jocelyn Elder, Johnny Micou, Louise Baum, Jeremiah Weser, Bill Gilbert, Nicolas Frost, Tom Maguire, Alex Valenzuela, David Kitts, and Eduardo Krasilovsky.

Let me give some ground rules for the speakers: you will have three minutes. The ladies in the front of you will hold up a one-minute yellow card and then you will have one minute to complete your question. When your time expires, you'll have the red card and when your time expires we expect you to quite and if not, we'll turn the microphone off.

We're going to start down here with the people I called.

ANJI ESTRELLAS: My name is Anji Estrellas and I own a property in the City and also property in the County that is two miles from the Black Ferrill well. I'd like to start by thanking everybody tonight who made this meeting happen and for your time and everything that you've done so far and for making the venue bigger. We appreciate that. I think it is fitting that we're here in a high school because our high school serves our future, the children here in the city and the decisions we make in this process are going to affect our children.

My biggest concern is the water and keeping the water safe. I appreciated Steve's commonly asked questions but I had a couple of questions myself. Since we know contamination is very possible to happen, I am concerned that a year to test is way too long of a period. I would recommend monthly testing. We know that the oil and gas industry can afford it.

My other concern with the testing, I thought that I heard that it was the responsibility of the oil and gas industry to test. I would actually recommend that they pay an outside objective party to test. *[applause]* I don't believe that this specific point in the regulation is strong enough to protect our most important resource. We know that eventually that we will run out of oil but our planet, if we take care of it, will not run out of water to drink to drink that is clean and healthy and we have to protect ourselves, our children, our grandchildren and this most important resource.

I do my part by xeriscaping, no car washing, don't put chemicals down the drain, so if I'm doing my part I would expect that any industry must do their part. Thank you.

COMMISSIONER ANAYA: Thank you, Angie. Carolyn, if you could, state your name clearly so that we can get it.

CAROLYN STEVENSON: Actually, my name is Carolyn Stevenson now and I own the Mission Café and live in downtown Santa Fe but I lived 15 years in the Galisteo Water Basin and I know the water very well out there. It's a very delicate, fragile aquifer that is incredibly vulnerable and I too all my comments will relate to the water. For the past 12 years I have acted as a witness at County meetings mostly around the common good issues. Citizens' issues which in my opinion for the most part relate to water. Water is our life here and I try whenever possible to keep the County and the City conscious and serious about this fragile, finite resource. I want the County Commissioners to know that it was actually me that went to Frank Katz at the City and implored his to talk to the Mayor and the City Councilors about standing in solidarity with the resolution with the County. So it is citizens that are supporting you in this difficult work that you will need to do. And, as it was mentioned earlier, we are in a new era with gas and oil. This is happening all over the nation with gas and oil possibly going up to \$200/barrels when in fact that is not a sustainable future. We have renewable energy. *[Applause]*

We have to start to realize that we have to look at property rights in terms of the common good. They don't have the same values that they once had. We have to think of our neighbors.

I'm going to quickly read something that I wrote: An ounce of prevention is worth a pound of cure as the old saying has it. In those instances where cure may be impossible then prevention is essential. We now face such an instance in the Galisteo Water Basin where oil drilling threatens our groundwater, the only source of this precious element in the area. Before it is too late we need to insure that our County zoning and our land use ordinance – and that's all the County has – but I'm saying they have the ability to do stronger zoning than what's in the ordinance *[Applause]* and demand before it is too late, we need to insure that our County zoning and land use ordinances demand the strictest environmental protections. My solution is by declaring Critical Management Areas which is a zoning – *[microphone turned off]*

COMMISSIONER ANAYA: Carolyn, I'm sorry but you went over the three. If you want to finish that I need you to get behind the line. Those were good comments, Carolyn.

SIGMUND SILBUR: My name is Sigmund Silbur and I live next to the San Marcos Pueblo which is about one mile down the San Marcos Arroyo from one of the proposed well sites. I'm the Sierra Club's northern group water issues co-chair and the state chapter water chair.

We have issued a background document and position on oil and gas drilling and operations. There are copies of it upstairs and it's on the Sierra Club website. I'm going to read part of this document as far as I can get.

The Sierra Club wishes to improve the regulatory structure within which the very important economic sector operates. Organizations and individuals who wish to work with us on this are invited to contact the authors our email addresses are on the document upstairs.

The current version of SOPA, Surface Owners Protection Act, is a start but it is not strong enough. An appropriate state agency should be asked to monitor how this legislation is working and how it needs to be strengthened. The use of best available technology and best practices should be required. The entire community, not just impacted landowners, should be notified if there is planned oil and gas activity. The level of bonding needs to be greatly increased. The ability of cities and counties to protect their residents needs to be clarified and where necessary expanded. Responsibility for protecting groundwater resources from being harmed needs to be clarified and broadened to include local government and both the Office of the State Engineer and the New Mexico Department of the Environment so that the community's surface and groundwater water resources are protected.

It is important that no water resource is over-used by oil and gas exploration or production including the future but so far not discussed potential use of secondary and tertiary production techniques. There should be a web-accessible database of oil and gas rights ownership so that surface owners can attempt to purchase their oil and gas rights. *[Applause]*

Drilling results in Santa Fe County may be poor, which would most likely lead to the current interest fading, at least temporarily, but leaving behind considerable restoration requirements that may or may not be properly handled by the departing oil companies. But when one tabulates the amount of real estate which already has been or may easily be significantly devalued by the actual or feared oil and gas activity; when one considers the potential requirement for water to facilitate the oil and gas exploration activity and the potential damage to aquifers, wetlands, arroyos, and streams, when one considers the impact on wildlife migration corridors... *[microphone turned off]*

COMMISSIONER ANAYA: Thank you very much, Sigmund.

JOHN ZELLMER: My name is John Zellmer and I live near the gold mine. We seem to have a number of old exploratory holes in Santa Fe County. I've heard a number as high as 50. Each one of those was drilled in the bad old days when we had open pits. They've been buried and they are a ticking time bomb. We need to address this feature first before we can allow future drilling. *[Applause]* And there's another reason and it's a little more personal. I'd like to see this area preserves so that when my son comes back from Iraq he has something beautiful to see. *[Applause]*

DIANTHA MCJILTON: My name is Diantha McJilton and I wanted to thank you for having this meeting. I'm here as the president of the Cerrillos Hills Park Coalition. We're concerned because the Cerrillos Hills Historic Park is the largest of Santa Fe County's open space projects, a county park transitioning to become a New Mexico State Park and should be well protected. How the park is cared for and evolved will shape the opinions of many Santa Fe County residents about the effectiveness and value of open space. Counts of visitation are approximately 12,000 to 15,000 people per year. Approximately half these visits are thought to be by a local resident. The park, as visitation increases, will offer economic development opportunities to the villages in the surrounding areas. Clean recreational and commercial economic development in the Cerrillos, Galisteo Basin area will definitely be handicapped if hydrocarbon exploration and development is permitted in the area – subsurface impact due to drilling and frac'ing could result in the spoiling or depletion of the groundwater resources including the

sensitive riparian areas and springs within the park. Reality of the complex mineralogy in the area greatly increases the risk of water contamination issues.

We strongly recommend against any proposed zoning for oil and gas exploration on Cerrillos Hills Historic Park and its vicinity and denial of [*applause – inaudible testimony*] to initiate oil and gas around the park. We note that oil and gas activities outside the immediate area of the park and the noises [*inaudible*] buffered zone would necessarily compromise the mission of the park. Odors, toxic gases, residues from flaring, constant noise, dust and dirt, ground disturbances and damage to historic landmarks, traffic, light pollution, etc. would have a serious negative impact on the historical park and its surround and visitation.

We request that the negative impacts to this park be used to be considered as part an economic assessment of the impact of oil and gas activities in the Galisteo Basin. We recommend that recreation and tourism be fostered in this community for their long-term sustainable and economic and quality of life [*applause over speaker*] we recommend that whenever proposals affecting this area might come before agencies for consideration that the importance of this unique and irreplaceable cultural, historical and natural and recreational resource of Cerrillos Hills Historic Park be fairly represented for its value and importance in the community and all of New Mexico. Plus, I would like to say what happens when these companies decide to conveniently declare bankruptcy and dissolve and then reform as something else without any recourse for going after them for reclamation.

COMMISSIONER ANAYA: Thank you, very much. Sir, if you would state your name.

CONSTANTINE ALATZAS: I've been a resident in northern New Mexico for over 30 years.

COMMISSIONER ANAYA: Sir, you weren't part of the 17. If you find Eduardo, the last speaker, and get behind Eduardo and they we'll take your comments. Thank you.

TOM MAGUIRE: My name is Tom Maguire and I'm a resident of Eldorado and the senior planner at the City of Santa, the cultural, heritage and tourism. And I want to speak briefly very briefly about the devastating affect that uncontrolled drilling would have on tourism in Santa Fe. What are the reasons that people come here? They come for various reasons – excuse me, it's a time in my life where my curiosity has overcome my vanity, I'll wear my glasses. Among the main reasons people come to Santa Fe are art, culture, history and the unmatched natural beauty of this place.

The City of Santa Fe alone has over 200 art galleries. It is the third largest art market in the country. Why? Because artists have always been drawn here. They have been drawn because of the incredible light, the beautiful skies and the beauty of our natural surroundings. If we take that away we don't have what they want.

We have over 300 days of quality light, beautiful light in our community. We have over a million visitors a year. Will they still come? Will they come if this place is devoid of beauty because of uncontrolled drilling? Oil is a dirty, dirty business [*Applause*]. The arts, culture and art history are a clean business. Tourism is one of the cleanest businesses we could have. What is at stake? I'll tell you what is at stake. The arts and culture herd its tourism and the hospitality industry that it supports in Santa Fe and northern New Mexico is a \$1.1 billion industry per year. The cultural industries and

tourism industry provided \$606 million to Santa Fe County from other parts of the state, nation and the world. These are inflows, ladies and gentlemen, these are inflows of capital. These are inflows of monies. The oil and gas industry represents outflows. That's why it is called an extractive industry. You can't name a single place in the United States or any place in the world where oil and gas exists with culture, tourism, and all of those things that support it. We have become upset is reduced in our tourism. What would happen if 60 to 70 to 80 percent of our tourism went away?

Tourism pays for a lot of things. It's going to pay for a new civic center. We're not paying for it, the tourist are paying for it. In the case of oil drilling we pay for everything and they take our quality of life and move away. *[Applause]*

COMMISSIONER ANAYA: Thank you. Thank you for your comments.

DAVID BACON: My name is David Bacon. And I want to switch the discussion a little bit back to what's called democracy that the country was founded on. It wasn't founded on regulation. This country wasn't founded to regulate the British Empire; it was founded to get rid of it. *[Applause]* When Bob Gallagher speaks in the paper, he speaks as if he's a British monarch. He's telling us that we can go to DC if we have some problems. He's telling us to go to the Emerald City and speak to Oz because he's telling us we don't have democracy here. What chance do we have to go to DC and beseech them to do right by us? What chance do we have to go to the State which is saying over and over and over again this industry brings us \$1.5 billion end of story. We don't care about water. We don't care about rights. We don't care about any of that. We care about the money that oil and gas brings us right now. This industry in 1956, King Huber who was one of the greatest oil geologist said to this industry you're going to keep in death in oil productive in the U.S. in 1970. He has proven to be right almost to the mark. Now we have another man, Matt Simmons, who's talking about gas depletion in this country. This is an industry that is done. It's over *[Applause]*. There are two industries that aren't done. One you might call the industry of democracy. That's the right of the many over the tyranny of the few. The other industry that is not done is renewable energy. *[Applause]* When you look at the money that is in the investment capital – that's the smart money in this country – in 1999 2 percent was devoted to renewable energy. Right now it's gone up to 12 to 15 percent. Santa Fe County if it says no to oil and gas clearly says no, can then say yes to the future because renewable energy doesn't damage water, it doesn't damage air, it doesn't damage land and most of all it doesn't damage democracy. It doesn't get into the control of our democracy. So let's think about democracy for the future. *[Applause]*

COMMISSIONER ANAYA: Thank you very much, David. Thank you.

LOUISE BAUM: Hello, my name is Louise Baum. I live out on Route 14 on San Marcos Road West. I want to thank all the people here in the front. I want to thank the timekeeper, that's a hard job.

My feeling is that we really need more time to work on this ordinance. *[Applause]* We need time for the study that the first ordinance required. Deep studies on the hydrology which is very complex. Everybody is talking about that. We don't know where the water is. We don't know where the aquifer goes. We don't know how it connects. It's a very complex maze of – anyway, there it is. The aquifer is not easy to understand. We need some deep studies of it. We need some deep economic studies. The person who talked about tourism in my mind is right on. I belong to an art gallery.

People come here to see this beautiful place. If it's no longer beautiful they will not come.

We need health studies. The people who live near oil and gas wells have had horrendous health effects not only from polluted water but from polluted air. From the huge amount of noise it makes. We also need something more adequate about monitoring. I think one inspector – and who knows why this inspector gets chosen as our Mayor said the oil and gas industry has a lot of power in the legislature and the in the Governor's office. We want more monitoring not just one inspector. [Applause]

Another issue that I think that is a big issue is first responders. Today in the paper there was an article about a suit being brought by not the people who were injured in a horrific gas explosion near the Pecos River in Carlsbad. It was the people who responded to it. The first responders were so traumatized by the suffering, a lot of death occurred, a lot occurred later of the family who were peacefully camping and those first responders are horribly affected by it.

Another thing I want to mention is a letter from Bob Gallagher which was also in the paper today. This man is a bully. He lied. I was at the Santa Fe County meeting when Steve Ross said we have a right to have a emergency moratorium and he says in this article that the Commissioner did not listen to their attorney. I very clearly heard the attorney say that we have a right to this moratorium, we can extend the moratorium. We need more time for this ordinance. We need these deep studies so that we don't look back in a year and say, "Boy, we sure missed our chance. We really regret now that so much bad has happened because we didn't write this ordinance well enough." I think it's a good start but we have to [Applause]

COMMISSIONER ANAYA: Thank you very much.

JOHNNY MICOU: Hello, my name is Johnny Micou. I'm with Drilling Santa Fe. [Applause] I will be making the comments brief. I am ceding my time to Mr. Douglas Meiklejohn of the New Mexico Environmental Law Center. I just want to point out that Drilling Santa Fe was begun to protect the County, all its resources from the ever impacts of oil and gas activities. Those impacts could change the city different. I just want to point out and it should come as no surprise that the battle, the oil and gas battle in Santa Fe County will be "The Battle Different."

COMMISSIONER ANAYA: Thank you, Johnny.

DOUGLAS MEIKLEJOHN: My name is Douglas Meiklejohn. I'm a lawyer with New Mexico Environmental Law Center here in Santa Fe and we represent Drilling Santa Fe. [Applause] On behalf of the more that 1,200 members of Drilling Santa Fe we urge the Santa Fe County Commission to extend the deadline for commenting on this ordinance. As we outlined in the letter that we delivered to the County Commission today, and as you know, the ordinance is very complicated and analysis of it requires not only technical expertise, it requires comparing the ordinance to existing state and county law an ordinances and more time than December 21st is necessary to do that.

We therefore urge that the Commission extend the time period for commenting at least to and including February 15th of 2008. Thank you very much.

COMMISSIONER ANAYA: Thank you very much.

ALEX VALENZUELA: My name is Alex Valenzuela and I live in Pojoaque but I lived many years in Madrid and the Cerrillos area. I have land on Red

Rock Road which is near the Galisteo River. I just want to share some of my personal experiences because I also lived many years in Lindrith which is in the oil field north of Cuba. The drilling company up there, Conoco, was doing a process calling "swabbing" which is where they clean paraffin out of the well casings. And some kind of solvent leaked into our ground water. My mother and three of our neighbors all became very ill from their well water. My mom almost died. Her whole body was covered with sores. Her hair started falling out. I was really upset about that. She called the EPA and they came out with a representative from Conoco. They said your water is fine. There's no problem. The 16-year old boy next door started breaking out in rashes as well. Everybody stopped drinking their well water and they've been fine since. But they said that the well water was fine. She has a filter on her well and I went to change the filter and there was blobs of grease on the top of the filter that smelled like axle grease.

There is crap getting into our water and they said everything is fine, just go on your merry way and drink it. I think that's the way these people operate. They don't care. [Applause] So if you're talking – my mother was an accountant for Williams Oilfield Service, they have product safety data sheets that they give to the pumpers out there. The product safety data repeatedly over and over and over warned about the dangers of benzene. The ill that my mother had according to her doctors were the symptoms of benzene poisoning. So that's a serious problem that should be considered.

Gas has leaked into peoples' wells, not just the chemicals but the actual gas. One person's well exploded. Their water well blew up and blew up their well house. My neighbor had a drilling rig set up 200 feet in front of his house they drilled a well. He was so pissed off he pulled a gun on the well drillers. He went to jail and they drilled the well and ruined his property.

One other thing I want to say is that you ought to go look at the crime rates in Farmington and Hobbs. Farmington has the highest incidence of rape in the United States because the use of methamphetamines is absolutely horrendous and it goes hand-in-hand with oil fields. [Applause] I have a lot of friends who are roughnecks, they work on drilling rigs and they're all strung out on methamphetamines and all of your land is not only going to go down in value we're going to move in mobile homes and you're going to have a bunch of speed freak trailer trash moving into your place. [Applause]

COMMISSIONER ANAYA: Thank you, Alex.

NICOLAS FROST: Nicolas Frost, resident of Eldorado.

COMMISSIONER ANAYA: I'm sorry, your name again?

MR. FROST: Nicolas Frost.

COMMISSIONER ANAYA: Thank you, Nick.

MR. FROST: Section 6.b. of your proposal ordinance: "Drilling operations must be conducted in such a manner that surface water and ground water will not be degraded or polluted." I content that prohibits expressly hydraulic fracturing as a technique. [Applause] It's not something that can be remediated. So what's missing in here is something along the lines of subsurface injection of toxic or hazardous chemicals is expressly prohibited.

In keeping with the synchronicity of the gentleman before me remarks, the EPA's list of fracturing fluids, benzene he already mentioned and I'm only read nine of these: naphthalene 1-methylnaphthalene, 2-methylnaphthalene, chlorines, ethylenes, aromatics, those are all one linear chill delivery system. Where frost is incurred what I call at the

anti-freeze, animals drink it, they die. People drink it they die -- active corrosion inhibitor methanol.

So why is it permissible to inject things that are toxic and classified as hazardous waste into the ground when we get our water out of the ground? [Applause]

BILL GILBERT: Identified himself as a 29 year resident of Galisteo Basin and was troubled that it appeared the Santa Fe County Commission did not share the opinions of the residents they represent. He said it was important the community feels the Commission shares their concerns. [audio difficulties]

COMMISSIONER ANAYA: Thank you, Mr. Gilbert. I'm going to attempt to answer that question. I know in the last meeting I stood up and said our new ordinance is going to be tougher than the last one or the old one. I still believe that today. I know that we have a draft out there. This Commission has not voted on this ordinance yet. And I guarantee you that this is a great ordinance and it's going to be even better once we get more comments. I would say again, like I said in the last meeting, that it is going to be a stricter ordinance for oil and gas.

I was born and raised in the Village of Galisteo and if I wasn't a county commissioner I would be sitting with you all -- but I'm a county commissioner and I have to listen to both sides and make a decision. And I know my late-father would say, "Mike, you do what you think is right." And I will.

I don't know if any other members of the Board want to speak on that, yes, Commissioner Montoya.

COMMISSIONER MONTOYA: I just want to say that in terms of philosophically I'm opposed to this drilling. We have to do it in terms of how we look at this ordinance like Commissioner Anaya said. But philosophically I can't support this for all the reasons that has been brought up in terms of the environment, the health and I'm not sure the economics are going to be worth the devastation that's going to be done to our -- so certainly that's where I'm coming from. We have to for government reasons listen to both sides.

COMMISSIONER ANAYA: Thank you, Commission. Just go ahead, sir, state your name.

JEREMIAH WESER: My name is Jeremiah Weser and I live in Eldorado. Thank you for getting this together for us.

I'd like to make a statement that has come to mind here. The prospect of gas and oil extraction in my neighborhood is bringing into focus a whole host of observations I want to share with all of you. First of all I feel regret for my passivity as I traveled extensively in South and Central America over the last three decades and did not decry being more forward with the devastation, the stealing, the cheapening of the political process. The desecration of the poor and indigenous people. They had no protection and they had to endure and they were wiped out by big oil. Whole neighborhoods all through the southern half of our world.

Now it is next door. I'm saying this because what is about to happen here in Santa Fe must be seen in this broader context. Over the past century oil cartels have claimed the same privileges under the law of the land that you and I have as individual citizens. These guys are gaming the system. They are not lawful and yet they are playing like they have everything under their law. With this one maleficent legal maneuver they have gaming our system.

We are fortunate we have a few very high integrity people like yourselves, I just trust you're going to be here fighting for us – to protect us and our environment from a handful of individuals who dream that they really own everything. Unfortunately, many of our officials are afraid of these people. They are so permeated, so impregnated into just the whole culture of New Mexico that there's too many that I'm concerned will not say, "No, we know what your history is the last 100 year. Back off."

We must all be equal under the law. Surface right owners and mineral right owners must have the same rights. [Applause] In the eyes of the oil company we are the present, constantly being assured that we live in a democracy. Where in common law, common law serves the good of all as the law of the land. Quite clearly this is rhetoric. At this point in time it is clear that neither do we live in a democracy nor are we protected from the few who devote themselves and their lives to undermining the law of the land so they can rip off and intoxicate the earth, the atmosphere and our water. [Applause]

I'm asking that you really work to buy back the mineral rights that you gave away basically, 40, 50, 60 years ago.

I was born in Indiana where there are thousands of wells that were contaminated.

COMMISSIONER ANAYA: Thank you, Jeremiah.

EDUARDO KRASILOVSKY: My name is Eduardo Krasilovsky and I am living in Eldorado. I'm basing my comments on what I heard, what I read in the newspapers and emails. And I'm going to focus only on the few pieces of parcels or the problems that we confront today.

It is known that the County government is afraid of being sued. Your fear is expressed in the new ordinance you drafted so I want to say a few things about fear. I am also afraid of corporations but mainly because they are lifeless paper entities that happen to be [inaudible] they also have acquired considerable rights where there are no obligations or responsibilities under the constitution. Let's remember that paper entities cannot care about life that their only concern is about money. Therefore, our real problem today is uncontrolled corporate power even by the federal government – our problem is not oil and or water pollution [Applause].

Let's take a look at what fear can do to us. Because of fear you gave up your right and obligation to protect our water as expressed in that draft regulation. You cannot protect our land. You don't protect our health and that of future generations. In addition you also failed to protect your planet from one of the main causes of global warming on a [inaudible] collapse. [Applause] We're about a 100-year for life of millions of people around the planet have been at the mercy of oil corporations and the governments that supported them. Today it is corporations that come back home. Is it now our turn to be at their mercy? It seems so to me because for all practical purposes you are abandoning us to their will. Do you realize that your fear has become our worst enemy? That because of fear you have given up the power of your office and thus you may render county citizens powerless [Applause] to protect themselves, their children and their grandchildren.

I have just two requests from you. First, to unconditionally protect our water. It has to be put on black and white in simple and clear terms. You need to pass legislation that will effectually protect our water against any activity by anybody or entity that could potentially contaminate it.

The fact is that we don't need to try for more oil or gas because we do have all the technological knowledge to begin right now to replace them with healthier renewable resources.

COMMISSIONER ANAYA: Thank you, Eduardo, thank you.

ALAN SOICE: My name is Alan Soice and I live in Santa Fe County and it's incomprehensible to me that anybody would go forward with rationed towards allowing drilling in Santa Fe County after hearing a lot of the statements that we've heard. I mean does anybody want to see their mother sick and dying from benzene poisoning? Is there any excuse for that?

You have heard overwhelmingly from the citizens, taxpayers and voters of Santa Fe County that we want stronger more protective regulations on drilling. As elected officials you're suppose to represent our interests not outside commercial interest. [Applause]

It all comes down to our water. This is finite and not replaceable. There is no guarantee that drilling will not pollute our aquifer. If this happens you've effectively destroyed our lives and homes. Does the County and Tecton have any solutions for replacing our water after it has been wracked with carcinogenic pollutants?

We've already told you loudly and clearly in these meetings that since there is no guarantee of our invaluable water resources being protected from toxic contamination, we want no drilling. [Applause]

COMMISSIONER ANAYA: Thank you.

TRACY RAGEN: My name is Tracy Ragen. I live in Cerrillos and I'm a volunteer for Drilling Santa Fe. I'm going to give the front of the room a break for three minutes and I'm going to appeal to the back of the room.

COMMISSIONER ANAYA: No, please face us. Thank you.

MS. RAGEN: If you want to get more involved and I know for me I'm always wondering how can I help? What can I do to make a difference? There are some things that each one of us in the room, including anybody at the front of the room, can do to help. Number 1, we have a letter that we have prepared that urges the panel to extend the deadline from December 21st. Everybody in this room needs to go up to the front tables and sign that letter. We will turn that in to the Commissioners. In addition if you didn't want to stand in line like I did for the last two meetings, there's comment sheets that will not be reviewed by Tecton and instead will go directly to the Commissioners. We won't even read them. Please leave them in the boxes.

On December 8th we urge the entire panel up here to attend the December 8th peaceful march that will be happening I believe it is on Washington and Federal and 10 in the morning. And, finally, pick up as much information as you can. There is quite a bit of flyers up there that have really valuable information; how you can get involved, how you can donate funds to Drilling Santa Fe to help legal funds and other information that will be useful to keep you involved. Thank you. [Applause]

COMMISSIONER ANAYA: Thank you.

BARBARA BRIGGS: Good evening. My name is Barbara Briggs. I live off Goldmine Road or County Road 55 in Cerrillos and my questions are addressed to the County Commissioners. Are you aware that there are at least 630 permitted wells in the area under lease to Tecton Energy and that 265 of them are in the Galisteo Basin? I checked with the Office of the State Engineer and the area I was measuring was from CR

42 to the north, Madrid to the south, Highway 14 to the west and just short of Galisteo to the east. There are other sections that have been leased by Tecton but those records aren't available at the County offices perhaps because they have to do with leases between Tecton and BLM.

Are you also aware that a lease between Blue Door Inc., this is a Colorado corporation and Tecton Energy that lease I think pertains to land around County Road 55 B includes prospecting and drilling for and producing oil, gas, methane, coalbed methane and all gas originating or produced from coal seam to coal seam and that they assert not to develop a well within 500 feet of a dwelling or barn. Are the well figures not indicative of a populated area where there is no safe distance between oil and gas wells and water wells. And if the Galisteo Basin not deemed or zoned as a residential urban zone as indicated in your new ordinance, if so, this area is precluded from allowing oil and gas drilling.

I understand that in a residential urban zone there is no room for commercial oil and gas operations. Also, if all of us property owners choose to put our land in conservancies and I address this to Steve Ross, we are not trying to get out from paying our property taxes, but would that preclude any oil and gas drilling from any operations on the surface? Thank you.

COMMISSIONER ANAYA: Steve, or any member of the panel, the 360 permitted wells, I hadn't heard anything like that. Oh, you're talking water wells. And then tell me about the Blue Door Inc, in Colorado; have you heard anything on that?

MR. ROSS: Madam Chair, no I have not. But it's really common for operators to employ other companies to gather up oil and gas leases and put them together and then the company itself operates those leases.

COMMISSIONER ANAYA: Then the last question was the conservancy.

MR. ROSS: I didn't really understand that questions, Commission.

COMMISSIONER ANAYA: To put their land –

MS. BRIGGS: -- in a conservancy would that preclude any commercial surface operation?

COMMISSIONER ANAYA: We'll have to check into that one for you. Thank you.

HEDY BURBIC: Hi, my name is Hedy Burbic and I live in Eldorado. I've been here 10 years and I moved here from the east coast. One of the reasons was the quality of life to get out of New Jersey. Now I'm going to say this is going to come to pass, this is reality – I don't want it to happen either but I have a specific question which is a take-off on a prior question. First of all, and if you don't have an answer then you don't tonight, but if you're going to have an oil and gas inspector how would you go about getting that individual?

[Ms. Burbic stressed her concern for the quality of life and health of the earth.]

[Audio lost when radio announcer left the air]

BETSY BRANDT: -- if they successfully have demonstrated that it is a non-commercial oil well. So I would like to ask you then, Steve, why you're so afraid of a taking lawsuit when no supply has been proven in this basin for 88 years? [Applause]

MR. ROSS: Ms. Brandt, I'm not afraid of a taking lawsuit.

MS. BRANDT: Is that why you got the well being drilled 200 feet away from our water wells?

MR. ROSS: Ms. Brandt I explained that earlier, we think that the effective setback for a water well given the residential setback is about half a mile.

MS. BRANDT: You made the statement that many wells are drilled very close to houses. In our area they're drilled 1,000 to 1,500 feet away in the arroyo so they're not necessary close to the house. And the only other thing that I would like to say is that we're already drinking water down to 1,000 feet and really our aquifer goes down to around 2,000 feet -- for the future we're already drinking at 1,000 -- where they're injecting at basically at 2600, they are very shallow formations so we don't have much space in between where our water that we're drinking and where they're actually trying to find water and it's very faulted and connected as well. So this is the concern, the connectivity and how close we are.

MARK MARQUEZ: Good evening. My name is Mark Marquez. I would also like to urge not just the County officials with the ordinance but the State officials and City officials to all get together and make this ordinance -- combined with all agencies. It's important. It's huge.

If we don't look at your footwork right now and your groundwork and how strict you can make it -- I live just two blocks that's City Council District 4 and County Commission District 4 -- I believe that if they do find the oil, which I hope they don't, they're not going to stop. They just started. What's going to happen next is we're going to start having oil wells in every single city district in every single county district. The stronger we can make this law, hopefully, the better for our future. Thank you.

COMMISSIONER ANAYA: Thank you, Mark.

PHILIP YOUNG: Good evening, thank you. I'm Philip Young. I'm an archaeologist with the State of New Mexico but tonight I'm here as a citizen of Santa Fe County. I want to speak on behalf of our cultural resources and heritage tourism which we've already heard a little bit about.

I've been active in a stewardship group that works in the Galisteo Basin and as many people know it took about 40 years to pass the federal Galisteo Basin Archaeological Sites Protection Act. There's about 25 sites already identified in that area pretty specific as far as their protection. What isn't well known is that some of the recently looted sites that have been vandalized with unauthorized excavations in the Galisteo Basin are on private lands and also on Santa Fe County Open Space land.

About seven years ago I retired from a 30-year career as a federal agent. I was the coordinator of an archaeological resource protection task force here in New Mexico and it was my experience as we also heard here that there's definitely a nexus with methamphetamines in the oil field areas that also bleeds over into the looting and archaeological thief area. Some of our undercover operations resulted in 12 indictments and convictions and 100 percent of the individuals were under the influence of methamphetamines, over half of them were oil and gas field workers here in New Mexico.

Because open space land here in Santa Fe County has had unauthorized excavations on them within the last few months, my question for the county is how are we going to plan to protect these unrenewable resources, sensitive heritage resources, from the future when they get hit in the future? Who is going to investigate them and who is going to protect them?

CHARLES STUP: My name is Charles Stup and I live in the subdivision of Rancho Viejo out in the Lone Butte area. I'm an engineer and I used to work in the oil

industry and did for a number of years. I tell you that to inform you that I don't have an inherent bias against the oil industry. I know as public officials you have the obligation to balance the various interests and we have that taking place at the national level that the balance of the oil industry and other interest and the state level. At the county level, at the local level, your electorate is those that you have an obligation to and only those. You have this group, I think it clearly does not represent a minority of your electorate.

The majority of the people in Santa Fe County are opposed to having long-spread oil and gas exploration and a threat of their tourism industry and the impact and harm. I know that you're limited to what you can do because things are regulated at the state level and the national level and as Mr. Ross said you're doing it as a zoning ordinance, then to me it's very clear that you have a mandate from your electorate to do everything in your power to make that as strong as you can to hinder to the limits of the law. That is the mandate. It should be the mandate and is clearly your mandate. If there are provisions within the current ordinance that are not contrary to the current law there is absolutely no reason to relax them. And if there are things that you can do to strengthen them within the power of the law, you should do that. That's what your electorate wants you to do.

I want to address one particular issue and that is the bond. I currently do a lot of work for bonding companies, cleaning up messes of people that they have bonded that haven't done their job properly. There is a big difference between a bond and insurance. A bond is for your site specifically. Insurance, a company has that and it's for every where in the whole country. You're sharing the same pool. If they have litigation, defense cost, the cost of attorneys comes out of your proceeds and you get what's left. On a bond it's all for you and your project and \$50,000 doesn't go very far. Maybe in 1935 it did. But it certainly doesn't in 2007. That limit is ridiculously low.

To get an insurance policy all you have to do is pay the premium. To get a bond you have to go through underwriting and to personally indemnify the bonding company. So if there's a loss you reimburse them. So there's a personal responsibility beyond corporate responsibility and that's really essentially in terms of people standing up and doing the right thing.

I have just two questions. One is – [time expires]

COMMISSIONER ANAYA: Thank you very much. Okay, it is 8:30. We were going to stop this meeting but I think what I would like to do, if it's all right with the panel, is to ahead and hear the rest until 9 o'clock. I'm going to give you two minutes because we all want to hear your concerns. Okay, please go ahead and it's two minutes.

DAVID ROTHMAN: Hi, my name is David Rothman. I'm a student here in Santa Fe. You know Santa Fe is our home as we all know that. I got to say that I've been really inspired by the people that are here today but also I feel like the place for this conversation really is that we need to look long-term. I'm 23 years old and I hope one day to have a family and raise my family here and hopefully my kids can have a family and if we start to look at the way we're handling internationally these kinds of decisions about oil, about gas and other development it's not sustainable. And when we talk about our own lives and what that really means it's serious.

I heard Santa Fe County attorney Ross speaking about the monies that will be set aside to clean up the aquifer if it's contaminated. What do you do to clean up an aquifer

if it's contaminated? [*Applause*] I would encourage our County Commissioners and everybody involved in this process to be as stringent as possible with these laws to make our community an example for communities all around the United States that are fighting this battle.

COMMISSIONER ANAYA: Thank you, David.

STEVE TAYLOR: My name is Steve Taylor from Cerrillos. I have a question on the setbacks. Currently Tecton is touting that they have this great drilling technology. They can use directional drilling. Because of that why are we just limiting them to half-mile setback? Shouldn't that be more like a mile or two miles back from a residence or a well? I think that that's something that they have the technology to do and I'd like to see that occur.

Also, on the ordinance, is this ordinance going to apply retroactively to Black Ferrill number one or are we kind a bound with having Black Ferrill number one around and running forever?

COMMISSIONER ANAYA: Steve, the first question was the setback?

MR. TAYLOR: Yes, for the setback can we make it stronger instead of half-mile make it one mile?

COMMISSIONER ANAYA: Because you talked about directional drilling?

MR. TAYLOR: Yes, because of the technology that Tecton has. And then the second question was having to do with Black Ferrill number one, if this ordinance is going to apply to Black Ferrill?

COMMISSIONER ANAYA: Steve, do you want to tackle that one?

MR. ROSS: Commissioner Anaya, I think we have to ask Tecton or some firm or perhaps it would be OCD about the limits of directional drilling. I know there are limits. You can't drill here in the gym and reach down to Galisteo for example. I know that there are limits but I'm not familiar with what they are. We're going to have to get some advice if we look at increasing setbacks on that basis.

The Black Ferrill well, we've taken the position that that is essentially grandfathered because of the zoning that it achieved not under the current land development code and not under the predecessor of the land development code but on the predecessor of that code that has well has been producing continuously from that time. So I think they could argue that that well isn't going to be subject to some of these regulations.

But these folks up here have certainly not been shy during the permitting process to ask developers and folks asking for permits for things to make exceptions to those rules and I'm certain that they're going to be asked that question: Whether they will voluntarily place the Black Ferrill well under the current ordinance?

MR. TAYLOR: I have some more time. Just another – before Betsy Brandt talked about the existing 44 wells that are out there, does this ordinance apply to those old wells that are considered dead?

MR. ROSS: Steve, those wells are plugged and abandoned. We've been taking the position that reentry of a plugged and abandoned well for the purposes of the County ordinance is creating a new well and those wells would come under the new ordinance.

GREG BERGBARK: My name is Greg Bergbark and I'm relatively new to this basically heard about it, it must have been three weeks ago on the radio. But I have one comment that hasn't already been more than adequately and well said.

Have all the Commissioners been to the Artesia/Hobbs/Carlsbad region? Have you been down there?

COMMISSIONER ANAYA: Yes. I believe so.

MR. BERGBARK: I worked down there in 2004 and I noticed that basically the air even in Carlsbad which is a fair distance even away from the Artesia oil field has a noticeable odor. You're about 15 miles away from the Galisteo Basin here in Santa Fe, I just – oh, I'll read this one paragraph since almost everything else has been covered.

Is there anything about the fact available right now in Artesia, Hobbs and Carlsbad area that indicates the development of oil and gas in the Galisteo Basin won't yield the same or different odiferous noxious result for Santa Fe and its environment and it's close approximately 15 miles the crow flies and the prevailing winds actually come from the south and will eventually – it'll probably take a lot of time but what's to say there won't be a refinery built also.

COMMISSIONER ANAYA: Thank you, Greg.

FRANK HERDMAN: My name is Frank Herdman. I'm an attorney here in Santa Fe and I represent two of the property owners whose properties will be directly affected by the proposed exploratory wells.

I also as part of my law practice – a significant portion of my law practice is devoted to zoning and land use matters. I represent private individuals but I also represent one of your neighboring counties to the north, Rio Arriba County as well as the Town of Taos. I represent those entities in preparing, adopting and enforcing ordinances including Rio Arriba County's sand and gravel mining ordinance as well as the adoption, enforcement and extensions of moratoriums. So I'm very much familiar with the law as it applies to moratorium.

I have a lot of comments and I have a lot of concerns about this ordinance but time does not permit me to address a single one of them. Instead I have this to say: The time lines that you have adopted are far too aggressive and unrealistic for this [Applause] for this to be done right. Take it from someone who does it for a living, it cannot be done. It cannot be done well. It could not be done under the best of circumstances. It cannot be done during a holiday season. In addition, as I'm sure your competent attorney Steve Ross has told you, the law of moratoriums in New Mexico is very much on your side. Do not be kowtowed or influenced by veil threats from Tecton and its attorney. [Applause]

I know, Steve Ross know, that the moratorium you adopted could be extended for an additional three months easily, if not more. We would all request of you that you extend that moratorium. Do so now to send a strong message to Tecton and this community that you're going to do this right and extend the public comment period until at least February 15th. [Applause]

COMMISSIONER ANAYA: Jan, please go ahead.

JAN WILLEM-JANSENS: My name is Jan Willem-Jansens and I am executive director of Earthworks Institute. I have been a resident in Santa Fe County for 14 years and I've been working on the Galisteo Watershed on watershed restoration for

the last 10 years. I want to speak here on behalf of the riparian areas, plants, animals, water and soil. There is a weakness in the proposed ordinance that it only focuses on wetlands as defined by the Army Corps of Engineers and that is extremely limited. The Bush Administration has reverted a lot of the definition of wetlands under the Army Corps and it basically excludes most of the wetland and riparian zones in the Galisteo Watershed. The problem is that we actually need to focus on what the US EPA and NMED define as watershed or wetland and riparian areas and then we see that many more areas in the Galisteo watershed should be protected.

In the Galisteo watershed we're looking at four eco regions of New Mexico coming together with all their wildlife going back and forth and that is not something to be overlooked because basically it connects the northern mountain area with the southern sky islands and the eastern plateaus of the Rio Grande Basin. Most of the wells are in or close to the riparian zones and wetland areas or there are wet meadows adjoining them.

Like the railroad 100 to 120 years ago which was the major last destruction source of the riparian zone we're still working on restoring that impact. If we are looking at the impacts of oil and gas do we want to work another 100 or 200 years? We have been looking at \$1 million more just in the last 10 years of federal and state funding that we have received. Many millions have been invested by private landowners and Santa Fe County for the protection of open space and riparian areas and those things in the Galisteo Watershed. There will be totally undermined if the oil and gas development continues.

COMMISSIONER ANAYA: Thank you, and we thank you for the work that you do on the watershed. Carolyn, you made it back up.

CAROLYN STEVENSON: Carolyn Stevenson. By declaring critical management areas strictly limiting oil drilling and other wrongful uses we insist upon the primary importance and value of clean water sources for our very lives. With these protections based on water availability and quality we send a strong message that we're really serious about our water here.

The new pressure from oil and gas exploration endangers the way we have lived in this region for the last 400 years. The impact of drought and roads are a reality. Should we be adding new industrial water burdens to an area where the demand already exceeds the available supply especially when those burdens are known to carry the risk of contamination of existing aquifers. While oil exploration companies may claim that our aquifers are not threatened by contamination from oil protection, Lea County is an example to the contrary in our own state. Our local governments have shown the ability to take the action to protect and promote the public good even when that action may have adverse effects on some individual property rights. Example of this range from the closing of liquor drive-up windows sales to escarpment construction restrictions. Despite the powerful lobbying efforts of the vested interest, courageous citizens prevailed. Not only did no harm ensue but also every one has benefited from this higher quality of life that has resulted.

I just one to add one thing regarding the bonding because I think it's really a huge issue. Bonding is a claim and that is immediate – insurance [time expires]

COMMISSIONER ANAYA: Thank you, Carolyn. Thank you.

JERRY HELD: My name is Jerry Held. I'm a physician and I live in Santa Fe. I work for Presbyterian Health Care in Española. I wanted to thank the County

board for extending such an open invitation to Tecton and the Tectonites to come to Santa Fe County.

I went to medical school a number of years ago and when I went to medical school my major goals were to make a lot of money and see a lot of disease. A lot of blood, a lot of cancer, a lot of asthma, a lot of M-stage disease in families and children. I wanted them all to come to my office cause I just love to pathology in people. I've had the good fortune over the past 15 years that I've worked as a doctor to benefit from the oil companies, from the gas companies and the mining and uranium companies. I've worked in southern California heard their promises coming to drilling just outside the coast and their promises not to cause any harm. I've been lucky enough to see all the young children with leukemia, the 30-year old women and girls with breast cancer, the young 50 year olds with colon cancer and lymphomas and I've been able to make a lot of money from that. And I appreciate that.

Then I was able to go to Arizona, northern Arizona, and work on an Indian Reservation where the company's gun came in and said, 'Uranium drilling it was bad in the past but now we have cleaned up our act.' And, again, I was fortunate enough to see leukemia's, cancers, and lung cancers – oh, so many terrible things come into my office. I again thank you.

Then I was able to work again in Hobbs and – [time expires]

COMMISSIONER ANAYA: Thank you, Jerry.

ANDY BRAMBLE: My name is Andy Bramble. I have a few questions. What sort of provisions do you have for heavy truck traffic should it come to that? How can you regulate with that in a zoning ordinance? That's for the County attorney.

MR. ROSS: Briefly, there are a number of provisions in there that talk about roads and transportation. If heavy truck traffic is required, we want to know what traffic – what kinds of trucks are going to be used; how heavy they are; how they are permitted and if they're going to damage roads they need to deal with that in the sense that if a road needs to be improved, they need to improve it and if it's damaged, they need to fix it.

MR BRAMBLE: Is there a limit? Is there a limit on how many trucks can go through?

MR. ROSS: The limit would be established in the permitting process. Yes, there would be a limit.

MR. BRAMBLE: My other question is about the Oil and Gas Association, Bob Gallagher who other people have talked about here tonight has been blowing a lot of steam in the papers here lately. First of all, if the Oil and Gas Association is threatening or in any way coming down heavy on any of the officials here we want you to know that we will support you against them. [Applause] Bob Gallagher has made it quite clear that he doesn't care about us. What I want to know is, is there any possibility that the Oil and Gas Association could eviscerate OCD? Or in some way bypass local zoning laws?

MR. ROSS: I doubt it.

RON STRAUSS: My name is Ron Strauss and I live in Eldorado and I work with water and wastewater and soil remediation. My concern is with the water supply and that's what it comes down to. I think that your job is to represent us and have

the strength, the imagination, the commitment to come through for us. You are our representatives and that's the important part.

I think water law trumps money completely. [Applause] It's older and more basic. If we ruin the water we're gone. It doesn't matter how much water there is there.

COMMISSIONER ANAYA: Thank you, Ron.

CRAIG WINGATE: Hi, my name is Craig Wingate. I live at 3261 Highway 14 just north of Cerrillos. I am loosely affiliated with every grassroots organization fighting this so you can list them all.

I have a primary concern which is the water. I have brought a map here in support of the one that Betsy Brandt showed a little earlier. This map comes from *Oil and Gas Exploration in the Santa Fe, Galisteo, Hagan area of New Mexico*, written by Bruce Black. We all know Bruce the original Shell geo-hydrologist, the current consultant to Tecton, the original owner of Black Oil, the original driller of Black Ferrill 1, 2, 3, etc. Bruce Black has identified this geologic formation as being in red – I have only one minute left so I will speak very quickly.

[Using a map] Unfortunately, this issue has been covered in the press and has been localized by many to be focused in the Galisteo Basin. Here is the Galisteo Basin right here. The formation that Bruce Black identified in published in the *New Mexico Geological Society Guidebook* and has authored multiple articles since that time up to the year 2000, indicates that this is the geological formation. He did not go any further north than Santa Fe. The black marks are his. This is in Bruce Black's own hand. This is the area that is at risk. The strategy to open up initial test wells down here, to local it and say it's only Galisteo Basin that is at risk and have a small amount of people – [time expires]

COMMISSIONER ANAYA: Thank you.

LEE CORRALES: My name is Lee Corrales and I've lived in the Galisteo Highway my whole life, second-generation gringo native. And listening to everyone here tonight we've all chosen the same road. It seems like we have two roads ahead of us. One is death and we choose life. Clearly, oil and gas is creating death throughout all of us and I have one thing that I care about and that's my children's future. Consciously in your hearts as our elected officials and commissioners, how can you consciously choose to go for this drilling when you know that it is creating havoc on our land and on the water and for our future and your future.

I am asking you to stand up and say no to these big boys. For once, be the leader that you are and create the future that we have in renewable energy, solar, wind and other technologies and stand up for your rights. Let them sue us. It's our money anyway. We are the people. We give you the money because we are the people. So listen to us right now and I hope that you look into your hearts and make the right decision.

CONSTANTINE ALATZAS: My name is Constantine Alatzas. I have a business here in Santa Fe called the Institute for Creative Evolution. I want to follow up on what that gentleman just said. I grew up in a large community in a neighborhood called Elmhurst. In 1960 all the elm trees that were the namesake of that town started dying. By 1970 there wasn't one left. These were hundreds of years old trees.

I don't know why we are still considering proposals like that. Yes, a tax base, but we need a new tax base. This, again, this is about death and destruction. Our trees lead the way and all the other species that we have left behind lead the way. We understand this very clearly. How come, this is the question, how come – have you been asleep?

What is happening is cataclysmic. Let's start a new direction. There are some bold communities in the United States that are facing it: Berkeley is offering solar systems to all of the city residents and they're financing solar systems for all the residents of Berkeley. The incentives that Minnesota gives are incredible for a system that would cost \$20,000 the end result for the consumer is only \$5,000 for tax rebates and outright money given to those people.

I am very grateful to the turnout today. We need to stand united. We need to vote. We need elected officials that are not in bed with the industry. [Applause]

MARIANNA HATTEN: My name is Marianna Hatten and I live near Cerrillos. For all of the listeners on the radio and the TV that are not present to be counted tonight as constituents, as concerned, as opposed to this oil and gas development I urge you to call that station that you're listening to after the program tonight or tomorrow and let them count the number of additional people that heard this meeting tonight. Also if you haven't yet written, please, let our elected officials hear from you. If you need to know more information, tonight was a good start. There are a lot of other resources such as Drillingsantafe.org; Santa Fe Not Oil and they have wonderful resources on their website.

Now my question, we're spending a tremendous amount of time and energy not to mention money comes into play at some on an ordinance to try to minimize the impacts of something we don't want anyway. Something that is incompatible with a rural residential area. It's incompatible with the map that Craig just showed. It is incompatible of \$1 billion tourism industry and I beg you to just say no. My question what would it take to write the zoning ordinance to zoning does not permit oil and gas development in this area? [Applause]

COMMISSIONER ANAYA: Steve, would you like to answer that question?

MR. ROSS: Commissioner, I thought I answered the question before – it's highly doubtful that the County could outright ban this industry from the county.

MS. HATTEN: I could not hear your question because of the boos and hissing – I mean your answer. Could you please repeat it, Mr. Ross.

COMMISSIONER ANAYA: I believe what he said Marianna was that the County cannot outright ban oil and gas. The County is the regulators of oil and gas.

MS. HATTEN: Then make the hurdles even harder.

COMMISSIONER ANAYA: I hear you. We have time for one more person to speak and then we're going to wrap this up.

ROSEMARY STRUNK: My name is Rosemary Strunk. I'm an attorney. I've spent my whole life dedicated to actually doing a good job. I have worked within many industries and generally in-house, inside the companies. I've had the pleasure to work for companies who care about their employees, who care about the business and the community in which they are. Some of those companies have been large and some of them have been small and international. The point I have here is that we're dealing with an industry that doesn't give a shit. They have demonstrated that over and over again, over decades. The meth use is high. We have no regulatory environment within the state to deal with it very well through OSHA. Having served in the capacity as the lawyer for OSHA for a time period. I've had the pleasure of serving in the capacity of the Realtors

Association's attorney statewide and now I do business and commercial law in Albuquerque but I live in Santa Fe.

The property I have is on 55 B. It's two miles from the Ferrill well. It has Pueblo and Native American ruins from 900 AD to about 1500 when it was abandoned. I have building sites specifically archaeologically surveyed so I don't disturb any ruins, burial grounds, etc. This is our time to say no. I invite you - you know I want you to know that I have the personal pleasure and experience of knowing some of the different commissioners and I thank them for their public service. They are not doing it for the money that we pay. We pay them about 5-cents for their time.

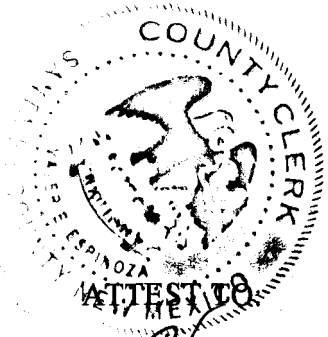
COMMISSIONER ANAYA: Rosemary, thank you very much.

We're going to wrap this up and I want to thank you all for coming this evening. I'd like to thank County staff. What I'd like to do is that the people who weren't heard we'll write your names down and on January 7th that's the first public hearing, we'll take you first.

I want to thank the panelist for answering questions and please have a safe drive home.

ADJOURNMENT

Commissioner Anaya declared this forum adjourned shortly after 9 p.m.

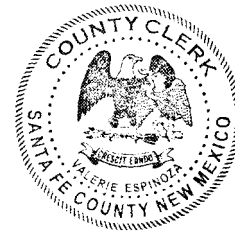


Valerie Espinoza

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Approved by:

[Signature]
Board of County Commissioners
1/29/08



Respectfully submitted:

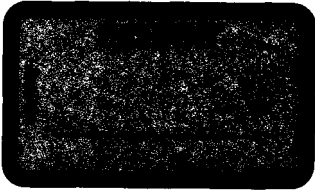
Karen Farrell
Karen Farrell, Wordwork
227 E. Palace Avenue
Santa Fe, NM 87501

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 74

I Hereby Certify That This Instrument Was Filed for Record On The 31ST Day Of January, A.D., 2008 at 15:53 And Was Duly Recorded as Instrument # 1514032 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Marcella Salazar Valerie Espinoza
Deputy County Clerk, Santa Fe, NM



ERK RECORDED 01/31/2008

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

ORDINANCE NO. 2008-

**THE SANTA FE COUNTY OIL AND NATURAL GAS ORDINANCE; AN
ORDINANCE GOVERNING OIL AND NATURAL GAS EXPLORATION,
DRILLING, PRODUCTION, ABANDONMENT AND REMEDIATION;
ESTABLISHING THE POSITION OF OIL AND GAS INSPECTOR;
PROVIDING FOR ZONING OF OIL AND NATURAL GAS FACILITIES AS A
SPECIAL EXCEPTION PURSUANT TO THE SANTA FE COUNTY LAND
DEVELOPMENT CODE; PROVIDING LOCATIONAL CRITERIA FOR OIL
AND NATURAL GAS FACILITIES; REQUIRING A DEVELOPMENT PERMIT
FOR ESTABLISHMENT OF OIL AND NATURAL GAS FACILITIES;
ESTABLISHING PROCEDURES AND SUBMITTALS FOR OBTAINING
SPECIAL USE PERMITS AND DEVELOPMENT PERMITS FOR OIL AND
NATURAL GAS FACILITIES; ESTABLISHING BONDING AND INSURANCE
REQUIREMENTS; PROVIDING FOR PENALTIES AND ENFORCEMENT
PROCEDURES; PROVIDING STANDARDS FOR EQUIPMENT, OPERATIONS,
STANDARDS AND PRACTICES AT AN OIL AND NATURAL GAS FACILITY
INCLUDING EMERGENCY PLANS, PROCEDURES AND EQUIPMENT,
DRILLING, PRODUCTION AND REMEDIATION, NOISE AND NUISANCES,
APPEARANCE, WATER, ROADS, LIGHTING, OPERATING HOURS,
CULTURAL, HISTORICAL AND ARCHEOLOGICAL RESOURCES, SPILLS
AND LEAKS AND TEMPORARY AND PERMANENT ABANDONMENT;
PROVIDING FOR APPLICATION AND ANNUAL FEES; AMENDING A
PORTION OF SANTA FE COUNTY ORDINANCE 1996-1, ARTICLE III,
SECTION 5.2, DEFINING "MINERAL."**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY:**

ARTICLE 1 - GENERAL

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the "Santa Fe County Oil and Natural Gas Ordinance."

SECTION 2. PURPOSE.

This Ordinance is enacted to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of present and future residents of the County. It is the County's intent by enacting this Ordinance to permit the development of

oil and natural gas resources within the unincorporated areas of the County while also mitigating potential land use conflicts between such development and existing as well as planned land uses. It is recognized that under State law, the surface and mineral estates are separate and distinct interests in land, that the interests may and often are severed, and that the mineral estate is the dominant estate. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests. Similarly, owners of the surface estate have certain legal rights under common law and pursuant to the Surface Owner's Protection Act, NMSA 1978, §§ 70-12-1 through 70-12-12 (2007), including protection of existing surface uses and protection from or compensation for adverse land use impacts associated with the development of the mineral estate.

SECTION 3. COMPLIANCE WITH ORDINANCE REQUIRED.

No person shall engage in any work or construct any Oil and Natural Gas Facility in violation of any of the provisions of this Ordinance and relevant provisions of the Code.

SECTION 4. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicated a difference meaning:

A. *Abandonment* means permanent abandonment of a Well or an Oil and Natural Gas Facility, as established by the filings of the Operator or Owner with the OCD, from production records maintained by the OCD and the Taxation and Revenue Department, and from information gathered by the Oil and Gas Inspector. The County may presume abandonment of an Oil and Natural Gas Facility based upon: (i) nonuse or the lack of any production for one (1) year, as established from records of the New Mexico Taxation & Revenue Department; (iii) plugging and abandonment of a Well; or (iv) an Oil and Natural Gas Facility that is out of compliance with regulations of the OCD or this Ordinance for one (1) year.

B. *The Administrator* is the Director of the Land Use Division of the Growth Management Department, Santa Fe County, or any person subsequently assigned to perform substantially all of the functions exercised by that person.

C. *Agricultural* means property currently used for farming or ranching purposes, including pasture.

D. *Closed Loop System* means a system for drilling that utilizes a series of completely enclosed steel storage tanks that separate liquids and solids instead of a Reserve Pit.

DRAFT, SANTA FE COUNTY ATTORNEY'S OFFICE
11/27/07

E. *Code* means Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended) and any successor ordinance.

F. *Collection Line* means a pipeline that collects produced or waste water and transports it to a central disposal area.

G. *Compatible* means that uses can exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

H. *Completion rig* is a drilling rig or a Workover rig used to complete or service a Well.

I. *Compressor* is a device in which the pressure of a gas is raised for transmission through pipelines.

J. *Compressor Station* means an installation consisting of one or more individual compressors, located on a gathering or transmission line, or both.

K. *County* means Santa Fe County, New Mexico.

L. *Cultural, Historic or Archeological Resource* means Historic Sites, Cultural Sites, Archeological Sites and Landmarks that are designated by the State of New Mexico. A list, called the Official Register of Cultural Properties, and the list of the National Register for Historic Places, are on file with the Administrator.

M. *Gas well* means a well having a pressure and volume of natural gas; specifically, producing methane, often in combination with a variety of other substances such as butane, propane and carbon dioxide.

N. *Gathering System* means a system of pipes, auxiliary tanks and other equipment used to move oil or natural gas from the Well to a Tank Battery or to the main pipeline for eventual delivery to a refinery.

O. *Lease* means any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an Operator or a person or entity holding title for the Operator, but which, due to the free royalty ownership, is developed and operated as a separate tract.

P. *Lessee* means a person, corporation or other legal entity that has been granted a Lease from the Owner.

Q. *OCD* means the Oil and Gas Conservation Division of the Energy, Minerals and Natural Resources Department of the State of New Mexico, or any successor agency.

R. *Oil and Natural Gas Facility or Facilities* means:

i. An individual Well and the surrounding site built and operated to produce crude oil and/or natural gas, including auxiliary equipment required for such production (i.e., separators, dehydrators, pumping units, tank batteries, tanks, metering stations, and other equipment located within the perimeter of the well site);

ii. A Compressor Station and associated facilities that serve one or more wells employing engines and/or motors;

iii. A water injection station and associated facilities;

iv. A storage or construction staging yard associated with an Oil and Natural Gas Facility;

v. A facility related to the production of crude oil and/or natural gas which contains engines and/or motors;

vi. A Gathering System consisting of crude oil or natural gas gathering lines or water lines;

vii. Any facility associated with a Gathering System or water Collection Line, such as a drip station, vent station, pigging facility, chemical injection station, transfer pump station and valve box;

viii. A gas treating facility that serves multiple Wells or Gathering Systems; and

ix. A pipeline for which the power of eminent domain is available.

S. *Operator or Owner* means that person, corporation or other legal entity possessing the legal right to develop oil and gas resources or any other use proposed in connection therewith for the site in question.

T. *Platted Subdivision Lot* means any lot created pursuant to State law and the Code.

U. *Pollution* means the contamination or other degradation of the physical, chemical or biological properties of land, water or air, including a change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance onto the land or into the water or air that will, or is likely to, create a nuisance or render such land, water or air harmful, detrimental or injurious to the public

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health, safety or welfare, or harmful, detrimental or injurious to domestic, commercial, industrial, Agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

V. *Producing* means the development stage in which marketable quantities of oil or natural gas, or both, are extracted from a Well and may also signify the extraction level at which the quantitative terms of the lease are fulfilled.

W. *Reasonably prudent Operator* means an Operator that operates and conducts oil field operations in a proper and workmanlike manner, consistent with rules and regulations of the OCD, common industry practices, and guidelines of the American Petroleum Institute.

X. *Recompletion* means drilling within the same Well bore or re-perforating within an existing Well bore to reach a new reservoir.

Y. *Reserve pit* means a pit that is created at the drilling site of a Well to store the drilling fluid and strain the mud and other materials produced during drilling.

Z. *Residential* means having an existing residence or Platted Subdivision Lot.

AA. *Pit* means earthen excavation used for the purpose of retaining or storing substances associated with the drilling or operation of oil and natural gas wells.

BB. *Right-of-Way* means a tract or strip of land, separate and distinct from the adjoining property, owned, occupied or intended to be occupied by a Gathering Line.

CC. *Shut-in* means to close a valve on a well so that it stops producing.

DD. *Sour Gas* means natural gas containing hydrogen sulfite (H₂S).

EE. *Spacing* means acreage dedicated to each well producing from the same formation, as established by the OCD.

FF. *State* means the State of New Mexico.

GG. *Tank* means a steel cylinder for the storage of oil.

HH. *Tank Battery* means a group of tanks located at a convenient point for storing oil prior to transportation by truck or pipeline to a refinery.

II. *Transmission Line* means a pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a "transmission line" by regulations of the Department of Transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, as amended.

JJ. *Well* means 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 of them.

KK. *Workover* means an operation on a producing Well to restore or increase production. A typical Workover is cleaning out a Well.

LL. *Workover rig* means a piece of equipment designed to carry various tools necessary to complete a Workover.

MM. All technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry. All other words used in this Ordinance shall be given their usual, customary and accepted meaning in the oil and gas industry, or as defined in the Rules and Regulations of the OCD.

SECTION 5. OIL AND GAS INSPECTOR.

A. The position of Oil and Gas Inspector is established. It shall be the duty of the Oil and Gas Inspector to enforce the provisions of this Ordinance.

B. The Oil and Gas Inspector shall be a person who, by virtue of education, training or experience is qualified to enforce the provisions of this Ordinance. The Oil and Gas Inspector may be a person employed by the County as a Code Enforcement Officer or may be a person contracted to perform the duties.

ARTICLE II - ZONING

SECTION 1. ESTABLISHMENT OF SPECIAL USE REQUIRED.

A. Use of any property within the County for an Oil and Natural Gas Facility shall not be permitted unless a Special Use Permit has been granted for the property in question. A Special Use Permit is required to locate a new Oil and Natural Gas Facility or Facilities anywhere in the County, to substantially change, expand, or modify an existing Oil and Natural Gas Facility or Facilities, or to re-enter a Well that is plugged and abandoned as shown on the records of the OCD. The Special Use shall be established in accordance with the specific procedures for securing a Special Use, if applicable, or in accordance with the procedures in place for securing approval of a master plan set forth in the Code (as amended).

B. An Oil and Natural Gas Facility shall not be established in an area where development is not permitted as established by the Code, a Traditional Community, or an area within the Residential Urban zoning classification. An Oil and Natural Gas Facility shall not be permitted within a Cultural, Historic or Archeological site, a site listed on the National Register for Historic Places, or a site designated in the Galisteo Basin

Archaeological Sites Protection Act (as amended), 108 Pub. L. No. 208, 118 Stat. 558 (2004).

SECTION 2. APPLICATION AND SUBMITTALS.

A. A separate Application for approval of a Special Use is required for each Oil and Natural Gas Facility.

B. In addition to submittals required by the Code, an Application for a Special Use shall include the following:

1. A detailed site plan that shows the proposed Oil or Natural Gas Facility relative to all structures and land uses within a three mile radius;
2. A statement of the proposed use of the Oil and Natural Gas Facility;
3. A statement that describes how the proposed Oil and Natural Gas Facility will comply with all the requirements of this Ordinance and other applicable provisions of the Code, or, as required, a statement describing why the Oil and Natural Gas Facility is entitled to a variance of any particular provision of this Ordinance or the Code;
4. Copies of all relevant documents filed with and/or approved by the OCD including, but not limited to, the Operator's registration and authority from OCD and any other submittals to and approvals from the OCD;
5. A description of the Operator or Owner's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator or Owner to those subsidiary or parent companies;
6. A complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;
7. If required by the Administrator after a review of the organizational documents of the applicant, a letter of indemnity from a parent or subsidiary corporation;
8. A list of Oil and Natural Gas Facilities owned or operated by the applicant that are not in compliance with regulatory requirements in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;
9. If a Well is to be drilled, details concerning the geological formations to be explored and details concerning the specific objectives, estimated quantity of oil or natural gas present, specific geologic and engineering data that supports the estimated

quantities, the depth of each proposed interval, any special difficulties anticipated (excessive pressure, tight rocks, H₂S gas, etc.), and any anticipated difficulties expected in drilling, production, plugging and abandonment;

10. A detailed explanation of how products will be removed from the site. If surface trucking is to be used, provide a copy of the interstate and intrastate certificates of the trucking company, and provide a copy of the insurance certificate of each such company;

11. A detailed description and a time table for each phase of operations (exploration, drilling, production, abandonment) and a detailed description of the reclamation that will be provided after cessation of operations.

12. A detailed explanation of all steps to be taken to comply with applicable portions of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, other applicable laws and regulations, and any applicable health and safety standards;

13. A description of all hazardous, harmful, and toxic materials to be used and transported in connection with the proposed Oil and Natural Gas Facility and a description of steps that will be taken to ensure that the use of such materials will have no adverse impact;

14. A terrain management plan pursuant to the requirements set forth in the Code, that includes a reclamation plan consisting of the following:

a. A description of all areas affected in any way by the proposed Oil and Natural Gas Facility;

b. Details of the methods that will be utilized to avoid erosion on and adjacent to the site of the Oil and Natural Gas Facility and prevent migration of spills and leaks to watercourses, surface and ground water resources, and adjoining properties;

c. A detailed description of how reclamation shall be accomplished, as set forth in Art. VI, § 28(D) - (G);

d. A detailed description of techniques proposed to be used in reclamation;

e. A detailed estimated timetable for each phase of operations of the Oil and Natural Gas Facility, and the estimated date reclamation will begin;

f. The estimated cost of accomplishing each major step in the

reclamation plan, including re-contouring the surface to its pre-existing condition, re-vegetation of affected lands, and restoration of existing soils;

g. Detailed information about existing conditions including the degree of slope, precipitation patterns, and density of each species of vegetation, soil types, extent and location of water resources, geologic or other hazards, flood zones, eroded areas, wildlife and wildlife habitat, vegetation types and extent of cover. Photographs, videos and plans shall be used to document existing conditions;

h. Detailed information concerning the methods for stockpiling, protecting and restoring topsoil and adding other growth mediums where required, time of planting, method(s) of planting, proposed seed rates and/or density of planting, and if necessary, use of fertilizers;

i. A statement explaining how the proposed reclamation plan is consistent with any applicable state and local land use plans and programs;

j. A description of the manner in which the reclamation plan is consistent with the following local physical environmental and climatological conditions:

i. streams, creeks, arroyos, and bodies of water within three miles of the boundaries of the Well site;

ii. existing soils and geologic conditions;

iii. climate/meteorology characterization, such as prominent wind direction and speed, rainfall and ambient temperature ranges, with supporting data; and

iv. existing vegetation, wildlife and wildlife habitat according to species and density of occurrence, including photographs that document the existing conditions.

k. A listing of surface and sub-surface owners of record and anyone claiming an interest in the property proposed for the Well site, and of property adjacent to the Well site, and of oil and gas lease holders;

l. A description by township, range and section including the estimated acreage of surface area which will be disturbed as a result of the oil and gas exploration and/or production activities and transportation of the oil and gas products and waste. If an agreement has been reached with an affected surface owner pursuant to the Surface Owner's Protection Act, include a copy of such agreement;

m. A schedule which specifies the anticipated date upon which the Oil and Natural Gas Facility will commence activities and an approximate date when it will cease activities, when reclamation will begin, and the date reclamation is to be complete;

n. Any additional submittals required by the County.

16. An inventory of existing surface water and groundwater uses within three miles of the proposed Oil and Natural Gas Facility, including existing wells, permitted wells, and the extent of area water rights either used or available for use from area wells and surface water diversions, including all information available from the Office of the State Engineer;

17. A surface water and ground water monitoring plan consistent with the requirements of this Ordinance that includes collection of baseline water quality data as required by this Ordinance and the annual collection of data to determine whether degradation of surface or ground water resources or Pollution is occurring. Such plan must include a monitoring plan using existing surface water and ground water resources within a three mile radius of the proposed Oil and Natural Gas Facility or, if existing wells are not available for this purpose, a plan for locating, drilling and sampling additional wells;

18. A description of the waste and wastewater (quantity, chemical and physical quality) that will be produced from the Oil and Natural Gas Facility, and how such waste material will be disposed of at an OCD-approved facility;

19. Plans and specifications, stamped by an engineer registered in the State of New Mexico, with experience in Oil and Natural Gas Facilities, that detail construction, operation and maintenance of any facility intended for in-situ storage, containment, treatment, control and disposal of solutions, chemically-treated or contaminated materials, and wastes, including tanks used for oil storage;

20. Plans submitted in accordance with sub-part 20 above shall include, but not be limited to, the following:

a. A description of the facilities to be constructed, including tanks, pumps, pipes and other storage and conveyance means for oil and gas, processing solutions, chemically treated or impacted materials, and wastewater;

b. A management plan for control of surface water and groundwater that effectively eliminates the possibility that surface water and groundwater would be contaminated with any harmful, hazardous or toxic solution, chemical or process and which would

then flow out of the Oil and Natural Gas Facility;

c. A management plan for treatment and disposal of excess wastewater, including provisions for reuse and wastewater minimization;

d. A construction plan that includes, as applicable, the design of low-permeability soil barriers, the type of geosynthetics to be used and a description of their installation methods, any manufacturer's warranties for any equipment or material used on the permit area, the design of wastewater treatment facilities and processes, a quality assurance plan for applicable phases of construction and a listing of construction certification reports;

f. A spill and leak containment and control plan to contain all spills and leaks; and

h. Plans for heavy machinery and equipment maintenance shops, including plans for properly storing and disposing of petroleum products, solvents, and other harmful, hazardous or toxic materials.

21. A traffic control plan that includes accurate predictions of the number of site visits by type of vehicle per day;

22. A road maintenance, improvement or modification plan that includes baseline data for each road or highway to be impacted by the Oil and Natural Gas Facilities (including current photographs or video of the relevant portions of each existing road or highway), preliminary engineering reports concerning any improvements proposed for each road or highway, and a plan for addressing damage;

23. An emergency preparedness plan consistent with the requirements of Art. VI, § 2 of this Ordinance;

24. A landscaping and screening plan, consistent with the requirements of Art. VI, § 8(D) and 13(B), of this Ordinance, and the Code;

25. A water budget for the proposed Oil and Natural Gas Facility, including specifically water needs for well drilling, completion and plugging, as appropriate, and a detailed explanation of the proposed source of water to be used;

26. A list of all Cultural, Historic or Archeological sites, parks and other public facilities within three miles of the proposed Oil and Natural Gas Facility as well as the results of a cultural resource study on the property where the Oil and Natural Gas Facility if to be located;

27. A reconnaissance survey of cultural and archeological resources conducted at the proposed site of the Oil and Natural Gas Facility;

28. A survey of any rare or endangered species of animal, plant, or habitat of such species within three miles of the site of the proposed Oil and Natural Gas Facility; and

29. A survey of affected Agricultural land, wetlands, wild and scenic rivers or waterways, or ecologically critical areas within three miles of the proposed Oil and Natural Gas Facility.

C. All of the foregoing shall be incorporated into a site development plan and report, as required by the Code.

SECTION 3. NOTICE.

A. In addition to any notice requirements set forth in the Code, a written notice of the pendency of an Application for a Special Use shall be provided to each surface owner within three miles of the proposed Oil and Natural Gas Facility. The Operator or Owner shall present proof of such notice by submitting a copy of the letter providing such notice, a list of the land owners notified, and certified mail receipts. The notice shall be mailed no less than five (5) days prior to submission of the Application. For purposes of notice for a proposed Well, a surface owner shall receive notice if the property boundary of the surface owner is within three miles of the proposed wellhead.

B. In addition to any notice requirements set forth in the Code, the notice of the pending Application shall also contain the following:

1. A description of the location of the proposed Oil and Natural Gas Facility, including a legal description and a street address, if available. The notice must identify the Operator or Owner and any designated agent for the Application; the current business address and telephone number for the Operator or Owner and its agent, if one has been designated; and a brief description of the facilities and equipment proposed to be located at the site when operational; and

2. the time and place of the public hearing; and

3. A statement that additional information may be obtained from the Administrator.

D. The property shall be posted with a notice provided by the County upon which the information described in subsection (C) shall be provided.

E. A notice of the time, place and street address of the public hearing, together with a description of the location of the proposed Oil and Natural Gas Facility and a

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detailed summary of the Application, shall be published in a newspaper of general circulation in the County at least twenty-one (21) days prior to the date of the public hearing. An affidavit of publication shall be obtained from the newspaper and provided to the Administrator.

F. The Applicant shall also provide notice to any other person, agency or organization that has filed a request with the Administrator to receive notice of an Application for a Special Use or Development Permit for an Oil or Natural Gas Facility.

SECTION 4. APPLICATION FEE

Each application for approval of a Special Use pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

SECTION 5. REFERRALS.

A. The Administrator, may, in his or her sole discretion, refer an application for approval of a Special use to other government agencies or entities for review and comment, including but not limited to, specifically, the New Mexico Oil Conservation Division, the New Mexico Taxation and Revenue Department, the New Mexico Environment Department, the New Mexico State Engineer, and the New Mexico State Land Office.

B. The County may, in its discretion and at the expense of the applicant, hire experts to review the Application and submittals or to evaluate specific technical issues.

C. When an Application is scheduled for public hearing, the Administrator shall provide any comments received by other government agencies at the public hearing held on the application.

SECTION 6. SETBACKS.

A. An Oil and Natural Gas Facility shall not be located nearer to any of the following than the distance specified from the following existing uses:

- 1. One half mile of a Residential structure or a building used as a place of assembly, institution, or school;
- 2. One half mile of the designated buildable area of a vacant Residential lot;
- 3. Seventy-five (75) feet of a public road or highway;
- 4. Two hundred (200) feet of a Nonresidential or Industrial use;
- 5. Five hundred (500) feet of a groundwater re-charge area or wetland as defined by the United State Army Corps of Engineers;

6. Five hundred (500) feet of the limits of a one hundred (100) year floodplain, designated by the Federal Emergency Management Agency;
7. Two hundred (200) feet of any existing water well permitted by the Office of the State Engineer;
8. Two hundred (200) feet of a Cultural, Historic or Archeological Resource.

B. An Oil and Natural Gas Facility may be located nearer to a specified use only by obtaining a variance pursuant to the procedures set forth in the Code, and making a showing that application of a setback set forth in this Section is inconsistent with a Well location specified by OCD under its oil and natural gas spacing rules, or that application of the setbacks prescribed herein make it impossible to recover the oil or natural gas. If a variance is approved, the Oil and Natural Gas Facility shall be located as far from the existing use as is possible under the circumstances and mitigation measures shall be required as a condition of approval.

C. No building used as a place of assembly, institution, or school shall be constructed within three hundred (300) feet of any existing wellhead, production equipment or hydrocarbon storage tank. No road or highway shall be constructed or realigned to be within seventy-five (75) feet of any existing wellhead, production equipment or hydrocarbon storage tank.

D. No Residential, Nonresidential or Industrial structure other than structures necessary to operate a pipeline shall be erected or moved to a location nearer than thirty (30) feet of any pipeline transporting gas when the pipeline operating pressure is greater than 250 pounds per square inch gage (p.s.i.g).

E. Any setback required as a result of this Ordinance shall be shown or otherwise disclosed on all plats that encompass or border the Oil and Natural Gas Facility.

SECTION 7. HEIGHT.

The permissible height of an Oil and Natural Gas Facility shall be that already established by the Code in the immediate vicinity of the proposed Oil and Natural Gas Facility or twenty-four (24) feet, whichever is less, provided that height limitations shall not apply to drilling, Workover, Recompletion or Abandonment operations.

SECTION 8. REVIEW CRITERIA.

A. Each Application for approval of a Special Use shall be reviewed for general consistency with the standards and policies set forth in this Ordinance, the Code, the New Mexico Oil and Gas Act, the Water Quality Act, the regulations of the Water Quality Control Commission, the regulations of the OCD, and other applicable local, County, state and federal laws and regulations.

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B. If the application for a proposed Oil or Natural Gas Facility does not comply with the criteria set forth in this Ordinance, the Application shall be processed in accordance with the procedure for requesting variances, found in the Code at Article II, Section 3, or any successor ordinance, and shall be subject to the review criteria for variances set forth in the Code.

C. An application for a Special Use Permit for an Oil or Natural Gas Facility shall be evaluated according to the applicable standards and requirements of this Ordinance and by applying the following criteria to the evidence:

i. Completeness. Whether the application is complete and all required submittals are provided.

ii. Operational Standards. Whether the proposed Oil and Natural Gas Facility meets or exceeds the operating standards set forth in Art. VI of this Ordinance.

iii. State and Federal Permitting. Whether the Operator or Owner has secured the necessary State and federal permits for the proposed Oil and Natural Gas Facility.

iv. Compatibility. Whether the proposed location of the Oil and Natural Gas Facility is compatible with adjoining uses given its size, design and operational characteristics, or can be made compatible by applying reasonable mitigation measures. Factors to be considered include noise levels, property values, impacts upon air and water quantity and quality, impacts on roads and highways, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety.

v. Adequacy of existing roads and access to the site. Whether existing roads, highways and local access to the site are adequate for the proposed Oil and Natural Gas Facility. Factors to be considered include existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.

vi. Site characteristics. Whether the specific site selected is adequate for the proposed development. Factors to be considered include topography, slopes, natural hazards (such as landslides, flooding, wildfire), and current resource values (such as open space, prime farmland as designated by Soil Conservation Service and wildlife habitat, Cultural, Historic or Archeological sites).

vii. Past Performance. Whether the Operator or Owner has violated any federal, state, and local laws regulating or pertaining to oil and gas exploration and production either in the United States or elsewhere. Relevant considerations include whether the Operator or Owner has experienced spills or leaks, water contamination (whether surface or subsurface), other environmental problems; the Operator or Owner's prior reclamation activities; whether the Operator or Owner has damaged fauna, flora,

and adjacent properties in previous operations; as well as any measures taken by the Operator or Owner to alleviate any such problems.

viii. Whether the proposed Oil and Natural Gas Facility will have an adverse impact on any social, economic or environmental factors, including local government services such as budgets, housing, schools, water supplies, transportation systems, utilities, health care, law enforcement and fire protection, whether the proposed Facility will be detrimental to the public health, safety, morals or the general welfare pursuant to NMSA 1978, § 3-21-1(A), or whether the proposed Facility will be detrimental to the safety, health, prosperity, morals, order, comfort and convenience of the County pursuant to NMSA 1978, § 4-37-1.

SECTION 9. CONDITIONS.

Reasonable conditions may be imposed on approval of a Special Use to mitigate deleterious effects of the proposed Oil and Natural Gas Facility, and to address issues that arise related to the review criteria specified in Section 8 of this Article.

ARTICLE III

PERMITS FOR DEVELOPMENT OF AN OIL AND NATURAL GAS FACILITY

SECTION 1. DEVELOPMENT PERMIT REQUIRED

Construction, installation and operation of an Oil and Natural Gas Facility shall not commence until a Development Permit for the specific Oil and Natural Gas Facility has been issued in accordance with the procedures for securing a Development Permit as set forth herein and as set forth in the Santa Fe County Land Development Code, Ordinance No. 1996-11 (as amended), or any successor ordinance.

SECTION 2. APPLICATION REQUIRED.

A. An application for a Development Permit for an Oil and Natural Gas Facility is required.

B. The application shall be in writing and signed by a person duly authorized to sign on behalf of the Owner or Operator. The Application shall be filed with the Administrator along with the required submittals set forth in Art. III, § 3 of this Ordinance, the required application fee set forth in Art. III, § 4 of this Ordinance, and the financial surety set forth in Art. IV, § 1 of this Ordinance.

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C. A separate application shall be required for each Well and for each Oil and Natural Gas Facility. No development permit shall authorize the drilling of more than one Well or the installation of more than one Oil and Natural Gas Facility.

D. The application shall contain all information required by the Oil and Gas Inspector, and shall at a minimum contain the following:

1. The name and address of the Operator or Owner;
2. Copies of all relevant documents filed and approved by the OCD including, but not limited to, the approved Application for Permit to Drill (C-101), copies of the financial security deposited with the OCD, the Operator's registration and authority from OCD, an approval to Change Operator, and any other submittals to and approvals from the OCD;
3. If a Change of Operator is desired, a description of the new Operator or Owner's organizational structure, including a description of any wholly owned subsidiaries or parent companies and the relationship of the Operator or Owner to those subsidiary or parent companies;
4. If a Change of Operator is desired, a complete list of Oil and Natural Gas Facilities owned or operated in the State of New Mexico, in the United States and internationally, including facilities owned or operated by a parent or subsidiary identified in the previous paragraph;
5. If a Change of Operator is desired and, if required by the Administrator, a letter of indemnity from a parent or subsidiary corporation shall be provided;
6. If a Change of Operator is desired, a list of Oil and Natural Gas Facilities owned or operated by the applicant that are not in compliance with regulatory approvals in the respective jurisdiction. For each such facility listed, provide details concerning the compliance issues experienced;
7. The exact location of the proposed Oil and Natural Gas Facility;
8. If a new Well or a Workover of an existing Well is proposed, a drilling or Workover plan shall be submitted, including the amount, weight and size of conductor pipe, surface pipe and production pipe, and the procedures proposed for cementing each;
9. If a plugging and abandonment is proposed, a plugging and abandonment plan shall be submitted that details the proposed operations;
10. A statement describing the need for water during the proposed operations and the source of same;

11. The name and address of the person upon whom service of process or legal notice may be made on the Applicant within this State. A nonresident Applicant who has no agent for service of process within this State shall attach to the application a designation of a service agent who is a resident of Santa Fe County, New Mexico, and a consent that service of summons or legal notice may be made upon such person in any action to enforce any of the obligations of the Applicant hereunder;

12. Verification of the above information by the Applicant;

13. A bond or irrevocable letter of credit as described in Art. IV, § 1 of this Ordinance; and

14. Proof of insurance as required in Art. IV, § 2 of this Ordinance.

E. Where the application is one for the re-entry of an Abandoned well, said application shall contain all the information required by this Section, and shall also provide all of the following information:

1. a statement of:

a. the condition of the Abandoned well at the time the application is filed;

b. the depth to which it is proposed such well shall be deepened; and

c. the casing program to be used in connection with the proposed deepening.

2. a statement of the tests which will be run on the casing strings to show that the casing strings meet the same requirements for an original well. Include any proposed remedial cementing.

SECTION 3. SUBMITTAL REQUIREMENTS.

A. Required submittals for any Application seeking a development permit for an Oil and Natural Gas Facility, shall be as follows:

1. A copy of the Order issued by the County authorizing a Special Use at the location of the proposed Oil and Natural Gas Facility;

2. Insurance certificates for insurance policies required by this Ordinance;

3. Financial security required by this Ordinance;

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4. Four current 35 mm 3_ inch X 5 inch color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed, taken with a 50 mm lens, prior to any activities having taken place, for purposes of establishing a baseline for site restoration following Abandonment;

5. A site plan;

6. A drainage control plan;

7. A reclamation plan;

8. A surface and groundwater monitoring plan;

9. A waste disposal plan;

10. Plans and specifications for the Oil and Gas Facility;

11. A traffic control plan;

12. A road maintenance, improvement or modification plan;

13. An emergency preparedness plan;

14. A landscaping and screening plan; and

15. Documentation that the conditions of approval imposed during approval of the Special Use have been complied with.

SECTION 4. APPLICATION FEE

Each application for issuance of a Development Permit pursuant to this Ordinance shall be accompanied by a nonrefundable application fee in the amount set forth in Appendix A. The application fee shall be paid by cashier's check, wire transfer or certified funds.

SECTION 5. EFFECT OF PERMIT.

A. When a Development Permit has been issued for an Oil and Natural Gas Facility, such permit shall constitute sufficient authority for drilling, operation, production, Workover, maintenance, repair and testing.

B. A permit issued pursuant to this Ordinance shall expire or be considered revoked if construction of the Oil and Natural Gas Facility is not completed within one (1) year of the date of issuance, with the following exceptions: (i) a multiyear phased

project that is approved as such during the approval of the Special Use; (ii) an Oil and Natural Gas Facility that is substantially completed.

SECTION 6. AMENDMENTS, SUPPLEMENTAL PERMITS.

A. An amendment to the Development Permit shall be required prior to undertaking any substantial modification to the Oil and Natural Gas Facility including, but not limited to, Recompletion, modifying or substantially altering equipment at the Facility, the Well configuration or type of product being produced (e.g. oil or natural gas), or substantially altering the site layout.

B. Any operation that deviates from the Development Permit that the Operator or Owner determines in good faith is necessary in order to maintain the existing level of production or operation, to preserve the public health, safety or welfare, or to prevent property damage or Pollution, may be done on an immediate basis without prior notice or approval by the County, so long as such modifications do not include the addition of equipment or operations. The Applicant shall provide the Oil and Gas Inspector and the Administrator with notification of such emergency modifications by filing a written amendment to the Application, specifying the modifications made, within two (2) working days of completion.

C. Once a Well has either been completed as a producer or Abandoned as a dry hole, a Supplemental Permit is required to Recomplete the Well. A supplemental permit shall require filing an application for a supplemental permit, specifying:

- i. The condition of the Well and the casing therein;
- ii. The depth to which it is proposed such Well be deepened or the new intervals to be perforated;
- iii. The proposed casing program to be used in connection with proposed deepening operations; and
- iv. Evidence of adequate current tests showing that the casing strings in said Well passed such tests.

D. In the event the Oil and Gas Inspector is satisfied that the Well may be Reworked with the same degree of safety as existed in the original Well, a supplemental permit may be issued authorizing the operation. In any Reworking operation, the Operator or Owner shall comply with all other provisions contained in this Ordinance applicable to the drilling, completion and operation of a Well.

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SECTION 7. ANNUAL OPERATING FEE.

A. A non-refundable annual inspection fee is hereby levied upon each Oil and Natural Gas Facility operated or maintained within the County. The amount of such fee is set forth on Appendix A. The fee shall be paid by cashier's check, wire transfer or certified funds. The fee shall be payable to the County on or before the annual anniversary date of the issuance of any permit under the provisions of this Ordinance. No permit shall be considered valid for any year for which the annual inspection fee has not been paid.

B. Revenue from fees collected pursuant to this Ordinance shall be placed in a special fund the revenue from which shall be used to retain and pay the Oil and Gas Inspector. Revenue in excess of that required to retain and pay the Oil and Gas Inspector may be used for County general purposes.

SECTION 8. ANNUAL REPORTING.

A. Each Oil and Natural Gas Facility shall, annually, provide the following information to the Administrator and the Oil and Gas Inspector:

1. A current list of personnel who may be contacted in case of an emergency at the Oil and Natural Gas Facility. This list shall contain all information set forth in Article V, Section 2 of this Ordinance, information requested by the Administrator and the Oil and Gas Inspector, and information including, but not limited to the following:

- a. the name(s) of such person or persons;
- b. the job description(s) of such person or persons; and
- c. the residence, office and mobile telephone numbers of such person or persons.

2. A list of all Oil and Natural Gas Facilities owned or operated within the County by that Owner or Operator. This list shall include all Wells except Wells that have been plugged and Abandoned in compliance with law. The list shall contain all information requested by the Administrator and the Oil and Gas Inspector, including but not limited to the following:

- a. the lease name and well number of each Well;
- b. the legal description of each Well;
- c. the current status and use of each Well; and

d. the current status and use of each Oil and Natural Gas Facility.

SECTION 9. CHANGE OF OPERATOR.

A. If a new Operator or Owner is appointed for an Oil and Natural Gas Facility, a new Development Permit for the Oil and Natural Gas Facility shall be required.

B. The new Owner or Operator must provide copies of the approved Change of Operator, Form C-145, from the OCD in addition to all submittals required for a Development Permit specified herein.

C. The obligations stated in this Ordinance on the previous Owner or Operator shall not be released (including required financial security and insurance) until new Development Permits are obtained by the new Owner or Operator.

ARTICLE IV – BONDS AND INSURANCE

SECTION 1. FINANCIAL ASSURANCE.

A. An Operator or Owner seeking to obtain a Development Permit for an Oil and Natural Gas Facility shall furnish a financial assurance acceptable in form to the County that runs in favor of the County and is conditioned upon compliance with all the terms and conditions of this Ordinance, directives of the Oil and Gas Inspector, any conditions of approval imposed on the permit, and any mitigation or remediation measures required as a result of the operation of the Oil and Natural Gas Facility.

B. Acceptable financial assurances include: (i) a \$5,000.00 performance bond for each Well or Oil or Natural Gas Facility; (ii) a \$50,000.00 blanket bond for each Well or Oil or Natural Gas Facility operated by an Operator within the County; (iii) an irrevocable letter of credit, in the same amounts; or (iv) an equivalent financial security acceptable to the County, in the same amounts.

C. A surety bond shall be executed by a reliable corporate surety authorized to do business in the state with the Operator or Owner as principal that runs in favor of the County. An appropriate power of attorney must be submitted along with a surety bond that provides the individual executing the bond on behalf of the principal with authority to execute same.

D. An irrevocable letter of credit shall be issued by a federally-insured financial institution located within the State of New Mexico, backed by cash on deposit at the institution representing the full value of the amount of the letter of credit. A letter of credit shall be for a term not less than five (5) years, and shall be automatically renewed on like terms unless the issuer notifies the County in writing of non-renewal at least thirty (30) days prior to the end of the five (5) year period. The County may forfeit and collect

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a letter of credit if not replaced by an approved financial assurance at least thirty (30) days prior to the expiration date. Authorized representatives of the Operator or Owner and the depository institution shall execute a document evidencing the terms and conditions of the letter of credit. From time to time, accrued interest over and above the face value of the bond may be paid to the Operator or Owner.

E. All financial assurances pursuant to this Section shall become effective on or before the date the same is filed with the County and remain in force and effect throughout the life of the Oil and Natural Gas Facility, unless released earlier.

F. For good cause, the Oil and Gas Inspector, after notice to the Operator or Owner, may require the filing of a blanket bond or letter of credit in an amount higher than \$25,000.00 but not to exceed \$100,000.00. "Good cause" shall include, but shall not be limited to, a showing that the Operator or Owner has violated any of the provisions of this Ordinance.

G. The County shall release the financial assurance deposited pursuant to this Section upon written request of the Operator or Owner if the Well has been plugged and Abandoned and the location restored and/or remediated pursuant to this Ordinance, if the relevant Oil and Natural Gas Facility has ceased operation and has been similarly restored and/or remediated pursuant to this Ordinance, or if a Change of Operator has been approved pursuant to this Article and a new Development Permit has been issued.

SECTION 2. COMPREHENSIVE GENERAL LIABILITY INSURANCE.

A. In addition to the performance security required by this Ordinance, the Operator or Owner shall also submit with the Application a policy or policies of commercial general liability insurance, including contractual liability, covering bodily injury and property damage that names the Operator or Owner as insured, issued by an insurance company authorized to do business in the State. Such policy shall provide a limit of liability in the aggregate of not less than \$10,000,000.00 per occurrence. Said 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.

B. In addition to the performance security required by this Ordinance and in addition to the comprehensive general liability insurance required by the preceding paragraph, the Operator or Owner shall also submit with the Application a pollution insurance policy or policies that provides standard pollution liability insurance with a coverage of not less than \$10,000,000, issued by an insurance company authorized to do business in the State, and that names the Operator or Owner as insured. Such insurance policy shall be maintained in full force and effect from the date an Application is submitted pursuant to this Ordinance, through the commencement of drilling operations, completion and production of the Well, and continuing in force until the Well is plugged and Abandoned in accordance with the Oil and Gas Act, the Rules and Regulations of the

New Mexico Oil Conservation Division, and this Ordinance. A separate policy need not be obtained if pollution coverage is provided as a part of the comprehensive general liability insurance policy. Said 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.

C. The Operator shall provide the County with a certificate of insurance and a copy of the policy as evidence of coverage. If liability insurance coverage terminates, the Development Permit shall terminate effective as of the date of cancellation and the Operator's right to operate under such permit shall cease until the Operator files evidence of reinstatement or replacement coverage.

D. An Operator offering a plan of self-insurance may provide a certificate of insurance as required by this section issued pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico, and the County's Risk Manager.

ARTICLE V – VIOLATIONS, ENFORCEMENT, PENALTIES.

SECTION 1. CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND NATURAL GAS FACILITIES.

It shall be unlawful to construct, install, or cause to be constructed or installed, any Oil and Natural Gas Facility within the unincorporated areas of the County unless a Special Use Permit and a Development Permit has been granted by the County. Any violation of the laws of the State or any rules, regulations or requirements of a State or federal regulatory body having jurisdiction over drilling, completing, equipping, operation producing, maintaining, or abandoning an Oil and Natural Gas Facility, related appurtenances, equipment or facilities, firewalls, fire protection blow-out protection, or safety protection, shall also be a violation of this Ordinance and shall be punishable in accordance with the provisions hereof.

SECTION 2. ORDER TO CEASE OPERATIONS.

In any situation in which the Oil and Gas Inspector finds that any person is not in compliance with the terms of this Ordinance, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the New Mexico Oil Conservation Division, the rules and regulations of the Water Quality Control Commission, or the practices of a reasonably prudent operator, that, in the judgment of the Oil and Gas Inspector, constitute a hazard to life, natural resources or property, the Oil and Gas Inspector may order immediate remedial action. If persons responsible for the situation take no immediate measures to come into compliance with the law or to reduce the hazard, or if the situation is so perilous as to constitute an imminent threat to the public health safety or welfare, then the Oil and Gas Inspector may order the prompt cessation of all activity at the Well site and,

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if necessary, the clearance of the premises, and a temporary revocation of the Development Permit applicable to that Facility.

SECTION 3. PENALTY.

A. Any Operator or Owner, person, firm, corporation or legal entity that violates any provision of this Ordinance, any provision of a Development Permit or any condition thereto, or a valid directive of the Oil and Gas Inspector, shall be subject to the penalties set forth in NMSA 1978, § 4-37-3 (1993)(as amended).

B. The violation of each separate section of this Ordinance or a permit issued pursuant to this Ordinance shall be considered a separate offense, and each day the violation is allowed to continue shall be considered a separate offense. The County may revoke or suspend any Development Permit issued under this Ordinance if such violation is found to exist.

SECTION 4. CIVIL ACTION.

In case any building, structure or other oil and gas related development is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this Ordinance, the County, in addition to the other remedies provided by law, ordinance or resolution, may seek an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

SECTION 5. REVOCATION OF PERMIT.

A Development Permit may be revoked if it is determined that the Operator or Owner provided information and/or documentation upon which approval was based, which was false, misleading, deceptive or inaccurate, or which the Operator or Owner, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate.

SECTION 6. RIGHT TO ENTER.

For the purpose of implementing and enforcing this Ordinance, the Oil and Gas Inspector may enter onto subject property upon notification of the Operator or Owner. If such entry is denied, the County shall have the right to obtain an order from a court of competent jurisdiction to obtain entry.

SECTION 7. AUTHORITY OF OIL AND GAS INSPECTOR.

A. The Oil and Gas Inspector shall have authority to issue any orders or directives required to carry out the intent and purpose of this Ordinance. Failure of any

person to comply with such order or directive shall constitute a violation of the provisions of this Ordinance.

B. The Oil and Gas Inspector shall have authority to enter and inspect any Oil and Natural Gas Facility that is governed by this Ordinance to determine compliance with this Ordinance, the Code, the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD, the rules and regulations of the Water Quality Control Commission, and any applicable directives.

C. The Oil and Gas Inspector shall have the authority to request and receive any records, logs, reports, studies and other documents relating to the status or condition of an Oil and Natural Gas Facility. Failure of any person to provide any such requested materials shall be deemed a violation of this Ordinance.

ARTICLE VI – EQUIPMENT, OPERATIONS,
STANDARDS AND PRACTICES

SECTION 1. GENERAL.

All drilling and operations of an Oil and Natural Gas Facility shall strictly follow the requirements of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, and other applicable federal, state and local regulations, and shall be conducted at all times in accordance with the practices of a Reasonably Prudent Operator.

SECTION 2. EMERGENCY PREPAREDNESS PLAN.

A. Each Operator or Owner shall provide an emergency preparedness plan along with an Application for a Development Permit of an Oil or Natural Gas Facility. No Application shall be considered complete until the Applicant has provided such plan. The plan shall be filed with the Fire Chief, the Administrator and the Oil and Gas Inspector and shall be updated annually or as conditions change.

B. The emergency plan shall consist of the following, at a minimum:

1. Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations;

2. An as-built facilities map showing the name, location and description of all Oil or Natural Gas Facilities, including the size and type of all pipelines. The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (one inch = 2,000 feet), or digitally on the county geographic information system parcel maps. The as-built facilities map shall be held confidentially by the County's Fire Chief, and shall only be disclosed in the event of an emergency;

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3. A written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills; and

4. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the County. This plan shall be coordinated with and approved by the County prior to beginning field operations.

SECTION 3. FIRE PREVENTION.

Each Oil and Natural Gas Facility shall comply with all fire prevention requirements set forth in the Code and other applicable ordinances of the County relating to fire prevention, including the County Fire Code, and the Urban-Wildland Interface Code. Each Oil and Natural Gas Facility shall take all reasonable precautions to prevent natural gas from escaping into the air and shall not flare or burn natural gas from a torch or any similar means within the County; however, natural gas may be burned for a limited time when necessary to complete a Well upon the original completion or upon Recompletion of a Workover so long as such does not constitute a fire hazard to the property of others within the vicinity of such oil or natural gas Well. The Operator or Owner shall place a sign in a conspicuous site at each Well location or site to identify the Well with the name or number of the Well and the telephone number where a responsible person can be reached at home.

SECTION 4. REQUIRED FIRE PREVENTION EQUIPMENT.

A. Each Oil or Natural Gas Facility shall maintain adequate firefighting apparatus, equipment and supplies at the site of the Facility at all times during drilling and production operations, including, but not limited to, all of the following:

1. During drilling operations, a minimum of four portable fire extinguishers, the size, rating, distribution and maintenance of which shall be in accordance with National Fire Protection Association (NFPA) Standard No. 10 ("Portable Fire Extinguishers) and NFPA Standard No. 30 ("Flammable Liquids Code");

2. Where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical and mechanical), spontaneous ignition, chemical and physical-chemical reactions and radiant heat. NFPA Standard No. 77 ("Recommended Practice on Static Electricity") and NFPA No. 78 ("Lightning Protection Code") shall be adhered to;

3. All hazardous materials and/or special hazards at the Facility shall be protected as set forth in applicable NFPA standards;

4. Lightning protection equipment shall be provided at each Facility containing crude or water storage tanks. The lightning protection equipment shall be in accordance with recommendations of the NFPA;

5. Crude and water tanks shall be installed with a vent system approved by the Oil and Gas Inspector. A flame arrestor approved by the Oil and Gas Inspector shall be installed on the vent line; and

6. Emergency firefighting apparatus and supplies shall be subject to the approval of the County Fire Chief, and shall be at the Oil and Natural Gas Facility at all times during the drilling operations, Workover operations and plugging operations, and at other times as appropriate given the nature of the operation.

SECTION 5. REMOVAL OF RIGS FROM THE PREMISES, SECURITY.

Any Drilling or Completion Rig shall be removed within thirty (30) days from the date of completion of a Well. Thereafter, when necessary, the completed Well may be served by portable rigs, which shall be removed from the premises within fifteen (15) days from the completion of the servicing operation. At all times from the start of the drilling phase until the Well is completed, the Operator or Owner shall keep a watchman skilled in oil and gas operations on duty on the premises at all times when other workmen of the Operator are not on such premises.

SECTION 6. DRILLING.

A. Internal combustion engines or electrical equipment may be used in drilling operations. If internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines. All electrical installations shall be made in conformity with the applicable New Mexico or County electrical code.

B. Drilling operations must be conducted in such a manner that surface water and ground water will not be degraded or Polluted, and shall at all times be conducted in such a manner that prevents vertical movement of water within the well bore. The Operator or Owner shall be solely responsible for ground water or surface water degradation or Pollution that occurs during drilling or completion operations and shall promptly remediate any degradation or Pollution that occurs.

C. The Operator or Owner shall also identify all aquifers penetrated, the depth of water and estimated production of all water bearing intervals by filing a written report no later than ten (10) days after completion of drilling.

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D. Drilling operations shall be limited to daylight hours, except in the case of an emergency or where the depth of the Well exceeds 5,000 feet, in which case twenty-four hour drilling will be permitted. A Well shall be completed, serviced or fractured only during daylight hours. Except in an emergency, no materials, equipment, tools or pipe shall be delivered to or removed from a drilling site or the site of any Oil or Natural Gas Facility, except between the hours of 7:00 a.m. and 7:00 p.m. on any day.

E. Unless otherwise required by OCD, at the time of installation, all casing, tubing, valves, bradenhead, Christmas tree, blowout preventers, and well head connections shall be new and of a type and quality consistent with the practices of a Reasonably Prudent Operator.

F. Setting and cementing casing and drill stem tests shall be performed in a manner and at a time consistent with the rules and regulations of the OCD, the directives of the OCD and the Oil and Gas Inspector, and the practices of a Reasonably Prudent Operator. Surface casing shall meet or exceed the requirements of the OCD. The Oil and Gas Inspector may require a cement bond log or other appropriate integrity testing to verify the integrity of all cement placed in the well during drilling and completion operations.

- OR - (From Oklahoma City):

G. Except as otherwise provided by the OCD, surface casing shall be set a minimum of 200 feet below the deepest fresh water zone found in the eight sections adjacent to the Well site. A resistivity and porosity electric log shall be run in the surface hole before surface pipe is set, and a copy of said log shall be filed with the OCD and the Oil and Gas Inspector. The Oil and Gas Inspector may, in the Inspector's sole discretion, waive the requirement for a resistivity and porosity log if the Operator or Owner furnishes sufficient information from wells in the same section of land and surrounding sections of land that identifies the base of treatable water. Surface pipe shall have a centralizer in the middle of the shoe joint, a centralizer on the top of the second joint of casing, and centralizers no more than 200 feet apart above the second centralizer. Surface casing shall have a guide shoe installed on the bottom of the first joint of casing, and a float shall be installed within 90 feet of the guide shoe to prevent upward flow of cement through the casing. No cement baskets may be installed on the surface casing. Surface pipe shall be cemented by attempting to circulate good cement to surface by normal displacement practices. If cement cannot be circulated to surface due to washed out hole or lost circulation, the existing cement shall not be over-displaced and a plug shall be left in the bottom of the casing string to be drilled out once the surface is set. The remaining open hole behind the surface pipe shall be cemented by running a tubing string between the conductor string and the surface pipe until the top of the cement is tagged. The remaining uncemented annular space shall then be cemented until good cement is circulated to the surface. The inspector may require logs to be run to determine the actual top of the cement in the annulus prior to pumping cement down the small string of pipe installed in the annulus of the Well. The casing shall not be disturbed in any way until

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the cement has set for a minimum of eight hours or any longer time required for the cement to reach a compressive strength of 500 psi. A cement bond log shall be run after the cement has set for 18 hours and before drilling operations are resumed. The Oil and Gas Inspector shall witness the calibration and running of the cement bond log, and the Oil and Gas Inspector shall examine the log and give approval of the cement bond before drilling operations are resumed. The Oil and Gas Inspector may waive the requirement for the cement bond log when he or she has witnessed the actual cementing of the Well and observed only positive indications that a good cement job was achieved. Surface casing must be new pipe of API grade J or K or higher grade and have a minimum burst pressure rating of 2,900 psi. All cement blends to be used in the installation of surface casing shall be submitted to the Oil and Gas Inspector for testing to determine the setting time. The cement samples and other information required by the Oil and Gas Inspector shall be submitted a minimum of thirty (30) working days prior to use. The Operator or Owner samples shall pay a nonrefundable testing fee for each cement blend to be tested in the amount of the actual fee for testing. The Oil and Gas Inspector may require all such samples as necessary to be submitted at drilling sites or elsewhere for quality control testing.

H. Upon completion of a Well, the Operator or Owner shall certify by affidavit that the Well has been set according to the rules and regulations and requirements of the OCD, and the practices of a Reasonably Prudent Operator. The affidavit shall stipulate the number of sacks of cement, the class of cement, blended materials, weight of cement in pounds per gallon, cement displacement pressure, final pumping pressure and whether checkvalves (float shoes, float collar) held the pressure. Commencement and completion times of such operation shall be stipulated. The affidavit shall be completed by a cementing service company and signed by both the Operator or Owner and the cementing service company.

I. Except as otherwise provided by OCD, appropriate blowout prevention equipment shall be used on all Wells being drilled, worked-over, or in which the tubing is being replaced. Unless otherwise specified by OCD, Wells being drilled shall have at least three hydraulically operated blowout preventers installed and these blowout preventers shall meet the American Petroleum Institute's recommendation for Class 3M blowout preventers. Unless otherwise specified by OCD, Wells being drilled shall also have a kill line, choke line, and choke manifold that meet the recommendations of the American Petroleum Institute for Class 3M blowout prevention equipment.

J. Only Closed Loop Systems shall be used during drilling and Completion of a Well. No open pits or Reserve Pits shall be permitted.

K. The Owner or Operator shall maintain all safety monitoring equipment deemed necessary in the sole discretion of the Oil and Gas Inspector, and shall inspect that equipment quarterly. The results of the monitoring and inspections shall be submitted to the Oil and Gas Inspector.

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L. Drilling mud shall be disposed of by transporting the mud to an OCD-licensed disposal site. The mud may not be buried in an earthen pit on site, pumped down the Well bore or down the annulus of a Well, or spread on the surface of the ground at the site. All other waste shall be treated, stored and disposed in accordance with all local, state and federal requirements and regulations.

M. No surface waste disposal at the site of the Oil and Natural Gas Facility of wastes of any kind shall be permitted.

SECTION 7. GATHERING SYSTEMS.

A. All operations relative to the design, installation, maintenance, and operation of a Gathering System shall conform to the requirements of the Oil and Gas Act, the Water Quality Act, the rules and regulations of the OCD and the Water Quality Control Commission, this Ordinance and the applicable codes and that of a Reasonably Prudent Operator.

B. Any Gathering System shall be tested prior to being placed in service and the results of the tests shall be provided to the County.

C. Any Gathering System shall be tested at least annually and the results provided to the County. Additional integrity testing may be required as required by the Oil and Gas Inspector.

C. The Operator of a Gathering System shall provide the County as-built plans showing the location of all facilities.

D. A Gathering System shall be buried and backfilled as specified by the then-applicable codes.

E. Valves shall be installed on all Gathering Systems at such locations and spacing to safely and adequately control the operation of the lines and to minimize the quantity of natural gas, oil or water that would be released from the line if a line fails or ruptures. The types and locations of all valves shall be indicated on a plan layout and approved by the Oil and Gas Inspector.

F. Pipelines crossing certain roads and highways shall be cased and vented in accordance with the practices of a Reasonably Prudent Operator.

G. Location markers shall be installed to mark the exact location of gathering lines associated with a Gathering System. Each marker shall be approved, as to type and location, by the Fire Chief and the Oil and Gas Inspector. The failure to mark a location, or the removal of any marker without the express permission of the Oil and Gas Inspector, shall constitute violations of this Ordinance. All location markers shall include

the name of the Operator or Owner of the Gathering System and a telephone number where a responsible person can be reached at any time.

SECTION 8. APPEARANCE AND MAINTENANCE OF THE SITE,

A. The premises of an Oil and Natural Gas Facility shall be kept in a clean and sanitary condition. No mud, wastewater, oil, slush or other waste shall be permitted to flow into alleys, roads, streets, lots or leases. Suitable and adequate toilet facilities shall be made available in a clean and sanitary condition at all times during drilling operations.

B. An Oil and Natural Gas Facility shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the Well or pipelines from the Well or the production facilities allowed on the site.

C. Any Well which is completed shall be enclosed together with its surface facilities, by a substantial concrete block wall or chain link fence sufficiently high and properly built so as to ordinarily keep persons and animals out of the enclosure with all gates thereto to be kept locked when the Operator or Owner are not within the enclosure.

D. If a Residential structure exists or is constructed within one half mile of the Oil and Natural Gas Facility, the Operator or Owner shall provide landscaping and screening as set forth in the Code and herein. The Oil and Natural Gas Facility shall be screened and landscaped to screen all facilities from outside view and ensure compatibility with the surrounding area. Such screening shall consist of solid walls, evergreen vegetation or landscaped earthen berms at least six feet in height that completely around the site and all fences or lease equipment and facilities. Once approved by the Administrator, the Operator or Owner shall provide the landscaping and screening described in the Plan and shall keep all landscaping, walls or berms in good condition at all times.

E. The Oil and Gas Inspector shall have the power and authority to require general landscaping (trees, shrubs, grass, ground cover or flowers) of any Well or Oil and Natural Gas Facility as is deemed necessary.

F. An Operator or Owner shall promptly clear all premises associated with an Oil and Natural Gas Facility of all litter, trash, waste, and other substances used, allowed, or occurring in the drilling or producing operations.

SECTION 9. STORAGE TANKS.

Except as otherwise provided by the OCD, tanks used for the storage of condensate, crude oil or other hydrocarbon liquids produced by and used in conjunction with any Well shall be buried upon completion of the drilling of the Well. An impermeable liner shall be installed prior to burial and an appropriate leak detection system, approved by the Oil and Gas Inspector, shall be installed.

SECTION 10. ROADS AND HIGHWAYS.

A. Any traffic generated by an Oil and Natural Gas Facility shall not at any time impede traffic flow or cause a road or highway to operate at a lesser level of service than existed previously.

B. The type and amount of traffic to be generated by the proposed Oil and Gas Facility or at the time of its installation shall not cause deterioration to a public road or highway as a result of the activity without just compensation to the County. Any impacts on a public road or highway shall be mitigated by the Operator or Owner, and approval of a Special Use may be conditioned upon implementation of specific mitigation measures.

C. If roads or highways are reasonably certain to be damaged as a result of operations related to the Oil and Natural Gas Facility, or if existing roads are inadequate for the Oil and Natural Gas Facility, the Operator or Owner shall be required to improve said roads or highway, at the Operator or Owner's sole expense. The design, plans and specifications for any such improvements must be first approved by the County, and all such specifications shall meet or exceed then-applicable County road improvement standards, whether established by Ordinance, resolution or operating policy. A road improvement agreement between the Operator or Owner and the County may be required prior to undertaking the construction of any such improvements.

D. At least thirty (30) days prior to the actual commencement of operations at an Oil and Natural Gas Facility, the Administrator shall be notified in writing of the proposed date for commencement of operations. Such notification shall also contain the following information:

1. The maximum length, width and weight of any motor vehicle and the maximum weight of the load to be carried by any motor vehicle to be used in traveling to and from the site and transporting equipment to the site; and

2. A complete list of the proposed routes to and from the site for all motor vehicles to be used to travel to and from the site. Such list shall identify any and all roads and highways within the limits of the County proposed to be used by such motor vehicles traveling to and from the site.

E. The Administrator shall review the proposed routes and shall prepare a written order that either approves or disapproves the routes to and from the Oil and Natural Gas Facility. The Administrator shall designate alternate routes which are acceptable. During all operations, all motor vehicles used by any person to travel to and from the site shall be restricted to roads and highways approved by the Administrator.

F. No Oil and Natural Gas Facility shall be located within any road or highway maintained by the County. No such road or highway shall be blocked or encumbered or closed in any drilling, production or pipeline operation.

G. No excavation for any purpose or construction of any lines for the conveyance of fuel, water, or minerals on, under, or through a County road or public highway shall be made without express permission granted within a Development Permit.

H. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any road or highway or leaving upon any road or highway any earth or other material or obstruction shall not be permitted unless authorized by the Development Permit.

SECTION 11. NUISANCE AND ANNOYANCE.

A. All equipment associated with an Oil and Natural Gas Facility shall be constructed and operated so that no noise, vibration, dust, odor, or other harmful or annoying substances or effect are created to the injury or annoyance of persons living in the vicinity. The Oil and Natural Gas Facility shall not be permitted to become dilapidated, unsightly or unsafe.

B. All above-ground production equipment associated with an Oil and Natural Gas Facility shall be painted in a uniform flat green or tan color, and maintained in good repair by the Operator or Owner.

C. Proven technological improvements in methods of production shall be adopted as they, from time to time, become available if capable of reducing factors of nuisance or annoyance.

D. There shall be no manual venting of natural gas into the open air without direct on-site supervision. No manual or automatic venting shall occur between the hours of 7:00 p.m. and 7:00 a.m. except in the case of an emergency.

SECTION 12. NOISE.

A. Within fifteen (15) days of the drilling of a new Well or servicing of an existing Well or the construction of an Oil and Natural Gas Facility, the Operator or Owner shall take sound pressure measurements to establish ambient sound levels, under the supervision of the Oil and Gas Inspector.

B. Measurement of sound levels shall be performed as follows:

1. Sound levels shall be measured at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is closer. Sound levels shall be measured, as near as

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practicable, at the exterior edge of any adjacent building or residence closest to the equipment emitting sound.

2. In all sound level measurements, the existing ambient noise level from all other sources in the area shall be measured and considered to determine the contribution to the sound level by the oil and gas operation.

3. The ambient noise level shall be measured between 12:00 a.m. and 3:00 a.m.

C. An Oil and Natural Gas Facility shall not increase the sound levels more than one (1) dB(A) at a distance equal to the residential setback required by this Ordinance from the subject equipment emitting the noise, or to the nearest residence, whichever is closest to the source.

D. An Oil and Natural Gas Facility shall use shielding or enclosures to achieve the sound level requirements set forth above.

E. Production equipment shall be powered by electric motors if located within 1,320 feet of distribution voltage. Production equipment may be powered by engines prior to the time that the Oil and Natural Gas Facility is provided with electric power.

F. All equipment associated with an Oil and Natural Gas Facility shall minimize transmission of vibration through the ground.

SECTION 13. LIGHT

A. Oil and Natural Gas Facilities shall comply with the Code, including the Night Sky Protection Ordinance, at all times except as specifically provided for herein.

B. The Operator or Owner shall log all lighting levels and shall provide day and night ambient levels prior to commencing work on the Oil and Natural Gas Facility. Levels shall be provided during the development and operation of the Oil and Natural Gas Facility on a daily basis. All lighting shall be limited to the minimum required to meet security and prescribed safety standards.

C. Lights shall be shut off on a drilling rig when not drilling.

D. Lighting that does not comply with the Code shall be permitted only as necessary to safeguard worker safety.

SECTION 14. CULTURAL, HISTORICAL OR ARCHEOLOGICAL RESOURCES

No Oil and Natural Gas Facility may be located so as to affect or damage any Cultural, Historical or Archeological resource.

SECTION 15. OPEN HOLE FORMATION OR DRILL STEM TESTING.

A. Except as otherwise directed by OCD, all open hole formation or drill stem testing shall be done during daylight hours, with adequate advance notification thereof to the Oil and Gas Inspector to enable him or her to be present during such testing.

B. Except as otherwise directed by OCD, all open hole formation testing shall be done into steel tanks or flared properly in the case of gas.

SECTION 16. FLARING OF GAS.

Gas shall not be flared except as necessary during drilling and workover operations, and then only as permitted by regulations of the Oil Conservation Division and in accordance with flaring procedures approved by the OCD, the Oil and Gas Inspector and the Fire Chief.

SECTION 17. DISPOSAL OF SALTWATER OR OTHER DELETERIOUS SUBSTANCES.

A. Each Operator or Owner shall make sufficient provisions for the safe disposal of saltwater or other deleterious substances which may be brought to the surface. Any such disposal shall be at an OCD-approved disposal well or site. No disposal of such substances shall be permitted at the site of the Oil and Natural Gas Facility. When a disposal well is to be used for disposal of such substances, the location of the proposed well shall be identified, the Operator or Owner shall identify the disposal well by operator, lease, well name and number, and location.

B. In the event of any spill or leak of produced water or any deleterious substance, whatever the cause thereof, the Operator or Owner shall promptly notify the Oil and Natural Gas Inspector. If, in the judgment of the Inspector, such leak or spill represents a potential hazard to surface or ground water resources or the environment, the Inspector may issue whatever corrective orders are deemed appropriate and additionally may require the appropriate testing of the surface and subsurface for pollutant incursion, the cost of all such testing to be paid by the Operator and Owner, and may order remediation of the spill or leak, the costs of which are to be paid for by the Operator or Owner.

SECTION 18. FRACTURING AND ACIDIZING.

Fracturing and acidizing of any Well shall be performed in strict compliance with OCD Rules and the practices of a Reasonably Prudent Operator. Fracturing pressures shall be strictly controlled to ensure that fractures do not escape the zone being fractured.

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Fracturing operations may be monitored by the Oil and Gas Inspector to ensure compliance with this Section. In no circumstance shall fracturing or acidizing operations result in oil, gas or other deleterious substances or pollutants to degrade or Pollute any surface or subsurface fresh waters.

SECTION 19. SWABBING, BAILING AND PURGING WELLS.

In swabbing, bailing or purging a Well, all deleterious substances removed from the bore hole shall be placed in appropriate tanks and no substances shall be ground applicated, nor shall any such procedures be permitted to degrade or pollute any surface or subsurface waters.

SECTION 20. RUPTURE IN SURFACE OR PRODUCTION CASING.

In the event a rupture, break or opening occurs in surface or production casing, the Operator or Owner, service company or drilling contractor shall promptly report the incident to the Oil and Gas Inspector. Immediate action shall be taken to repair such casing consistent with the Rules and Regulation of the OCD and the repairs shall be witnessed by the Oil and Gas Inspector.

SECTION 21. DEPOSITING OIL PRODUCTS.

No person shall deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon, any oil or oily liquid with petroleum content, or any mud, rotary mud, sand, water or saltwater, or in any manner permit, by seepage, overflow or otherwise, any of such substances to escape from any property owned, leased or controlled by such person and flow or be carried into or upon any public highway, street, alley, drainage ditch, storm drain, sewer, gutter, paving, creek, river, lake or lagoon within the County.

SECTION 22. SERVICE COMPANIES.

Upon request of the Oil and Gas Inspector, service companies or other persons shall furnish and file reports and records showing perforating, hydraulic fracturing, acidizing, cementing, shooting, chemical treatment and all other service operations on any Well.

SECTION 23. ACCUMULATION OF VAPOR.

The Fire Chief shall have the authority to require the immediate shutting in of any Well or Oil and Natural Gas Facility if the Fire Chief finds that there exists, within a 100-foot radius, any gas or vapor in a quantity sufficient to constitute, in his judgment, or in the judgment of the Fire Chief, a fire hazard. The Well or Oil and Natural Gas Facility shall remain shut-in or closed in until the hazard and its cause have been remedied.

SECTION 24. INSPECTION OF PRESSURE LINES.

The Oil and Gas Inspector shall inspect all pressure lines in use at any Well or at any project to ensure that tubing, fittings, equipment or connections are reasonably tight, safe and free from leaks.

SECTION 25. TEMPORARY ABANDONED WELLS.

A. Whenever the OCD has granted temporary abandonment status for a Well, the Operator or Owner shall immediately provide a copy of the approved C-103 form on which such status has been granted to the Oil and Gas Inspector. The Well may remain in temporary Abandoned status no longer than two (2) years without the necessity of obtaining a new Development Permit.

B. Except as otherwise provided by OCD, any Well placed in temporary Abandoned status shall be supplied with fittings and valves to permit the pressure on tubing and each string of casing to be measured independently using a gauge. If, in the judgment of the Oil and Gas Inspector, mechanical integrity of the temporarily Abandoned Well is suspect, the Oil and Gas Inspector, in conjunction with the OCD, may order a mechanical integrity test be performed by one of the techniques described in 19.15.4.203 NMAC of the OCD rules and regulations. Except as otherwise provided by OCD, mechanical integrity testing may be required by the Oil and Gas Inspector each year that a Well is in temporarily Abandoned status. When the Oil and Gas Inspector determines that a leak exists, appropriate repair work or remedial cementing shall be performed by the Operator or Owner to correct the problem, pursuant to OCD regulations and as approved by OCD. All repair procedures shall be approved by the Oil and Gas Inspector and OCD and shall be consistent with rules and regulations of the OCD, and practices of a Reasonably Prudent Operator. The Oil and Gas Inspector shall be notified so that he or she may witness the repair work and test to confirm the success of such repair work.

C. The Operator or Owner shall also comply with any other requirements or conditions imposed by the Oil and Gas Inspector or the OCD concerning a temporarily Abandoned Well.

D. Any Well placed in temporary Abandoned status more than two years must be plugged and Abandoned or brought back into production, except as otherwise provided by OCD. If OCD permits a Well to be placed in temporary Abandoned status for longer than two years, a supplement Development Permit must authorize same.

SECTION 26. ABANDONMENT, PLUGGING AND REMEDIATION.

A. Whenever a Well is Abandoned or an Oil and Natural Gas Facility ceases operation, it shall be the obligation of the Operator or Owner to comply with the rules and regulations of the OCD, the regulations of the Water Quality Control Commission, or

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the appropriate federal agency in connection with its abandonment, plugging and remediation.

B. A copy of the plugging and Abandonment forms shall be furnished to the County within ten (10) days of the date submitted to OCD. Upon Abandonment, the Operator shall erect and maintain an aboveground dry hole marker as required by OCD regulations.

C. No building shall be subsequently erected on or over any Abandoned Well.

D. Following Abandonment, the area formerly occupied by the Well or Oil and Natural Gas Facility shall be fully restored to the condition that existed prior to the activity. This shall include, but not be limited to, regrading of the site to its former contours, revegetation (as specified in the Code and this Ordinance), removal of all remains of the Well or Oil and Natural Gas Facility (including all deadmen, junk, tanks, buried material), fencing or walls, signs (except the Abandoned well marker), and access roads. Any and all spills, leaks or other Pollution of the site shall be fully remediated as set forth in this Ordinance.

E. When revegetating the Well or Oil and Natural Gas Facility, topsoil and other suitable rooting medium shall be provided and the affected land shall be revegetated in such a way as to establish a diverse, effective, and long lasting vegetative cover that is capable of re-seeding itself or spreading, is at least equal in extent of cover to the natural vegetation of the surrounding area, and is capable of supporting the range of wildlife associated with particular life zones affected. Native species should receive first consideration, but appropriately introduced species that are non-sterile hybrids may be used in the revegetation process. In order to assure the success of the revegetation program, the planting and seeding shall take place when natural precipitation will assist in establishing the plants and shall be supplemented with an irrigation program. Plants that die or are not established after a two year period shall be replaced; revegetation shall be monitored for a minimum of five (5) years. Success rate of re-seeding and re-vegetation shall be determined by the Administrator.

F. When preparing for revegetation of the Well or Oil and Natural Gas Facility, topsoil shall be removed from the affected land and segregated from other material. If such topsoil is not replaced on a backfill area soon enough to avoid deterioration, vegetative cover or other means shall be employed so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If it is determined that such topsoil is of insufficient quantity or is of poor quality for sustaining vegetation, or if other strata can be shown to be as suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata which are best able to support vegetation.

G. When revegetating the Well or Oil and Natural Gas Facility, new planting

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shall not be required on any affected area where the chemical and physical characteristics of the surface and immediately underlying material of such affected area are, through no fault of the Operator or Owner, toxic, deficient in plant nutrients, or composed of sand, gravel, shale or stone to such an extent as to seriously inhibit plant growth and such condition cannot economically be remedied by chemical treatment, fertilization, replacement of overburden, natural weathering or like measures. In those cases where planting is not required, the Owner or Operator shall still be required to stabilize the affected area so that all applicable local, state and federal laws and regulations are not violated.

SECTION 27. COPIES OF FORMS FILED WITH OCD TO BE FURNISHED.

A. Copies of all applications, notices, forms, records, logs and all similar documents filed by the Operator or Owner with the OCD shall also be filed with the Oil and Gas Inspector within one week of filing with the OCD. The Oil and Gas Inspector shall, consistent with the requirements of the Open Records Act, keep confidential any material identified as confidential by the Operator or Owner unless such material is necessary as evidence in the prosecution of any violation of the provisions of this Ordinance or required to be available for public inspection under applicable law.

B. No transfer of ownership of any Oil and Natural Gas Facility shall be valid until the OCD has approved the change of ownership, a copy of the approved change of ownership form is provided to the Oil and Gas Inspector, and the new Operator or Owner has received a Development Permit as provided in this Ordinance.

SECTION 28. PROHIBITION OF POLLUTION.

A. Each Oil and Natural Gas Facility, each Operator or Owner, and any contractors, drillers, service companies, pipe-pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug and abandon all Wells and Oil and Natural Gas Facilities (including seismic, core and stratigraphic holes) in a manner that will prevent Pollution or contamination and the migration of oil, gas, saltwater or other substance from one stratum into another, including specifically the Pollution or degradation of any aquifer or fresh water bearing formation. Degradation or Pollution of surface or subsurface fresh water by deleterious substances used in connection with the exploration, drilling, producing, refining, transporting or processing of oil or gas is hereby prohibited and shall constitute a violation of this Ordinance.

B. Prior to applying for authorization for a Special Use, the Owner or Operator shall complete a baseline water quality testing program. Water samples from all water wells and surface water sources within a three mile radius of the proposed Well site shall be taken and the parameters tested to establish the baseline water quality for the area. The parameters to be tested shall be specified by the Oil and Gas Inspector and the County Hydrologist.

C. In the event a property owner refuses access to a well for purposes of baseline water quality testing, an affidavit from the Operator or Owner shall be provided summarizing efforts to obtain water samples from the location and the obstacles encountered. If possible, the Owner or Operator shall secure the signature of the property owner confirming that property owner's decision not to allow testing of water sources on that owner's property. If access is refused as described, the Operator or Owner shall be required to drill monitoring wells to provide the baseline data and monitoring required by this Ordinance.

D. At least annually thereafter, the Oil and Natural Gas Operator shall repeat its testing of surface and subsurface water resources to determine whether fresh waters have been degraded or Polluted as a result of the operation of the Oil and Natural Gas Facility, as compared to the baseline established during initial testing, Such results shall be provided to the Oil and Gas Inspector.

E. The Oil and Gas Inspector shall have the authority to require the construction of supplemental monitoring water wells in the event degradation or Pollution is suspected to physically document any degradation or Pollution of an aquifer or any other fresh water bearing formation. Such construction and monitoring shall be at the expense of the Owner or Operator.

F. In the event degradation or Pollution of surface or subsurface waters, the Operator or Owner shall immediately abate the degradation or Pollution, at its own expense, and cooperate and follow the directives of County, State and federal officials having jurisdiction over the incident.

G. Solid waste (garbage, refuse or discarded material generated by Oil and Natural Gas Facility's operations) shall not be stored or buried on the Well site. Solid waste must be removed on a scheduled basis to a designated and properly permitted landfill or authorized transfer station.

SECTION 29. EFFECTS ON GROUND WATER AND HYDROLOGY.

Disturbances of prevailing hydrologic balances and to the quantity of ground water and surface water both during and after exploration and extraction activities and during reclamation operations shall be unlawful.

SECTION 30. GENERAL ENVIRONMENTAL PROTECTION STANDARDS.

A. Each Oil and Natural Gas Facility shall minimize any noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter, radiation hazards, fire and explosive hazards, and electromagnetic interference.

B. An Oil and Natural Gas Facility shall not create any dangerous, injurious,

noxious or otherwise objectionable condition, noise or vibration, smoke, dust odor or other form of air Pollution, electrical or other disturbance, radiation, glare or heat.

C. To the greatest extent possible, and using the best technology currently available, oil and natural gas exploration and extraction shall be conducted to mitigate or avoid disturbances and direct impacts to fish, wildlife and their habitats or migratory habits. In addition, the design, construction and maintenance of access roads into and across the Oil and Natural Gas Facility shall be configured to control or prevent erosion and siltation, to prevent Pollution of water or damage to fish or wildlife or their habitat. All vertebrates and all other wildlife considered endangered by federal or state governmental authorities shall be prevented by the Operator or Owner from contact with chemicals, solutions, and wastewaters containing chemicals.

SECTION 31. CONTROL OF SURFACE WATER RUN-ON AND RUN-OFF

A. Surface water run-on and run-off shall be controlled such that it will not endanger the Oil and Natural Gas Facility or become contaminated by contact with process materials or loaded with sediment. The control systems shall be designed to accommodate a 200-year, 24-hour storm event, or the largest storm occurrence within the general area within the previous twenty (20) years from the date of the application, whichever is greater, as well as any other defined climatic event that is more appropriate to the site, and be placed so as to allow for restoration of the natural drainage network, to the maximum extent practicable, upon facility closure.

B. All materials shall be properly placed and protected from surface water and precipitation so as not to contaminate surface water.

SECTION 32. ENHANCED RECOVERY, SALTWATER OR OTHER DISPOSAL WELLS.

Construction of a well for enhanced recovery, disposal of saltwater or other types of deleterious substances, whether denoted as exempt pursuant to Resource Conservation and Recovery Act or not, is prohibited.

ARTICLE VII - APPLICABILITY, SEVERABILITY
AND
AMENDMENT OF THE DEFINITION OF "MINERAL"
WITHIN THE SANTA FE COUNTY LAND DEVELOPMENT CODE,
ARTICLE III, SECTION 5.2

SECTION 1. APPLICABILITY.

This Ordinance shall apply to any Development of any new Oil and Natural Gas Facility within the unincorporated areas of the County but shall not apply within the

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exterior boundaries of an incorporated municipality, a federally recognized Indian Tribe, or to property owned by the United States, either in trust for a federally recognized Indian Tribe or otherwise.

SECTION 2. SEVERABILITY.

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.

SECTION 3. AMENDMENT OF THE CODE, ART. III, SEC. 5.2.

The definition of "Mineral" set forth in Article III, Section 5.2 of the Code, is hereby amended as follows:

Mineral – means an inanimate constituent of the earth in solid state which when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form of metal or metallic compound, a non-metal, a non-metallic compound, a raw material for manufacturing, but shall not include surface water, or subsurface water, sand or gravel regulated by Article XI of this Code, or oil and gas.

APPENDIX A
FEES

- 1. Application Fee, Application for Approval of a Special Use: \$6,000 per Well or Oil and Natural Gas Facility.**
- 2. Application Fee, Application for a Development Permit: \$1,000 per Well or Oil and Natural Gas Facility.**
- 3. Annual Fee: \$2,500 per Well or Oil and Natural Gas Facility.**