ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT THE PROPOSED SANTA FE COUNTY OIL AND GAS ORDINANCE

Q: Why can't the public have more time to provide comments on the proposed ordinance?

A: The schedule can be adjusted if needed. The current schedule calls for a three month process; this represents the time necessary to enact a County ordinance.

Q: Why don't you just ban oil and gas drilling?

A: Santa Fe County is a political subdivision of the State and derives its authority from the New Mexico Constitution and from statutes enacted by the Legislature. The Constitution and statutes do not provide counties with direct authority over oil and gas operations. The Oil Conservation Division of the Energy, Minerals and Natural Resources Department does have direct authority over oil and gas drilling through the Oil and Gas Act and the Water Quality Act. Santa Fe County may *regulate* oil and gas development through its zoning authority and police powers so long as such regulation does not conflict with State statutes or regulations.

Q: Why is the setback between oil and natural gas facilities and a domestic water well only 200 feet?

A: In order to be consistent with the Santa Fe County Land Development Code, a 200 foot setback was proposed in the ordinance. As a practical matter, the 1/2 mile setback from a residential use will become the effective setback for water wells that are near a residence.

Q: Why does the new ordinance permit the operator to seek a variance from the setbacks?

A: State law requires that variances be offered by the zoning authority in appropriate circumstances. Given the relatively large 1/2 mile setback proposed for a residential use (most oil and gas ordinances in the United States impose residential setbacks of between 200 and 400 feet),

some procedure is necessary to ensure that the owner of the mineral estate is not denied all economically viable use of the property.

Q. Why was the process set up to review each well separately instead of as a group of wells?

A: Zoning establishes the permissible use of an individual parcel of property. The proposed ordinance proposes to zone each oil and natural gas well separately, because oil and gas wells are scattered across large areas and are not grouped together on a single parcel. Handling the zoning in this manner will allow for examining the unique problems and characteristics of each well site. It is conceivable that numerous applications will move through the permitting process together.

Q. Why was the Mining Plans Review Board not used to review applications under the proposed ordinance? Why were the CDRC and BCC not mentioned?

A: Oil and Gas operations differ from hard rock mining operations. Operations like drilling, completion, fracturing, stimulation, reworking, recompletion, plugging and abandonment occur regularly during the life cycle of a well and each operation requires regulation, inspection and permitting. An Oil and Gas Inspector is appointed under the proposed ordinance to regulate these activities and guide the permitting process. The operations are too numerous to permit a large board like the MPRB to be assembled each time an operation is proposed. Instead, the Oil and Gas Inspector will be present on a daily basis to address these activities. The Inspector will advise the Board of County Commissioners, the County Development Review Committee and staff concerning pending applications. The Inspector will also review submittals, witness and supervise operations at the site, review data and monitor compliance, act as a code compliance officer, and engage in a myriad of other activities.

An application to create an oil and natural gas facility will be processed as any application submitted under the Land Development Code, including being presented to the County Development Review Committee and the Board of County Commissioners.

Q: Why is there not a distinction drawn in the proposed ordinance between exploration activities and production activities?

A: There is no distinction between "exploring" for oil and gas and "producing" oil and gas, because oil and gas operators drill wells both to explore for resources and subsequently produce the resources.

Q: Why are the bonding requirements so low?

A: Surety bonds secure the performance of a principal (the operator) to perform a defined task, such as "plug a well" or "remediate and restore a well site." The cost of site remediation can be determined with reasonable certainty. It is more difficult to quantify the cost of other problems that may or may not occur, such as ground water pollution. For these problems, the draft ordinance requires that each operator maintain in force at all times a comprehensive general liability insurance policy (with pollution coverage) of no less than $10,000,000 per occurrence. The surety addresses tasks that can be quantified, while less certain liability issues are addressed through sizable insurance policies.

Q: Why is hydraulic fracturing not regulated?

A: The ordinance regulates hydraulic fracturing by requiring that the operator strictly control fracturing pressures to ensure that fractures do not migrate into adjoining rocks and fresh water aquifers. If pressures are controlled properly, fracturing should not affect aquifers. Concern has been raised about the constituents of fracturing fluids. These constituents should not affect aquifers if the fracturing is properly engineered. However, it is not always possible to predict the behavior of underground rocks with certainty, and an examination of the question whether the County should regulate the constituents of fracturing fluids continues.

Q. How will the County assure that the aquifer is not contaminated? What will you do if contamination does occur?

A: Prevention of ground water degradation or contamination is a key component of the proposed ordinance. Ground water monitoring is used as a prevention tool in the proposed ordinance. Ground water must be tested before operations begin to establish baseline information about water quality and quantity. Monitoring is required annually, or more often if directed by

the Oil and Gas Inspector. Other prevention tools include the closed loop drilling systems, the fact that on-site waste disposal is prohibited, and the fact that all waste products must be trucked to an OCD-approved waste disposal facility. Also, as noted previously, hydraulic fracturing operations are to be carefully monitored to ensure that fractures do not permit communication with aquifers.

If degradation or pollution of ground water does occur, the well or facility will be shut down and OCD called. The insurer and surety would be notified. All these parties would work together to establish the source of contamination and prepare a plan for addressing the problem. The operator and its insurer would pay the costs of any required remediation.