

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO
RESOLUTION NO: 11-38**

**A RESOLUTION AMENDING RESOLUTION NO: 11-26, A RESOLUTION
APPROVING THE MCINTYRE FLOWBACK PITS #1 AND #2 MAJOR IMPACT OIL
AND GAS OPERATIONS PERMIT NO. 2011-06 SECTIONS 23 & 24, TOWNSHIP 11
SOUTH, RANGE 90 WEST, 6TH P.M.**

AND

**THE MCINTYRE FLOWBACK PITS #3 AND #4 MAJOR IMPACT OIL AND GAS
OPERATIONS PERMIT NO. 2011-07 SECTION 26, TOWNSHIP 11 SOUTH, RANGE
90 WEST, 6TH P.M.
SG INTERESTS 1, LTD.**

WHEREAS, on July 12, 2011, the Board of County Commissioners of the County of Gunnison, Colorado (hereinafter the "Board") adopted Resolution No. 11-26, approving The McIntyre Flowback Pits #1 and #2 Major Impact Oil and Gas Operations Permit No. 2011-06 and The McIntyre Flowback Pits #3 and #4 Major Impact Oil and Gas Operations Permit No. 2011-07 proposed by SG Interests I, Ltd ("SG"); and

WHEREAS, the Board approved the McIntyre Pits subject to certain conditions, including Condition No. 6 (requiring SG to execute and fund an inspection agreement), that are necessary to ensure that concerns about water quality impacts identified on the record would be addressed, and that the application for the McIntyre Pits would comply with Section 1-107 of the County Regulations (see Resolution No. 11-26, Finding 7 and 8); and

WHEREAS, the Board also found that use of a qualified consultant to perform monitoring/inspection is necessary to ensure compliance with the condition (see Resolution No. 11-26, Finding 9); and

WHEREAS, SG filed i) a complaint in District Court on June 2, 2011 challenging the Gunnison County Temporary Regulations for Oil and Gas Operations, ii) an amended complaint on August 5, 2011; and iii) a second amended complaint adding a fourth claim for relief relating to the Conditions of Approval; and

WHEREAS, on August 22, 2011, through its attorney Brian Tooley, SG gave notice, attached as Exhibit A, of its intent to proceed with construction of McIntyre Pits 3 and 4 without complying with Condition No. 6 and stated that it "will provide the County with timely notice of certain construction milestones and will grant entry to the County and its consultant, during pre-arranged business hours, to 'inspect and monitor' the construction of McIntyre Pits 3 and 4"; and

WHEREAS, the County and SG filed briefs regarding SG's fourth claim for relief, and on September 16, 2011 the District Court ruled that the County Regulations are not invalid "temporary regulations" but that Condition No. 6 is invalid on the grounds of operational conflict preemption which ruling is attached as Exhibit B; and

WHEREAS, a status conference was held on September 23, 2011 after which the Court issued a minute order which states that "the County has continuing jurisdiction under its permit and can evaluate what if anything further to do" and that "Mr. Tooley confirmed that inspections could be coordinated by the County with the COGCC. Further, he confirmed that the County could inspect at any time at its own risk in addition"; and

WHEREAS, the County Regulations state "[i]f the Operation complies with the oil and gas operation standards, the application shall be approved. If the Operation does not comply with the Oil and Gas Operation Standards, it shall be denied or conditions shall be imposed to ensure compliance with the Oil and Gas Operation Standards." Section 1-106 D.4.; and

WHEREAS, on September 27, 2011 the Board considered whether the McIntyre flowback pits would still be in compliance with the County Regulations and whether the water quality concerns would still be addressed without the inclusion of Condition No. 6.

NOW THEREFORE, the Board hereby finds that McIntyre Pits will comply with the County Regulations and that water quality concerns are likely be addressed so long as monitoring and inspection of the construction of the McIntyre Pits is conducted.

AND NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of the County of Gunnison, Colorado, that Resolution No: 11-26, A Resolution Approving The McIntyre Flowback Pits #1 and #2 Major Impact Oil and Gas Operations Permit No. 2011-06 Sections 23 & 24, Township 11 South, Range 90 West, 6th P.M. and The McIntyre Flowback Pits #3 and #4 Major Impact Oil and Gas Operations Permit No. 2011-07 Section 26, Township 11 South, Range 90 West, 6th P.M., which was recorded in the records of the Office of the Clerk and Recorder of Gunnison County, Colorado on July 13, 2011, bearing Reception No: 606659, shall be and hereby is amended as follows:

Condition of Approval 6 is deleted in its entirety and replaced with the following:

6. The County or its designee shall conduct inspections/monitoring during the construction and operation of the McIntyre Flowback Pits Nos. 1 - 4 for compliance with the County land use permit conditions and County Regulations. SG shall provide notice to the County or its designee at least 48 hours prior to the following milestones:

- a. Completion of pit excavation prior to placement of any fabric or geosynthetic liner material;



- b. Immediately prior to backfill of secondary liner anchor trench;
- c. Prior to backfilling and placement of primary liner of leak detection system (one visit per pond);
- d. After installation of the liner and prior to hydrostatic testing (one visit per pond);
- e. Hydrostatic testing (one visit per pond);
- f. Substantial completion including drainage basins and channels and bird netting; and
- g. First fracturing event.

INTRODUCED by Commissioner Chamberland seconded by Commissioner Channell, and adopted this 4th day of October, 2011.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By [Signature]
Hap Channell, Chairperson

By (Absent - No Vote)
Paula Swenson, Vice Chairperson

By [Signature]
Phil Chamberland, Commissioner

ATTEST:

[Signature]
Deputy County Clerk

