AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Oil and Gas Operation Inspection and Communication

Action Requested: Discussion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Update on ongoing discussions with COGCC staff

Fiscal Impact:

Submitted by: Neal Starkebaum **Submitter's Email Address:** nstarkebaum@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ○ Required ◉ Not Required

Comments:

Reveiwed by: Discharge Date: Certificate of Insurance Required

Yes ○ No ○

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 3/4/2016

○ Consent Agenda ○ Regular Agenda ◉ Worksession Time Allotted:

Agenda Date: 3/8/2016

Revised April 2015

Intergovernmental Agreement between the Board of County Commissioners of Gunnison County and the Colorado Oil and Gas Conservation Commission

I. Parties

The parties to this Intergovernmental Agreement ("Agreement") are the Board of County Commissioners of Gunnison County ("Gunnison County") and the Colorado Oil and Gas Conservation Commission ("Commission" and, collectively the "Parties").

II. Introduction and Purpose

In December 2011, the Parties entered into a Memorandum of Understanding ("MOU"). The MOU memorialized the Parties' intent to work together on regulatory matters related to oil and gas operations in Gunnison County, Colorado. The MOU contemplated the Parties would enter into this Agreement to, among other things, assign the Commission's oil and gas operations inspection function to Gunnison County pursuant to C.R.S. § 34-60-106(15).

III. Selection, Approval and Training of Inspector

Gunnison County may either employ a staff member or contract with a private entity to conduct inspections pursuant to this Agreement (the "Inspector"). Only persons who have been approved and trained by the Commission may conduct the inspections authorized under this Agreement.

A. Qualifications Inspector's qualifications shall, at a minimum, meet the Colorado Department of Personnel and Administration's qualifications applicable to Commission field inspectors.

B. Selection, Supervision and Control

1. Gunnison County will seek to fill the Inspector role via public advertisements or internal job announcements. Gunnison County will select the Inspector subject to Commission approval, which approval will not be withheld except for a conflict of interest or lack of appropriate qualifications.

2. Gunnison County will supervise the Inspector's routine activities, subject to appropriate communications with, and periodic reporting to, the Commission.

C. Training The Commission shall train the Inspector. The Inspector will attend the Commission's training programs, meetings and updates in person. Gunnison County shall be responsible for all costs associated with the selection, retention and training of the Inspector, including travel, lodging and

meals. The Commission will not require Gunnison County to reimburse the Commission for the prorata cost of the Inspector's participation in training programs, meetings and updates.

IV. Inspection Agreement

Gunnison County will provide a copy of any job description or contract inspection agreement to the Commission promptly after its execution ("Inspection Agreement").

A. Fees & Costs Gunnison County shall be solely responsible for the fees and costs charged by the Inspector or for the salary of the Inspector if a county employee. Neither the Inspection Agreement's fee arrangement nor the salary (including bonus) paid to an employee may be contingent on the number or nature of instances of alleged noncompliance reported by the Inspector to Gunnison County or referred by Gunnison County to the Commission.

B. Intergovernmental Coordination

1. Gunnison County and the Commission shall jointly coordinate routine inspections by the Inspector.

2. Gunnison County shall coordinate the frequency of routine inspections with the Commission.

3. Gunnison County may conduct inspections immediately in response to complaints, accidents, fires or other emergency events. Advance notice of such inspections shall be provided to the Commission where practicable.

4. The Inspector shall use the Commission's standard reporting forms and procedures.

5. The Commission shall retain all enforcement authority.

6. The Parties will hold coordination meetings at regular intervals to discuss implementation of this Agreement and will also accept public comment on, and review implementation of, this Agreement at regular intervals.

C. Governing Standards The Inspector shall perform inspections pursuant to the Commission's Rules and standards.

D. Conflicts of Interest Other than the fees or salary earned under the Inspection Agreement, the Inspector shall represent and warrant that it does not have any interest, financial or otherwise, in the outcome of the inspections.

V. Assignment of Inspection Authority

The Commission hereby expressly assigns its oil and gas operations inspection function to Gunnison County pursuant to C.R.S. § 34-60-106(15). Such assignment is limited to oil and gas operations within Gunnison County, Colorado and may be revoked by the Commission for any reason with 30 days notice to Gunnison County.

A. Right to Access The Commission hereby assigns to Gunnison County, through its Inspector, non-exclusive Commission authority to enter onto any lands or waters, public or private, located in Gunnison County, Colorado to carry out inspections.

B. Right to Inspect The Commission hereby assigns to Gunnison County non-exclusive Commission authority to inspect oil and gas operations located in Gunnison County, Colorado for purposes of assessing compliance with the Oil and Gas Conservation Act, or any rule, regulation or order of the Commission, or any permit issued by the Director.

VI. Reporting Requirements

A. Primary Point of Contact for Commission The Commission's primary point of contact for purposes of this Agreement shall be the Commission's Field Inspection Manager.

B. Primary Point of Contact for Gunnison County Gunnison County's primary point of contact for purposes of this Agreement is Gunnison County's Local Government Designee pursuant to Commission Rules.

C. Primary Point of Contact for the Inspector Gunnison County shall provide contact information for the Inspector or, in the event Gunnison County enters into an Inspection Agreement with a private entity, contact information for such entity once the Inspection Agreement is executed.

D. Alleged Violations In the event the Inspector has reasonable cause to believe that a violation of the Oil and Gas Conservation Act, or of any rule, regulation, or order of the Commission, or of any permit issued by the Director, has occurred, the Inspector shall notify the County, the Commission's Field Inspection Manager and the operator of the alleged violation in writing. The Inspector shall take appropriate measures to document the operator's alleged noncompliance, including photographs, reports and statements, and be available to consult with the Commission concerning the alleged facts and circumstances supporting the Inspector's belief.

E. Consideration of Alleged Violations The Commission shall promptly consider the Inspector's notification and, in its discretion, take any action permitted by the Oil and Gas Conservation Act or the Commission Rules. The Commission shall respond to each notification by the Inspector as if the notification were made by Commission staff.

F. Periodic Reporting by Inspector The Inspector shall, on a monthly basis, report to the Commission the number of inspections it has conducted in the preceding 30 days and the location and results of such inspections, even if no alleged violations of the Commission Rules are observed.

VII. Reservation of Enforcement Authority

The Commission retains all enforcement authority, including authority to enforce alleged violations of the Oil and Gas Conservation Act, or of any rule, regulation, or order of the Commission, or of any permit issued by the Director.

VIII. Term and Termination of Agreement, and Reporting by the Director

This Agreement takes effect upon the signature of both Parties thereto, and shall remain in effect for ten (10) years from the date of execution or until terminated upon 30 days written notice by either party. This Agreement may be extended or amended upon written request of either party, and written concurrence of the other party.

The Director of the Commission shall provide a report to the Commission concerning the administration of this Agreement approximately six months after its execution and annually thereafter.

IX. Miscellaneous Provisions

A. Information Disclosure Any information furnished pursuant to this Agreement will be subject to disclosure to the extent allowed under the Freedom of Information Act (5 U.S.C. § 552), the Privacy Act (5 U.S.C. §552a), and/or the Colorado Open Records Act (C.R.S. § 24-72-201 *et seq.*).

B. Similar Activities This Agreement in no way restricts the Parties from participating in similar activities with other public or private agencies, organizations, or individuals.

C. Separate Activities and Resources Each of the Parties will conduct its own activities and utilize its own resources, including expenditure of its own funds, in implementing this Agreement. Each party will carry out its separate activities as expeditiously as possible in a coordinated and mutually beneficial manner.

D. Obligation of Funds Nothing in this Agreement shall commit either party to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property between the Parties will require separate agreements and be contingent upon the availability of appropriated funds.

FOR GUNNISON COUNTY:

Hap Channell, Chairperson

Phil Chamberland, Commissioner

Paula Swenson, Commissioner

FOR THE COMMISSION:

Thomas L. Compton, Chairperson

Peter Gowen, Acting Secretary 4/19/2012

RECEIVED
APR 27 2012
COGCC

Gunnison County Community Development Department
Offices of Planning, Building and Environmental Health
221 N. Wisconsin St., Ste. D
Gunnison, CO 81230
Phone: (970) 641-0360 Fax: (970)641-8585

March 8, 2016

TO: **Board of County Commissioners**
Matthew Birnie, County Manager

FROM: **David Baumgarten, County Attorney**
Russell Forrest, Community Development Director
Neal Starkebaum, Assistant CD Director

SUBJECT: **Proposed Improvements to Communication and Collaboration with the Colorado Oil and Gas Conservation Commission**

1. PURPOSE.

An Intergovernmental Agreement (IGA), dated April 19, 2012 (See Attachment A), has provided explicit agreement on selection, approval and training of a Gunnison County inspector. On November 12, 2015 Staff continued ongoing work with the staff of the Colorado Oil and Gas Conservation Commission (COGCC) to improve communication and collaboration on inspections. County and COGCC staff have identified a number of ways to improve our relationship and effectiveness in managing oil and gas inspections and new permit activity. The purpose of this work session is to review proposed changes, which if acceptable to the COGCC and the Board of County Commissioners, would provide the basis for updating the IGA.

2. PROPOSED IMPROVEMENTS.

The following are areas of respective staff agreement from the November 12th meeting and subsequent discussions between the COGCC and Gunnison County staff.

REPORTING

A. COGCC would provide access to Gunnison County staff to view the Inspection Report Database.
B. The COGCC agrees to prepare an annual report which highlights the following:
    a. Total number of inspections
    b. % and number of high risk wells inspected
    c. Number of corrective actions found
    d. Summary of corrective issues found
    e. Conclusions and summary of water quality sampling that occurred
    f. Number of operator notices received by category (% inspected)
    g. Reclamation summary of activity for the year
        i. Number of sites that passed final inspections.
        ii. Number passed interim inspections.
        iii. Number of sites in process
        iv. Summary of any issues or concerns from reclamation sites and inspections.
    h. Overall conclusion of risk based on the above factors. We also discussed providing some perspective of risk compared to other locations in the State.

INSPECTIONS

A. COGCC reviewed the criteria with the County for the risk based inspection system. At the meeting County staff offered several ideas such as the sensitivity to being in a headwaters location. COGCC agreed to continue to solicit feedback from the County as the system was further developed.

B. Gunnison County staff will provide the COGCC with examples of water quality information we have received over the last several years related to well sites in Gunnison County. COGCC will confirm that it has received this information as well. The idea from this discussion was that COGCC would review this data in the annual report and determine if there are any issues of concern with the data that is being provided by SG and Gunnison Energy.

C. The COGCC will investigate whether a grab sample could occur from a production site to test for low level radiation.

D. Staff discussed issues that had occurred with the County Inspector, the increased capacity of the State inspection program and the enhanced/risk based inspection system. Both parties agreed that for the time being, the State could effectively perform inspections and that the current protocol, with the addition of the risk based system COGCC is implementing, is satisfactory. The County inspector was terminated on September 18, 2015. The proposed protocol would not prevent Gunnison County from reestablishing their own inspector.

COMMUNICATION

A. COGCC and Gunnison County Staff will meet twice a year. These two times would be in late autumn after the field inspection season has come to a close and then in the spring before the summer inspection season begins.

B. Gunnison County offered to facilitate communication with Delta County to share with the elected official and the public in that County the data and information from particularly the annual report with that constituency.

3. NEXT STEPS

If the BOCC supports the above recommendations, we would return with an updated IGA for the BOCC to consider.