



**BOARD OF COUNTY COMMISSIONERS  
OF GUNNISON COUNTY  
RESOLUTION NO. 2012-25**

**A RESOLUTION AMENDING THE GUNNISON COUNTY, COLORADO TEMPORARY  
REGULATIONS FOR OIL AND GAS OPERATIONS**

WHEREAS, the goal of the Board of County Commissioners of Gunnison County, Colorado in adopting these Regulations for Oil and Gas Operations is to provide a framework for the responsible exploration and production of oil and gas resources in Gunnison County in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects the public health, safety, welfare and the environment of Gunnison County; and

WHEREAS, the Board is authorized by, *inter alia*, Section 30-28-101, et. seq.; Section 30-28-201, et. seq.; and Section 29-20-101, et. seq., C.R.S. to adopt and amend such regulations, and

WHEREAS, the Board adopted the Gunnison County, Colorado Temporary Regulations for Oil And Gas Operations by Resolution No. 2003-50 adopted on May 9, 2003; and

WHEREAS, the Board amended the Gunnison County, Colorado Temporary Regulations for Oil And Gas Operations ("Temporary Regulations for Oil and Gas Operations") by Resolution No. 2004-27 adopted on May 18, 2004, Resolution No. 2007-04 adopted on January 23, 2007, and Resolution 2010-43 adopted on October 5, 2010; and

WHEREAS, the Board determined that revisions to the Temporary Regulations for Oil and Gas Operations should be considered based on the County's experience in applying those regulations since they were enacted; and

WHEREAS, the Gunnison County Planning Commission held a series of work sessions and public meetings on June 18, 2010, July 30, 2010, September 3, 2010, October 1, 2010, November 5, 2010, December 3, 2010, December 17, 2010, February 2, 2011, February 11, 2011, March 11, 2011, April 15, 2011, May 6, 2011, June 3, 2011 to consider proposed amendments to the Temporary Regulations for Oil and Gas Operations; and

WHEREAS, the Gunnison County Planning Commission transmitted to the Board the Proposed Amendments to Gunnison County, Colorado Temporary Regulations for Oil and Gas Operations, dated June 3, 2011 ("Proposed Amendments to Oil and Gas Regulations"); and





WHEREAS, after the Board received the Proposed Amendments to Oil and Gas Regulations, the Board held work sessions on September 27, 2011, February 28, 2012, March 27, 2012, May 8, 2012, June 12, 2012 and July 10, 2012; and conducted a public hearing on June 14, 2011, continued to August 2, 2011, continued to January 10, 2012, and continued to August 28, 2012; and received input from the public, the industry, the environmental community, landowners, and other interested parties on the Proposed Amendments to Oil and Gas Regulations; and

WHEREAS, based upon input received during the work sessions and from the public and interested parties, the Board identified issues and directed County staff to prepare revisions to the Proposed Amendments to Oil and Gas Regulations to address these issues; and

WHEREAS, a properly noticed public hearing was conducted by the Board on June 14, 2011; and

WHEREAS, notice of the continued public hearing by the Board was published in the Crested Butte News on July 27, 2012 and in the Gunnison County Times on July 26, 2012; and

WHEREAS, the Board conducted a public hearing on August 28, 2012 to consider revisions to the Proposed Amendments to the Temporary Regulations for Oil and Gas Operations;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that:

1. The Board hereby amends the Temporary Regulations for Oil and Gas Operations by adopting the Gunnison County, Colorado Regulations for Oil and Gas Operations, dated August 28, 2012, attached hereto as Exhibit A, effective immediately.
2. In the event that any term or provision of the Regulations for Oil and Gas Operations shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Regulations for Oil and Gas Operations shall not be affected thereby and shall remain valid and enforceable.
3. In the event that the entirety of the Regulations for Oil and Gas Operations shall be determined by a court of competent jurisdiction to be invalid or unenforceable, then oil and gas operations in Gunnison County shall be subject to the Gunnison County Land Use Resolution.
4. Gunnison County shall have the right to recover, from each person or entity who violates the Oil and Gas Operations, all reasonable attorney's fees and costs to the





County to enforce the Oil and Gas Regulations.

INTRODUCED by Commissioner Swenson, seconded by  
Commissioner Chamberland and adopted this 28<sup>th</sup> day of August, 2012.

BOARD OF COUNTY COMMISSIONERS  
OF GUNNISON COUNTY, COLORADO

By Hap Channell  
Hap Channell, Chairperson

By Paula Swenson  
Paula Swenson, Vice Chairperson

By Phil Chamberland  
Phil Chamberland, Commissioner

ATTEST:

[Signature]  
Deputy Clerk





# EXHIBIT A

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# **GUNNISON COUNTY COLORADO**

# **REGULATIONS FOR OIL AND GAS OPERATIONS**

**Adopted by the Gunnison County Board of  
County Commissioners – May 9, 2003  
BOCC Resolution No. 2003-50**

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**Amended – May 18, 2004 BOCC Resolution No. 2004-27  
Amended - October 5, 2010 BOCC Resolution No. 2010-43  
Amended - August 28, 2012 BOCC Resolution No. 2012-25**

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**GUNNISON COUNTY, COLORADO  
REGULATIONS FOR OIL AND GAS OPERATIONS**

**SECTION 1-101: PURPOSE.**

- A. GENERAL PURPOSE.** The purpose of these Regulations is to establish regulations that provide reasonable limitations and safeguards for the exploration and production of oil and gas resources in the County. The goal is to provide a framework for the responsible exploration and production of oil and gas resources in a manner that conserves other natural resources, that is sensitive to surrounding land uses, and that mitigates adverse impacts to and protects the public health, safety, welfare and the environment of the County.
- B. INTENT TO NOT DUPLICATE OTHER PERMIT PROCESSES OR REQUIREMENTS.** The County intends to avoid duplicative permit processes or requirements. The County will review permit applications concurrently with other required state or federal agency permitting processes whenever possible.
- C. RELATIONSHIP TO THE GUNNISON COUNTY LAND USE RESOLUTION.** These Regulations are intended to be a stand-alone document and are not an amendment to or a Section of the *Gunnison County Land Use Resolution*. These Regulations, in lieu of the *Land Use Resolution*, shall apply to Oil and Gas Operations.
- D. RELATIONSHIP TO OTHER GUNNISON COUNTY REQUIREMENTS.** Any and all Oil and Gas Operations and any and all maintenance to or on an Oil or Gas Well, production facility, or pipeline shall require compliance with all applicable Gunnison County Regulations and requirements including but not limited to the Gunnison County Standards and Specifications for Road and Bridge Construction and the Gunnison County Overweight Vehicle Permit requirements.

**SECTION 1-102: AUTHORITY.**

These Regulations are authorized by, *inter alia*, Section 30-28-101, et seq.; Section 30-28-201, et seq.; and Section 29-20-101, et seq., C.R.S.

**SECTION 1-103: APPLICABILITY.**

- A. ALL OIL AND GAS OPERATIONS SHALL COMPLY WITH THIS REGULATION.** All Oil and Gas Operations in the unincorporated areas on public and private land within the County shall comply with these Regulations.
- B. OIL AND GAS PERMIT REQUIRED.** No person shall engage in, cause, allow or conduct any Oil and Gas Operations prior to obtaining an Oil and Gas Permit unless the Operations fall within the exemption in Section 1-103C.
- C. OIL AND GAS OPERATIONS EXEMPTED FROM SUBMITTAL AND REVIEW REQUIREMENTS.** The following Oil and Gas Operations are exempt from these Regulations:

  - 1. MAPPING ACTIVITIES.** Mapping activities that do not result in any surface disturbance.
  - 2. EXISTING OIL AND GAS OPERATIONS.** Operation and maintenance of well sites, wells and pipelines, that are legal nonconforming uses under Section 1-103 D. Any expansion of a nonconforming Oil and Gas Operation shall comply with Section 1-103 D.
  - 3. COAL MINE METHANE VENTING INTEGRAL AND ESSENTIAL TO EXISTING COAL MINING OPERATION.** Coal mine methane venting from a permitted coal mine, that does not produce or distribute methane off-site, and that is an integral and essential component of the existing coal mine, shall not be subject to these Regulations.
- D. NONCONFORMITIES.** Within unincorporated Gunnison County, there are Oil and Gas Operations that were legally established before the effective date of these Regulations that do not conform to the legal requirements of these Regulations. The purpose of this Section is to regulate those nonconforming Operations.

  - 1. NON-ABATEMENT PROVISION.** Unless otherwise stated herein, nonconforming Oil and Gas Operations that were legally established before the effective date of these Regulations are permitted to continue.
  - 2. CONTINUED OPERATION OF LEGALLY ESTABLISHED NONCONFORMING OIL AND GAS OPERATIONS SHALL**



## SECTION 1-103: APPLICABILITY

**BE ALLOWED.** Legally established non-conforming Oil and Gas Operations, including ordinary repairs and maintenance thereto, shall be allowed to continue, so long as they remain otherwise legal and comply with the requirements of these Regulations.

3. **LIMITED EXTENSION OR EXPANSION.** A legal nonconforming Oil and Gas Operation shall only be extended, expanded, or altered in a manner that decreases or does not expand the nonconforming use
4. **EXTENSION OR EXPANSION ONTO LAND OUTSIDE OF PERMITTED AREA.** Any extension or expansion of a legal nonconforming Oil and Gas Operation onto land outside of a specified area used prior to the adoption of these Regulations shall comply with the requirements of these Regulations.
5. **RELOCATION.** A legal nonconforming Oil and Gas Operation shall not be moved, in whole or in part, unless the relocation brings the Oil and Gas Operation into compliance with the requirements of these Regulations.
6. **ABANDONMENT OF NONCONFORMING OIL AND GAS OPERATION.** If any legal nonconforming Oil and Gas Operation is abandoned for a period of one year, renewal of that use or the use of that structure shall not be initiated until after a review by the Community Development Department has determined that the renewed use will not pose a threat to public health, safety, welfare or the environment. For the purpose of this subsection, "abandonment" means the intent to not continue the legally established nonconforming Oil and Gas Operation, coupled with the discontinuance of the nonconforming Oil and Gas Operation.
7. **DAMAGE OR DESTRUCTION.** A legal nonconforming Oil and Gas Operation that is demolished or destroyed by an act of God or through any manner not willfully accomplished by or for the owner may be restored within one year of the damage or destruction as of right, regardless of the extent of demolition or destruction, conditioned upon issuance of each required permit, pursuant to these Regulations. A one time, two-year extension of the initial year may be granted by the Community Development Director upon findings that:



## SECTION 1-103: APPLICABILITY

- a. **HARDSHIP.** There would be a substantial hardship to the owner without the extension; and
  - b. **SUBSTANTIAL EFFORT TO RESTORE.** Within the first eight months after the destruction, the owner has substantially cleaned up and removed, if unusable, the damaged Operation.
- E. CLASSIFICATION OF OIL AND GAS OPERATION.** Unless specifically exempt pursuant to Section 1-103 C, Oil and Gas Operations shall be classified, for purposes of review as either a Limited Impact Operation or a Potentially Significant Impact Operation. The initial classification determination shall be made as part of the completeness determination.
1. **LIMITED IMPACT OPERATION.** Unless site specific considerations indicate to the Community Development Department that the Operation should be classified as a Potentially Significant Impact Operation, the Community Development Department may, at its discretion, choose to initially classify Oil and Gas Operations with one or more of the following features as Limited Impact Operations. An Oil and Gas Operation that has been classified as a Limited Impact Operation shall be reviewed administratively by the Community Development Department under Section 1-106C.
    - a. The Oil and Gas Operation will consist solely of the installation or construction by one Operator of storage yards and construction staging areas disturbing one acre or less, during the same calendar year; or
    - b. Co-location of wells on an existing pad for which a permit was previously issued by the County; or
    - c. Installation of flowlines and gathering lines for a well or pit for which a permit was previously issued by the County; or
    - d. No pits will be used for produced water, flowback water, or other waste generated by any phases of the Oil and Gas Operation; or
    - e. Drilling and hydraulic fracturing fluids, including additives, anticipated to be used during the life of the



## SECTION 1-103: APPLICABILITY

Oil and Gas Operation will not contain constituents listed on the US EPA Priority Pollutants and National Primary Drinking Water Contaminants List; or

- f. The Oil and Gas Operation is downgradient or separated by a geological barrier from the potentially affected water bodies; or
  - g. The Oil and Gas Operation is a phase of and consistent with a master development plan previously approved by the County; or
  - h. All features other than linear features will be located outside of the variable buffers set forth in Section 1-108 I; or
  - i. The Oil and Gas Operation is of such limited scope and duration that the impacts of the Operation are likely to be insignificant.
2. **POTENTIALLY SIGNIFICANT IMPACT OPERATION.** An Oil and Gas Operation that is not classified as a Limited Impact Operation shall be classified as a Potentially Significant Impact Operation. A Potentially Significant Impact Operation shall be reviewed by the Community Development Department under Section 1-106D, and shall require review, public hearing, and decision by the Planning Commission.
3. **CHANGE IN LEVEL OF REVIEW.** At any time prior to the Administrative Decision on a Limited Impact Operation, the Community Development Department may determine that the proposed Oil and Gas Operation should be reviewed as a Potentially Significant Impact Operation.

## SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS FOR OIL AND GAS PERMITS

- A. **APPLICABILITY.** This Section shall apply to those Oil and Gas Operations not exempt under 1-103. C.
- B. **PERMIT SUBMITTAL REQUIREMENTS FOR OIL AND GAS OPERATIONS.** An applicant for a permit to conduct Oil and Gas Operations shall submit the following information to the Community



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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Development Department. The applicant may provide a copy of an Application for Permit to Drill (APD) or other application submitted to COGCC and/or federal Environmental Assessment (EA) or Environmental Impact Statement (EIS) as documentation for one or more of the submittal requirements in this Section 1-104 if it contains information sufficient to demonstrate compliance with these Regulations and that information is highlighted.

1. **APPLICANT.** The name, address, telephone and fax numbers, and e-mail address for the applicant. If the applicant is to be represented by an agent, a notarized letter signed by the applicant authorizing the agent to represent the applicant and also stating the same information for the agent.
2. **SURFACE OWNERSHIP.** Documentation of surface ownership and evidence of surface owner authorization. Name, address, telephone and fax numbers, and e-mail address of the owner of the property.
3. **MINERAL OWNER.** Documentation of mineral ownership, including name, address, telephone and fax numbers, and e-mail address of the owner of the mineral rights.
4. **PARCEL LOCATION.** The legal description (referencing lot and block or tract numbers, homesteads, or metes and bounds), property address and common description of the parcel on which the Operation is proposed to be located. A copy of the recorded deed or lease to the parcel should be included.
5. **IDENTIFICATION OF PREVIOUSLY APPROVED USES.** List of any permits which have been previously approved for the parcel on which the Operation is proposed.
6. **CHARACTERISTICS AND CURRENT CONDITION OF THE OPERATION LOCATION.** Identification of physical characteristics and current conditions of the site where the Operation is proposed to occur, including streams, irrigation ditches, ponds, soils, roads, vegetation, geologic hazards, and any other characteristics requested by the Community Development Department to determine potential impacts. Indications if trees or other vegetation have been removed and changes caused either by weather-related or human activity within the past five years.



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7. **LIST OF ADJACENT LANDOWNERS.** List of all landowners and land uses that are adjacent to the boundaries of the parcel on which the Oil and Gas Operation is proposed, including all properties that are separated from the parcel by a roadway or would be adjacent to the parcels except for the existence of the roadway. The source for the best-available information to identify those landowners is the Gunnison County Assessor's Office.
  
8. **VICINITY MAP.** A vicinity map which shall, at a minimum, include the following:
  - a. **OPERATION LOCATION.** Location of the Operation on a United States Geological Survey quadrangle map or on a recorded plat if the proposed Oil and Gas Operation is within an approved subdivision, with the location highlighted so that it is easy to see.
  
  - b. **TOPOGRAPHIC FEATURES.** Water bodies, contour lines and elevations, within one mile of the proposed well pad.
  
  - c. **ROADS.** All public and private roads that traverse and/or provide access to the proposed Oil and Gas Operation, and identification of the public or private entity having jurisdiction over each road(s).
  
  - d. **EASEMENTS.** Easements recorded or historically used that provide access to or across, or other use of, the parcel.
  
  - e. **BOUNDARIES OF DISTRICTS, MUNICIPALITIES OR SUBDIVISIONS.** Locations of special district boundaries, municipalities or subdivisions within one mile of the site.
  
  - f. **PROXIMITY OF OTHER WELLS AND OTHER OIL AND GAS OPERATIONS.** Location of other wells and other Oil and Gas Operations within one mile of the site.
  
9. **SITE PLAN MAP.** A map with north arrow and appropriate scale for the parcel where the Oil and Gas Operation will occur, indicating the following:



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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- a. **EASEMENTS AND RIGHTS-OF-WAY.** Utility easements and rights-of-way.
  - b. **IMPROVEMENTS.** Existing improvements.
  - c. **PROPOSED FACILITIES.** Proposed facilities such as structures, pipelines, tanks, wells, pits, flow lines, impoundment facilities, staging and storage areas and equipment.
  - d. **SITE FEATURES.** Site features such as floodplains, water bodies, drainage patterns, aquatic habitat, vegetative cover, wildlife migration routes and significant wildlife habitat.
  - e. **TOPOGRAPHY.** Existing and proposed topography at five-foot intervals or some other interval established by the Community Development Department as necessary to portray the direction and slope of the area affected by the Oil and Gas Operation.
  - f. **LEASE BOUNDARY.** All boundaries of the lease(s) upon which the Oil and Gas Operation will take place.
- 10. APPLICATIONS AND PERMITS.** Copies of all local, state and federal applications authorizing or required for the Operation, and permits, when issued.
- 11. OPERATION PLAN.** A plan including the method and schedule for drilling, completion, transporting, production and post-operation.
- 12. LINEAR FEATURES.**
- a. Identification of all water bodies crossed by linear features or linear features that are located within 150 feet of a water body required for the proposed Oil and Gas Operation.
  - b. Description of and specifications for the linear element and identification of mitigation measures and/or best management practices for installation of linear features that cross or that are located within 150 feet of a water body.



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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13. **WEED MANAGEMENT PLAN.** A plan for the management and prevention of noxious weeds on the site.
14. **ACCESS AND TRANSPORTATION ROUTES.** A map that identifies the access route to, and within the parcel, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route.
15. **IDENTIFICATION OF WATER STRUCTURES.** Identification of irrigation ditches and other water structures, ownership of water rights appurtenant thereto where the ownership information is available through the local water commissioner for the Colorado Division of Water Resources, and evaluation of any impacts to the structures or water rights.
16. **ROADWAY IMPACT ANALYSIS.** An analysis of the impacts of the Operation to the public roadway system within the County.
17. **WILDLIFE AND WILDLIFE HABITAT ANALYSIS.** An analysis of existing wildlife and sensitive wildlife habitat, an evaluation of the impacts of the Operation on wildlife and sensitive wildlife habitat, and proposed mitigation.
18. **VEGETATION.** A written description of the type, character, and density of existing and proposed vegetation on the parcel, a summary of the impacts of the Operation on vegetation, and proposed mitigation.
19. **EMERGENCY RESPONSE PLAN.** An Emergency Response Plan that addresses events including, but not limited to explosions, fires, gas or water pipeline leaks or ruptures, leaks from well casings, pits, tank leaks or ruptures, hydrogen sulfide or other toxic gas emissions, transportation of hazardous material, vehicle accidents or spills, and including the name and contact information for the applicant's incident commander, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan shall include a provision for the Oil and Gas Operator to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency. The Operator shall provide



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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proof of adequate personnel, supplies, and funding to implement the emergency response plan immediately at all times during construction and operations.

**20. WATER BODIES AND DRINKING WATER SUPPLIES.**

**a. IDENTIFICATION OF ALL WATER BODIES AND DOMESTIC WATER WELLS.** An inventory and location of all water bodies and domestic water wells within one mile of the proposed Oil and Gas Operation.

**b. IDENTIFICATION OF INTAKE FOR A MUNICIPAL WATER SUPPLY.** Identification of all intakes for any municipal water supplies in Gunnison County downstream from the proposed Oil and Gas Operation.

**c. IDENTIFICATION OF CLOSEST MUNICIPAL WATERSHED BOUNDARY.** Identification of all municipal watershed boundaries in Gunnison County within which the Oil and Gas Operation is located or downstream of the Oil and Gas Operation.

**d. DESCRIPTION OF EXISTING WATER QUALITY.**

**(1) WATER BODIES.** A description of existing water quality of all water bodies, within one mile of the proposed Oil and Gas Operation.

**(2) DOMESTIC WATER WELL BASELINE AND MONITORING.** A description of water quality of domestic water wells within one mile of the proposed Oil and Gas Operation and a proposed domestic well water sampling and monitoring plan.

**e. IMPACTS TO WATER QUALITY.** A description of potential impacts to water quality associated with the proposed Oil and Gas Operation and proposed mitigation.

**21. WATER QUALITY MONITORING PLAN.** A Water Quality Monitoring Plan that establishes a baseline and a process for monitoring, including identification of equipment, personnel,



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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scheduling and estimated costs, to measure changes to the aquatic environment and effectiveness of mitigation. The plan shall comply with the Colorado Oil & Gas Association Voluntary Baseline Groundwater Quality Sampling Program,<sup>1</sup> as it may be amended, and be complementary to any monitoring required by state and federal agencies. The plan shall, at a minimum, include the following elements:

- Key stream segments, other water bodies, and groundwater to monitor.
- Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to the Oil and Gas Operation including existing fishery, water quality, aquatic macroinvertebrate, and groundwater data.
- Key indicators of water quality and stream health, and threshold levels that will be monitored to detect changes in water quality and health of the aquatic environment.
- Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including but not limited to constituents regulated by the Colorado Water Quality Control Commission, and constituents associated with the Oil and Gas Operation.
- Locations for and frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the Oil and Gas Operation and five years after final reclamation of all disturbed areas is complete.
- Mitigation steps that will be implemented to avoid degradation of water bodies if monitoring of key indicators reveals degradation.

**22. WASTE MANAGEMENT PLAN.** A Waste Management Plan that describes the handling and storage, transportation, treatment, recycling and disposal of waste generated by the Operation, including exploration and production (E & P) waste. The COGCC Rule 910 Plan may be submitted to satisfy this requirement.

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<sup>1</sup> <http://www.coga.org/index.php/BaselineWaterSampling>



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
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- 23. HYDRAULIC FRACTURING FLUIDS DISPOSAL AND REPORTING PLAN.**
- a. The plan shall identify the method and procedure for the disposal of all fluids used in Hydraulic Fracturing.
  - b. The plan shall include a provision for reporting to the County the chemicals, other than those protected as Trade Secret, actually used during any Hydraulic Fracturing event.
- 24. CULTURAL SURVEY.** A cultural, historical, and archeological survey of the parcel prepared by a qualified professional if permission of the surface owner is obtained.
- 25. DRAINAGE AND EROSION CONTROL PLAN.** A Drainage and Erosion Control Plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during construction and operation phases of the Operation.
- 26. WILDFIRE HAZARDS.** An assessment of wildfire hazards within one mile of the site, and a plan for mitigating wildfire hazards.
- 27. GEOLOGIC HAZARDS.** An assessment of the geologic hazards within one mile of the site, and a plan for mitigating geologic hazards.
- 28. EXISTING AND FUTURE LAND USES.** A written summary of the existing uses of the parcel and the proposed future land uses of the parcel after completion of the Operation.
- 29. OPERATIONAL CONFLICT.** Documentation of the basis for any waiver of Oil and Gas Operation Standards based on operational conflict that the applicant may request pursuant to Section 1-108S of these Regulations.
- 30. TECHNICAL INFEASIBILITY OR ENVIRONMENTAL PROTECTION WAIVERS.** Documentation of the basis for any waiver of Oil and Gas Operation Standards based on technical infeasibility or environmental protection that the applicant may request pursuant to Section 1-108T. of these Regulations.



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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**31. CHEMICALS USED IN OIL AND GAS OPERATION.**

a. An inventory of all chemicals anticipated to be used for the Oil and Gas Operation. The inventory of Chemical Products shall include:

(1) The material safety data sheets for the chemicals, if any; and

(2) Chemical Abstract Service Registry Numbers for every chemical used in the Operation, if available, other than those protected as a Trade Secret.

**32. FUTURE OPERATIONS.** A map showing the location of existing facilities and the general location of facilities anticipated to be constructed by the applicant in the County over the next three years associated with Oil and Gas Operations.

**33. MISREPRESENTATION.** Any misrepresentation by the applicant may result in suspension or revocation of the Oil and Gas Permit.

**C. FEES.** Any application for an Oil and Gas Permit must be accompanied by appropriate fees. A schedule of fees is available through the Community Development Department.

**1. APPLICATION FEE SET BY BOARD.** The initial application fee is set by the Board of County Commissioners as identified on the Fee Schedule, now in effect and as may be amended in the future, attached hereto as Attachment A.

a. **APPLICANT RESPONSIBLE FOR REFERRAL AGENCY REVIEW AND CONSULTANT FEES.** The costs of referral agency and consultant review of the application for the proposed Oil and Gas Operation, including reviews associated with the preapplication meeting and completeness determination, are the responsibility of the applicant.

b. **DEPOSIT.** An application for a Potentially Significant Impact Operation shall be accompanied by a deposit set forth on the Fee Schedule now in effect and as



**SECTION 1-104: APPLICATION SUBMITTAL REQUIREMENTS  
FOR OIL AND GAS PERMITS**

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may be amended in the future, attached hereto as Attachment A. The deposit shall be applied toward the costs of the preapplication meeting, referral agency review, and consultant fees. The County shall initially pay the costs of referral agency review and outside consultants retained by the County to review the application from this fund.

- (1) **BALANCE.** Throughout the application process, a minimum fee deposit balance established by the Board shall be maintained by the applicant. The amount of the initial deposit and the minimum balance required may be reduced upon a finding by the Community Development Department that the application processing and review costs are likely to be less than the minimum amount set herein.
- (2) **SUSPEND PROCESSING.** The County may suspend processing the application pending receipt of additional installments required to bring the fee deposit balance to at least the minimum balance. Suspension shall toll all deadlines imposed on the County by this Section.
- (3) **REFUND.** Within thirty (30) calendar days after the decision on the permit is made, the County shall refund any balance of the deposit not expended.

**SECTION 1-105: COORDINATION OF COUNTY PERMIT PROCESS WITH STATE OR FEDERAL ACTIONS.**

Final action by the County on an Oil or Gas Permit application may be delayed until any required Environmental Assessment (EA), Environmental Impact Statement (EIS) or other permit by a state or federal agency is issued, so that the County will have the benefit of the analysis and determinations made by other entities in reaching its own decision.



**SECTION 1-106: PERMIT REVIEW PROCEDURES  
FOR OIL AND GAS OPERATIONS.**

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**SECTION 1-106: PERMIT REVIEW PROCEDURES FOR OIL AND GAS OPERATIONS.**

**A. PRE-APPLICATION MEETING**

**1. PREAPPLICATION MEETING AND PREAPPLICATION SUBMITTAL.** Before submitting an application to the County, any person applying for an Oil and Gas Permit shall request a meeting with the Community Development Department. The meeting will be held within ten (10) working days of the request.

**a. PURPOSE.** The purposes of the pre-application meeting include, without limitation:

- (1) To discuss the location and nature of the proposed Oil and Gas Operation;
- (2) To explain the application submittal requirements and the nature of materials that will be responsive to those requirements;
- (3) To identify materials which have been submitted to the COGCC, BLM, Forest Service, or other regulatory agencies that the applicant proposes to use in the County application review process;
- (4) To discuss federal and state terms and conditions that may have been imposed on the proposed Oil and Gas Operation;
- (5) To identify site-specific concerns and issues that bear on the proposed Oil and Gas Operation;
- (6) To discuss projected impacts and potential mitigation;
- (7) To discuss the Oil and Gas Operation Standards that must be satisfied for permit approval;
- (8) To consider the County permit process and level of permit review; and

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**SECTION 1-106: PERMIT REVIEW PROCEDURES  
FOR OIL AND GAS OPERATIONS.**

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(9) To identify potential operational conflicts, or waivers of Oil and Gas Operation Standards based on technical infeasibility or environmental protection that the applicant intends to raise.

**b. PREAPPLICATION SUBMITTAL REQUIREMENTS.** At or before the preapplication meeting, the applicant shall submit a brief explanation of the proposed Oil and Gas Operation including, without limitation:

(1) **APPLICANT INFORMATION.** Applicant's name, address and phone number.

(2) **DESCRIPTION OF PROPOSED OIL AND GAS OPERATION.** Detailed written description of the proposed Oil and Gas Operation that is sufficient to accurately convey the character and magnitude of the proposed Operation.

(3) **MAP(s).** Map(s) prepared at an easily readable scale showing the boundaries of the proposed Oil and Gas Operation; relationship of the proposed Operation to surrounding topographic features, water bodies, and hydrologic features; domestic water wells; existing and proposed roads, structures, and infrastructure; and gas wells and buried pipelines.

**c. PARTICIPATION BY COUNTY STAFF AND CONSULTANTS.** The Community Development Department may include staff from other departments and agencies, and outside consultants in the preapplication meeting. The Community Development Department shall invite the Local Government Designee to participate in the meeting.

**d. COMMENTS ARE PRELIMINARY.** Any comments made by County staff and consultants during the preapplication meeting are preliminary in nature and not binding.

**B. APPLICATION SUBMITTAL, DETERMINATION OF COMPLETENESS, AND DETERMINATION OF LEVEL OF REVIEW**



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- 1. APPLICATION SUBMITTAL.** Following a pre-application meeting with the Community Development Department, an applicant seeking an Oil and Gas Permit shall submit an application to the Community Development Department containing the information in Section 1-104.
  
- 2. DETERMINATION OF COMPLETENESS OF APPLICATION.** Not more than ten (10) working days after receipt of the application materials, or twenty (20) working days if outside consultants or staff other than Community Development Department assist the County with completeness determination, the Community Development Department shall determine whether the application is complete.

  - a. APPLICATION IS NOT COMPLETE.** If the Community Development Department determines that the application is not complete, the Community Development Department shall inform the applicant in writing of the deficiencies and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) working days after the notice that the application is incomplete, the application shall be considered withdrawn unless the applicant requests more time to ensure that the materials are as complete as possible.
  - b. APPLICATION IS COMPLETE.** If the Community Development Department determines that the application is complete, the Community Development Department shall date the application and notify the applicant in writing.
  - c. COMPLETENESS IS NOT A DETERMINATION OF COMPLIANCE.** A determination that an application is complete shall not constitute a determination that it complies with the applicable standards of these Regulations.
  
- 3. DETERMINATION OF LEVEL OF REVIEW.** As part of the completeness determination, the Community Development Department shall determine the level of review for the proposed Oil and Gas Operation.



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4. **CHANGE IN LEVEL OF REVIEW.** At any time prior to the Administrative Decision on a Limited Impact Operation, the Community Development Department may determine that the proposed Oil and Gas Operation requires review as a Potentially Significant Impact Operation due to an evaluation of the foreseeable impacts. If the Community Development Department determines that a change in the level of review is required, the Community Development Department shall immediately provide written notice to the applicant and the Planning Commission that includes the reason for the change.

**C. LIMITED IMPACT OPERATION PERMIT REVIEW**

1. **REVIEW OF APPLICATION BY COMMUNITY DEVELOPMENT DEPARTMENT.** Upon determination that the application is complete and that the Operation has been classified as a Limited Impact Operation, the Community Development Department shall review the application for compliance with County regulatory requirements.
2. **REVIEW BY COUNTY CONSULTANT.** The Community Development Department may submit the application for review and recommendation by consultants retained by the County with the necessary expertise to review the application.
3. **REVIEW BY REFERRAL AGENCIES.** The Community Development Department may submit the application for review and recommendation to referral agencies and organizations including other County offices and departments, and municipal, state, or federal agencies having an interest in or authority over all or part of the proposed Oil and Gas Operation. The referral review and comment period shall be twenty (20) working days from the date that the application is determined to be complete. Comments not received from referral agencies within the comment period may, but need not be considered by the Community Development Department.
4. **CONSULTATION WITH LOCAL GOVERNMENT DESIGNEE.** The Community Development Department shall consult with the Local Government Designee.



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- 5. PUBLIC NOTICE AND COMMENT PERIOD.** Upon determination that the application is complete, the Community Development Department shall prepare a notice that includes a description of the proposed Oil and Gas Operation and the deadline for public comments.
- a. PUBLICATION OF NOTICE.** The Community Development Department shall be responsible for publishing the notice in the County's official newspaper(s). The applicant shall be responsible for the cost of publication.
  - b. NOTICE TO ADJACENT PROPERTY OWNERS.** The applicant shall mail written notice to owners of real property within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, and within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Oil and Gas Operation is located on public land. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the Office of the Gunnison County Assessor.
  - c. NOTICE TO OWNERS OF WATER RIGHTS.** Where the ownership information is available through the local water commissioner for the Colorado Division of Water Resources, the applicant shall mail written notice to owners of water rights in any ditches or in other water bodies within one mile of the proposed Oil and Gas Operation. The list of owners of water rights to be notified shall be compiled by the applicant.
  - d. NOTICE TO OWNERS OF NON-ADJACENT PROPERTY WITHIN AN EXISTING SUBDIVISION, OR 35-ACRE TRACT DEVELOPMENT.** The applicant shall mail written notice to all of the surface landowners within any existing subdivision or 35-acre tract development that is located within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, or within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Operation is located on public land. The list of property owners to be notified shall be compiled by the applicant using the most



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current list of property owners on file with the Office of the Gunnison County Assessor.

- e. **CERTIFIED MAIL.** The applicant shall mail the written notice by certified mail, return receipt requested. The applicant shall submit a list of the property owners and owners of water rights and proof of mailing to the Community Development Department prior to the decision on the application.
  - f. **VALIDITY OF NOTICE.** The applicant is responsible for the accuracy of lists of property owners and water rights owners to whom notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of the decision.
  - g. **COMMENT PERIOD.** The comment period shall be fourteen (14) calendar days from the latter of the date of publication or of certified mailing of the notice.
6. **ADMINISTRATIVE DECISION ON LIMITED IMPACT OPERATION.** Not more than thirty (30) calendar days after the completeness determination, the Community Development Department may approve, approve with conditions, or deny the application based upon the Oil and Gas Operation Standards. The Community Development Department shall provide a written decision that includes the following:
- a. **DESCRIPTION OF OIL AND GAS OPERATION.** Brief discussion of the Oil and Gas Operation;
  - b. **ISSUES.** Description of issues raised by referral agencies and consultants, the Community Development Department, the Local Government Designee, other County staff, and the public;
  - c. **CONDITIONS IMPOSED BY COGCC AND FEDERAL AGENCIES.** Description of the terms, conditions and requirements imposed on the Oil and Gas Operation by COGCC and federal agencies;



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- d. **IMPACTS AND MITIGATION.** Description of impacts of the Oil and Gas Operation, proposed mitigation, and whether each Oil and Gas Operation Standard has been satisfied; and
  - e. **CONDITIONS OF APPROVAL.** Conditions of approval, if any, necessary to ensure compliance with all Oil and Gas Operation Standards.
7. **FAILURE TO MEET APPLICATION REVIEW DEADLINES.** If the Community Development Department is not meeting application review deadlines set forth in these Regulations, the applicant may make a written request to the County Manager that the Board consider the matter at a regular meeting.
- a. **CONSIDERATION AT BOARD MEETING.** The Board shall consider the matter at its first regularly scheduled meeting following receipt of the request, provided that the request is received at least five (5) working days prior to the meeting. If the request is not received within five (5) working days, the Board shall consider the matter at the next subsequent meeting.
  - b. **BOARD DECISION.** If the Board determines that an application review deadline has not been met, the Board, at its sole discretion, may direct the County Manager to direct the staff to perform the required action by a time certain, or fashion such other relief as is necessary to ensure that the application is reviewed in a timely manner.
8. **NOTICE OF ADMINISTRATIVE DECISION ON LIMITED IMPACT OPERATION.** Within five (5) working days of the Administrative decision on the permit application for a Limited Impact Operation, the Community Development Department shall provide written notice of the decision to the applicant and the Board.
9. **ADMINISTRATIVE DECISION BECOMES EFFECTIVE AFTER PERIOD FOR RECONSIDERATION OR APPEAL.** The Administrative Decision shall not become effective until fifteen (15) calendar days after the date of the notice of decision. If the Board decides to reconsider the Administrative Decision or to hear an appeal, the



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Administrative Decision is stayed pending the outcome of the reconsideration or appeal.

**10. BOARD RECONSIDERATION OF ADMINISTRATIVE DECISION ON LIMITED IMPACT OPERATION.** At the next regularly scheduled meeting for which proper notice can be accomplished following the notice of decision, the Board may, at its discretion, decide to reconsider the Administrative Decision.

**a. WRITTEN NOTICE OF BOARD RECONSIDERATION OF ADMINISTRATIVE DECISION.** Not less than fourteen (14) calendar days prior to the meeting, the Community Development Department shall provide written notice of possible reconsideration, by first-class mail, to the applicant and everyone who submitted written comments on the application.

**b. BOARD RECONSIDERATION OF ADMINISTRATIVE DECISION.** If the Board decides to reconsider the Administrative Decision, the Board shall limit its consideration to review of the record of the Administrative Decision. No new evidence shall be accepted or considered by the Board. The Board may affirm, affirm with modifications, or reverse the decision. The Board shall provide a written decision that sets forth its findings.

**11. APPEAL OF ADMINISTRATIVE DECISION ON LIMITED IMPACT OPERATION TO BOARD.** Not more than fourteen (14) calendar days after the date of the notice of decision, any person aggrieved by the Administrative Decision on a Limited Impact Operation may appeal that decision to the Board in accordance with the process in Section 1-106 E.

**D. POTENTIALLY SIGNIFICANT IMPACT OPERATION PERMIT REVIEW.**

**1. REVIEW BY COMMUNITY DEVELOPMENT DEPARTMENT AND TRANSMITTAL TO PLANNING COMMISSION.** Upon determination that the application is complete and the Operation has been classified as a Potentially Significant Impact Operation, the Community Development Department shall transmit the application to



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the Planning Commission and begin review of the application for compliance with County regulatory requirements.

2. **PLANNING COMMISSION WORK SESSION(S) AND SITE VISIT.** The Planning Commission may hold work sessions and/or visit the location of the proposed Operation between the time that the application is determined to be complete and the date of the public hearing on the application. Staff and consultants may also conduct site visits.
  - a. The purpose of the work session and site visit is for the Planning Commission to initially familiarize itself with the proposed Operation.
  - b. The Planning Commission shall not take any official action or make any decision with respect to the application at a work session or site visit.
  - c. The Planning Commission shall hold work sessions at properly noticed and recorded meetings.
3. **REVIEW BY COUNTY CONSULTANT.** The Community Development Department may submit the application for review and recommendation by consultants retained by the County with the necessary expertise to review the application.
4. **REVIEW BY REFERRAL AGENCIES.** The Community Development Department may submit the application for review and recommendation to referral agencies and organizations including other County offices and departments, and municipal, state, or federal agencies having an interest in or authority over all or part of the proposed Oil and Gas Operation. The referral review and comment period shall be twenty working days from the date that the application is determined to be complete. Comments not received from referral agencies within the comment period may be included in the staff report at the discretion of the Community Development Department.
5. **CONSULTATION WITH LOCAL GOVERNMENT DESIGNEE.** The Community Development Department shall consult with the Local Government Designee.



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**6. COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT.** The Community Development Department shall prepare a report based on review of the application, consideration of issues raised by referral agencies and consultants, terms and conditions imposed by COGCC and federal agencies, and any other available information on the record. The sufficiency of the staff report shall not give rise to the right of appeal or other cause of action.

**a. CONTENTS OF STAFF REPORT.** The report shall:

- (1)** Briefly describe the proposed Oil and Gas Operation and highlight issues raised by consultants and referral agencies.
- (2)** Discuss issues, if any, identified by the Local Government Designee during any federal or COGCC review process for the proposed Oil and Gas Operation and how those issues were or may be resolved.
- (3)** Discuss COGCC terms and conditions and other state or federal requirements that may have been imposed on the Oil and Gas Operation and the extent to which any of the terms, conditions, and requirements satisfy County Oil and Gas Operation Standards.
- (4)** Discuss the impacts of the Oil and Gas Operation, the proposed mitigation, and whether it appears that each Oil and Gas Operation Standard has been satisfied.
- (5)** Recommend conditions of approval for any Oil and Gas Operation Standard that appears not to have been fully satisfied, or recommend denial.
- (6)** Include additional information that would be relevant to the decision of the Planning Commission.

**b. DISTRIBUTION OF STAFF REPORT.** At least five (5) working days prior to the Planning Commission hearing, the Community Development Department



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shall submit the report to the applicant and to the Planning Commission, and a copy of the report shall be available for public review.

- 7. SCHEDULE PUBLIC HEARING BY PLANNING COMMISSION.** Not more than forty-five (45) calendar days after the completeness determination, the Planning Commission shall conduct a hearing to consider the application. The notice of public hearing shall be prepared by the Community Development Department and shall include a description of the proposed Oil and Gas Operation and the date, time and location of the hearing.
- a. PUBLICATION OF NOTICE OF HEARING.** Not less than fourteen (14) calendar days prior to the hearing, the Community Development Department shall publish the notice of public hearing in the County's official newspaper(s). The applicant shall be responsible for the cost of publication.
- b. NOTICE OF HEARING TO ADJACENT PROPERTY OWNERS.** Not less than fourteen (14) calendar days prior to the hearing the applicant shall mail written notice of hearing to owners of real property within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, and within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Oil and Gas Operation is located on public land. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the Office of the Gunnison County Assessor.
- c. NOTICE OF HEARING TO OWNERS OF WATER RIGHTS.** Where the ownership information is available through the local water commissioner for the Colorado Division of Water Resources, not less than fourteen (14) calendar days prior to the hearing the applicant shall mail written notice of hearing to any owners of water rights in any ditches or other water structures likely to be affected by the proposed Oil and Gas Operation. The list of owners of such water rights shall be compiled by the applicant.



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- d. **NOTICE OF HEARING TO OWNERS OF NON-ADJACENT PROPERTY WITHIN AN EXISTING SUBDIVISION, OR 35-ACRE TRACT DEVELOPMENT.** Not less than fourteen (14) calendar days prior to the hearing the applicant shall mail written notice of hearing to all of the surface landowners within any existing subdivision or 35-acre tract development that is located within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, or within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Operation is located on public land. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the Office of the Gunnison County Assessor.
  - e. **CERTIFIED MAIL.** The applicant shall mail the written notice by certified mail, return receipt requested. The applicant shall submit a list of the property owners and owners of water rights and proof of mailing to the Community Development Department one week prior to the hearing.
  - f. **VALIDITY OF NOTICE.** The applicant is responsible for the accuracy of lists of property owners and water rights owners to whom notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of hearing or other conduct of the Commission.
8. **PLANNING COMMISSION REVIEW AND PUBLIC HEARING ON POTENTIALLY SIGNIFICANT IMPACT OPERATION.**
- a. **CONDUCT OF PUBLIC HEARING.** The Planning Commission shall conduct the public hearing in conformance with Section 1-109.
  - b. **DECISION BY PLANNING COMMISSION ON POTENTIALLY SIGNIFICANT IMPACT OPERATION.** The Planning Commission shall approve, approve with conditions, or deny the



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application based upon the Oil and Gas Operation Standards. The Planning Commission decision shall include the following:

- (1) **DESCRIPTION OF OIL AND GAS OPERATION.** Brief discussion of the Oil and Gas Operation;
- (2) **ISSUES.** Description of issues raised by referral agencies and consultants;
- (3) **CONDITIONS IMPOSED BY COGCC AND FEDERAL AGENCIES.** Description of terms, conditions and requirements imposed on the Oil and Gas Operation by COGCC and federal agencies;
- (4) **IMPACTS AND MITIGATION.** Description of impacts of the Oil and Gas Operation, proposed mitigation, and whether each Oil and Gas Operation Standard has been satisfied; and
- (5) **CONDITIONS OF APPROVAL.** Conditions of approval, if any, necessary to ensure compliance with all Oil and Gas Operation Standards.

9. **FAILURE TO MEET REVIEW AND DECISION DEADLINES.** If the Planning Commission is not meeting the application review and decision deadlines set forth in these Regulations, the applicant may make a written request to the County Manager that the hearing and decision process be removed to the Board.

a. **CONSIDER REQUEST FOR REMOVAL.** If the County Manager determines that the Planning Commission has failed to comply with deadline(s), the County Manager shall poll the Board as soon as possible after the removal request to determine whether the Board wishes to remove and hear the application.

b. **BOARD DECISION ON REQUEST TO REMOVE APPLICATION.**



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- (1) If the Board decides to remove and hear the application, the Planning Commission shall have no further jurisdiction over the application, and the County Manager shall schedule a hearing with the Board at the first meeting for which proper notice can be accomplished.
- (2) If the Board decides not to remove and hear the application, the Planning Commission process will continue.

**c. BOARD HEARING AND DECISION ON APPLICATION.** If the Board decides to remove the application and make a decision on the application, the hearing shall be held in conformance Section 1-109 and notice shall be provided as follows:

- (1) **PUBLICATION OF NOTICE OF HEARING.** Not less than fourteen (14) calendar days prior to the Board hearing, the Community Development Department shall publish the notice of public hearing in the County's official newspaper(s). The applicant shall be responsible for the cost of publication.
- (2) **NOTICE OF HEARING TO ADJACENT PROPERTY OWNERS, WATER RIGHTS OWNERS, AND NON-ADJACENT OWNERS.** Not less than fourteen (14) calendar days prior to the Board hearing, the applicant shall mail written notice by certified mail, return receipt requested, of the Board hearing to all property owners and water rights owners who initially were notified of the planning commission hearing on the application.

**10. NOTICE OF PLANNING COMMISSION DECISION ON POTENTIALLY SIGNIFICANT IMPACT OPERATION.** Not more than ten (10) working days after the Planning Commission decision on the application for a Potentially Significant Impact Operation, the Community Development Department shall provide written notice of the decision to the applicant and the Board.



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- 11. PLANNING COMMISSION DECISION BECOMES EFFECTIVE AFTER PERIOD FOR APPEAL.** The Planning Commission decision shall not become effective until fifteen (15) calendar days after the date of the decision. If the Board decides to hear an appeal of the Planning Commission decision, the Planning Commission decision is stayed pending the outcome of the appeal.
  - 12. APPEAL OF PLANNING COMMISSION DECISION ON POTENTIALLY SIGNIFICANT IMPACT OPERATION TO BOARD.** Not more than fourteen (14) calendar days after the date of the notice of decision, any person aggrieved by the Planning Commission decision on a Potentially Significant Impact Operation may appeal that decision to the Board in accordance with the process in Section 1-106 E.
- E. APPEAL PROCESS FOR DECISION ON OIL AND GAS OPERATIONS.** Any person aggrieved by the decision on a Limited Impact Operation or Potentially Significant Impact Operation may appeal that decision to the Board.
- 1. WRITTEN NOTICE OF APPEAL.** Not more than fourteen (14) calendar days after the date of the notice of decision, the aggrieved party shall submit to the Community Development Department a written notice of appeal setting forth the reasons why the Board should affirm, affirm with modifications, or reverse the decision and the relief that is requested.

    - a. PAYMENT OF FEE FOR APPEAL SUBMITTAL.** The appellant(s) shall be responsible for all costs associated with the appeal process, including the cost of preparing the record of the initial decision-maker. Upon submittal of appeal, the appellant(s) shall deposit funds with the County, in an amount estimated to cover the costs of the appeal, to be adjusted as necessary upon completion of the appeal process. A schedule of fees is available through the Community Development Department.
    - b. PREPARATION OF RECORD.** Upon receipt of payment of the required fee, the Community Development Department shall prepare the record of the initial decision-maker.



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**2. BOARD RESPONSE TO NOTICE OF APPEAL**

- a NOTICE OF BOARD MEETING TO CONSIDER APPEAL.** Not less than fourteen (14) calendar days prior to the meeting, the Community Development Department shall provide written notice that the Board may consider the appeal, by first-class mail, to the applicant, the appellant, anyone who submitted written comments on the application, and anyone who testified if a public hearing was held by the Planning Commission.
- b. BOARD DECISION WHETHER TO HEAR APPEAL.** At the noticed meeting, the Board shall decide whether or not to hear the appeal.
- c. BOARD DECISION TO HEAR APPEAL ON RECORD OR TO ACCEPT ADDITIONAL EVIDENCE.** If the Board decides to hear the appeal, the Board shall decide whether to hear the appeal on the existing record or to hear additional evidence. The Board's decision to accept additional evidence shall be based on the following considerations:

  - (1) AVAILABILITY OF NEW TESTIMONY OR EVIDENCE AT TIME OF REVIEW BY THE DECISION-MAKING BODY.** The anticipated additional testimony or evidence could not reasonably have been presented to the decision-maker at the time of the permit application review.
  - (2) POTENTIAL EFFECT OF ADDITIONAL TESTIMONY OR EVIDENCE.** The additional testimony or evidence would have a significant effect on the Board's decision on the appeal.
- d. RECORD REVIEW OF APPEAL AT NOTICED MEETING.** If the Board decides to hear the appeal on the record, it may do so at the noticed meeting, without additional public notice, and shall limit its consideration to review of the existing record of the initial decision-maker and the written notice of appeal by the appellant. No new evidence, argument, or testimony shall be accepted or considered.



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**e. REVIEW OF APPEAL WITH ADDITIONAL EVIDENCE.** If the Board decides to hear the appeal with additional evidence, the Board shall conduct a public hearing on the appeal not more than twenty-one (21) calendar days after the Board's decision to hear the appeal with additional evidence. The Board shall make its decision on the appeal based on consideration of the record of the initial decision-maker and any evidence presented at the public hearing.

**(1) NOTICE OF PUBLIC HEARING ON APPEAL.** The notice of public hearing on the appeal shall be prepared by the Community Development Department and shall include a description of the proposed Oil and Gas Operation and the date, time and location of the hearing.

**(a) PUBLICATION OF NOTICE OF HEARING.** Not less than fourteen (14) calendar days prior to the hearing, the Community Development Department shall publish the notice of public hearing in the County's official newspaper(s). The appellant shall be responsible for the cost of publication.

**(b) NOTICE OF HEARING TO ADJACENT PROPERTY OWNERS.** Not less than fourteen (14) calendar days prior to the hearing the appellant shall mail written notice of hearing to owners of real property within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, and within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Oil and Gas Operation is located on public land. The list of property owners to be notified shall be compiled by the appellant using the most current list of property owners on file with the Office of the Gunnison County Assessor.



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- (c) **NOTICE OF HEARING TO OWNERS OF WATER RIGHTS.** Where the ownership information is available through the local water commissioner for the Colorado Division of Water Resources, not less than fourteen (14) calendar days prior to the hearing the appellant shall mail written notice of hearing to any owners of water rights in any ditches or other water structures likely to be affected by the proposed Oil and Gas Operation. The list of owners of such water rights shall be compiled by the appellant.
- (d) **NOTICE OF HEARING TO OWNERS OF NON-ADJACENT PROPERTY WITHIN AN EXISTING SUBDIVISION, OR 35-ACRE TRACT DEVELOPMENT.** Not less than fourteen (14) calendar days prior to the hearing the appellant shall mail written notice of hearing to all of the surface landowners within any existing subdivision or 35-acre tract development that is located within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, or within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Operation is located on public land. The list of property owners to be notified shall be compiled by the appellant using the most current list of property owners on file with the Office of the Gunnison County Assessor.
- (e) **CERTIFIED MAIL.** The appellant shall mail the written notice by certified mail, return receipt requested. The appellant shall submit a list of the property owners and owners of water rights and proof of mailing to the Community Development Department one week prior to the



**SECTION 1-106: PERMIT REVIEW PROCEDURES  
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hearing.

- (f) **VALIDITY OF NOTICE.** The appellant is responsible for the accuracy of lists of property owners and water rights owners to whom notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of hearing or other conduct of the Board

- 3. **BOARD DECISION ON APPEAL.** The Board may affirm, affirm with modifications, or reverse the appealed decision. The Board shall provide a written decision that sets forth its findings. The original action shall be modified or reversed only if the appellant establishes that:

- a. **THE BALANCE OF EVIDENCE DOES NOT SUPPORT THE ORIGINAL DECISION.** Weighing all of the evidence presented, the balance of evidence in the record and additional evidence accepted by the Board, if any, does not support the original decision; or
- b. **ACTION BY DECISION-MAKER WAS INAPPROPRIATE.** The decision-maker exceeded its jurisdiction or abused its discretion.

**SECTION 1-107    COMPREHENSIVE OPERATIONAL PLAN (COPS)**

[reserved]

**SECTION 1-108:    OIL AND GAS OPERATION STANDARDS.**

For purposes of determining if an Oil and Gas Operation satisfies these standards, all proposed activities of the Operator within unincorporated Gunnison County shall be taken into consideration. An Oil and Gas Operation shall comply with the following standards and criteria unless a waiver of standards for technical infeasibility or environmental protection is granted under Section 1-108T, or an Operational Conflict is determined pursuant to Section 1-108S.



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

- A. **DRAINAGE AND EROSION CONTROL.** The Oil and Gas Operation shall not cause significant erosion or sedimentation and shall be conducted in accordance with the drainage and erosion control plan.
  
- B. **ACCESS ROADS.** All public access roads under the jurisdiction of Gunnison County shall be constructed and maintained in compliance with the *Gunnison County Standard Specifications for Road and Bridge Construction*, as necessary to accommodate the traffic and equipment related to the Oil and Gas Operation and emergency vehicles. All other access roads shall be constructed in accordance with the guidelines in Attachment B, *Low-Volume Roads Engineering Best Management Practices Field Guide* and *Surface Operating Standards for Oil and Gas Development: Gold Book*, to be applied on a case by case basis as appropriate.
  
- C. **PUBLIC ROADWAY AND TRAFFIC IMPACTS.**
  - 1. **INGRESS AND EGRESS.** Ingress and egress points to public roads shall be located, maintained and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards.
  
  - 2. **MAINTENANCE AGREEMENT OR FINANCIAL ASSURANCE.** If the projected use of the public roads resulting from the Oil and Gas Operation will result in a need for an increase in roadway maintenance or snow removal, the County shall require the Operator to: i) enter into an agreement with the County whereby the Operator provides for private maintenance and snow removal, or reimburses the County for such increased costs; and/or ii) provide a bond or other financial assurance in an amount acceptable to the County to cover the costs of impacts to the roads.
  
- D. **WILDLIFE AND WILDLIFE HABITAT.** The Oil and Gas Operation shall not cause significant degradation of wildlife or sensitive wildlife habitat.
  
- E. **LIVESTOCK AND LIVESTOCK GRAZING.** The Oil and Gas Operation shall not cause significant impact to livestock, grazing permits, or grazing permittees. Fencing or other agreements between private grazing operations and the Oil and Gas Operator may be used to satisfy this requirement.
  
- F. **RECREATION IMPACTS.** The Oil and Gas Operation shall not

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cause a significant degradation in the quality or quantity of recreational activities in the County such as hunting, hiking, skiing or related activities.

**G. WATER BODY QUALITY.** The Oil and Gas Operation shall not cause significant degradation of water quality of affected water bodies. Determination of effects of the Operation on water quality may include, but is not limited to the following considerations:

1. Applicable narrative and numeric water quality standards.
2. Changes in point and nonpoint source pollution loads.
3. Increase in erosion and sediment loads.
4. Changes in stream channel or shoreline stability.
5. Changes in stormwater runoff flows.
6. Changes in quality of ground water.

**H. WELLS AND PUBLIC WATER SUPPLY WATER QUALITY.**

1. **WATER WELLS.** The Oil and Gas Operation shall not cause significant degradation of the water quality or water pressure of any public or private water wells.
2. **PUBLIC WATER SUPPLY.** The Oil and Gas Operation shall not cause significant degradation of the water quality of

**I. WATER BODY BUFFERS.** There are two water body buffers, an inner buffer and outer buffer. An Oil and Gas Operation shall be in its entirety in compliance with the following water body buffer standards.

1. **INNER BUFFER.** The inner buffer shall extend 150 feet, measured horizontally, from the nearest high water mark of any down-gradient surface water body to the edge of any disturbed area
  - a. No feature of an Oil and Gas Operation shall be located within the inner buffer except linear features, or a new well on an existing pad. This prohibition cannot be waived on the basis of technical infeasibility or environmental protection.



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

- b. To the maximum extent feasible, linear features shall be installed to avoid crossing water bodies or being located within the inner buffer. Leak detection, secondary containment, or other mitigation, as appropriate, shall be incorporated into pipelines that are located within the inner buffer.
2. **OUTER BUFFER.** The outer buffer shall extend from 150 to 500 feet, measured horizontally, from the high water mark of any downgradient surface water body to the edge of any disturbed area. The following conditions shall apply to features of an Oil and Gas Operation located in the Outer Buffer. These conditions are not subject to a waiver on the basis of technical infeasibility or environmental protection.
- a. Pad design to include most current accepted land use and environmental best management practices including berms on the downgradient side of the well pad, treatment of run-off during construction using a perimeter control such as a silt fence or sediment control log, providing a sediment trap or series of check dams, and protecting existing vegetation;
  - b. "Run-on diversion" clear water ditch on the upgradient perimeters;
  - c. Twenty-four (24) inch berm along the well pad edge nearest the affected water body and extending no less than 1/3 of the perimeter of the well pad upslope;
  - d. Well pad sloped toward the cut side of the construction;
  - e. Cut and fill slopes matted and seeded with native seed when construction is complete;
  - f. Double row of silt fences between edge of pad and each affected water body;
  - g. Daily inspection and update of inspection log by Operator during construction, drilling and recompletion of a well and well sites;



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

- h. Conventional Reserve Drilling Pit allowed only with a Closed Loop System with dry fines cutting pit. The Conventional Reserve Drilling Pit, including its liner and contents, shall be removed within ninety (90) days of well completion;
  - i. Cuttings shall be stored in steel run off containers or placed in a lined dry fines cuttings pit;
  - j. Liners and drill cuttings shall be buried in a permitted facility;
  - k. Produced water pits are prohibited;
  - l. Fracturing flowback pits are prohibited;
  - m. Secondary containment shall be provided for hazardous materials;
  - n. Spill response apparatus must be at the well pad at all times;
  - o. No features shall be located on a slope that, on the average, is greater than forty percent (40%);
  - p. All features shall be set back as far as practicable from any water body;
  - q. Post drilling, all lighting associated with the Operation will be shielded to prevent direct visibility of the source of light from off-site; and
  - r. Additional site-specific requirements may be imposed by the County as necessary to protect water bodies.
- J. PITS.** All pits shall be lined with an impermeable membrane. Once the pit has been closed, the liner and its contents shall be removed and disposed of at a facility authorized to accept the material.
- K. MANAGEMENT OF HAZARDOUS MATERIALS.** All Oil and Gas Operations shall meet the following requirements for management of hazardous materials:
- 1. COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.** At a minimum, all hazardous materials



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

shall be stored and used pursuant to applicable state and federal hazardous materials regulations.

2. **STORAGE NEAR WATER BODIES RESTRICTED.** Except for hazardous materials currently being used as an integral component of drilling or operation of a well, hazardous materials shall not be stored within 300 feet of any water body.
  3. **SPILL PREVENTION.** Measures shall be designed and implemented to prevent spilled fuels, lubricants or other hazardous materials from entering a water body, including ground water, during construction or operation of equipment and/or a facility.
  4. **MACHINE MAINTENANCE.** Routine field maintenance of vehicles or mobile machinery shall not be performed within 300 feet of any water body.
  5. **FUEL STORAGE AREAS.** Containment measures shall be provided for all fuel storage areas to prevent release to any water body. Inventory management or leak detection may be required.
  6. **HAZARDOUS MATERIALS STORAGE AREAS.** Containment measures shall be provided for all hazardous materials storage areas to prevent release to any water body. Inventory management or leak detection may be required.
  7. **DISPOSAL OF HYDRAULIC FRACTURING FLUIDS.** The Operator shall demonstrate the ability to and shall dispose of all hydraulic fracturing fluids in accordance with the Hydraulic Fluid Fracturing Disposal Plan.
- L. **RESPONSE AND REPORTING OF SPILLS AND RELEASES.** The Operator shall demonstrate the capacity to and agree to comply with the following spill and release response and reporting requirements during the life of the permit:
1. **SPILL AND RELEASE RESPONSE.** The Operator shall demonstrate the ability to control and contain all spills and releases of E&P waste, including produced fluids, immediately upon discovery. Impacts resulting from spills and releases shall be investigated and cleaned up as soon



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

as practicable.

**2. SPILL AND RELEASE REPORTING REQUIREMENTS.**

- a. **SPILL/RELEASE REPORT REQUIRED.** For all spills and releases reportable under COGCC Rule 906, within ten (10) days after discovery Operator shall submit to the County Manager a copy of the spill and release report (COGCC Form 19), including the topographic map showing location of the spill and any information relating to initial mitigation, site investigation, and remediation that accompany the report.
- b. **SPILLS AND RELEASES EXCEEDING TWENTY (20) BARRELS.** For spills and releases which exceed twenty (20) barrels of an E&P, the spill and release shall be verbally reported to the County Manager and/or the Local Government Designee as soon as practicable, but not more than twenty-four (24) hours after discovery.
- c. **SPILLS AND RELEASES IMPACTING STATE WATERS, RESIDENTIAL OR OCCUPIED STRUCTURES, AND LIVESTOCK.** Spills and releases of any size which impact or threaten to impact any waters of the state, residence or occupied structure, livestock, or public byway shall be verbally reported to the County Manager as soon as practicable, but not more than twenty-four (24) hours after discovery.
- d. **SPILLS AND RELEASES IMPACTING WATER SUPPLY.** Spills and releases of any size which impact or threaten to impact any water supply area shall be verbally reported to the County Manager immediately after discovery.
- e. **SPILLS AND RELEASES IMPACTING SURFACE WATER INTAKE.** Spills and releases that impact or threaten a surface water intake shall be verbally reported to the County Manager immediately after discovery.
- f. **CHEMICAL SPILLS AND RELEASES.** Chemical



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spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and Community Right To Know Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Oil and Pollution Act, and the Clean Water Act, as applicable.

- 3. SURFACE OWNER NOTIFICATION AND CONSULTATION.** The Operator shall notify the affected surface owner or the surface owner's tenant of spills and releases in conformance with COGCC Rule 906 c.
  - 4. REMEDIATION OF SPILLS AND RELEASES.** When threatened or actual significant adverse environmental impacts on any air, water, soil or other environmental resources from a spill and release exists, or when necessary to ensure compliance with state water quality standards and classifications, a copy of any COGCC approved Site Investigation and Remediation Work Plan (COGCC Form 27), shall be submitted to the County Manager and/or Local Government Designee.
- M. CULTURAL AND HISTORIC RESOURCES.** The Oil and Gas Operation shall not cause significant degradation of cultural or historic resources.
- N. WILDFIRE HAZARD.** The Oil and Gas Operation shall not cause a significant risk of wildfire hazard.
- O. GEOLOGIC HAZARDS.** The Oil and Gas Operation shall not cause a significant risk of geologic hazards.
- P. PIPELINE STANDARDS.** [reserved]
- Q. IMPACT MITIGATION COSTS.** The Operator shall bear the proportionate cost of mitigating the impacts caused by the Oil and Gas Operation.
- R. EMERGENCY RESPONSE.** The Oil and Gas Operations shall not cause an unreasonable risk of emergency situations such as explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, and hazardous material vehicle accidents or spills.
- S. OPERATIONAL CONFLICT WAIVER.** The County may waive one



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

or more of the Oil and Gas Operation Standards set forth in this Section 1-108 in accordance with the following procedure:

**1. STATE AND FEDERAL OPERATIONAL CONFLICT DEFINED.**

**a. STATE OPERATIONAL CONFLICT.** A state operational conflict exists if the application of the County standard(s) to the conduct of the Oil and Gas Operation would:

- (1)** Conflict with a state oil and gas statute, regulation or other requirement; and
- (2)** Materially impede or destroy the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety and welfare, including protection of the environment and wildlife resources.

**b. FEDERAL OPERATIONAL CONFLICT.** A federal operational conflict exists if compliance with both the federal statute, regulation or other requirement and the County standard(s) is a physical impossibility, or when the application of the County standard(s) to the Oil and Gas Operation would stand as an obstacle to the accomplishment of the full purposes and objectives of Congress expressed in the federal statute, regulation or other requirement.

**2. REQUEST FOR OPERATIONAL CONFLICT WAIVER.** The applicant may make a written request to the Community Development Department for an Operational Conflict Waiver hearing with the Board of County Commissioners at any time during the Oil and Gas Permit application review process, but no later than fourteen (14) calendar days following a final decision on the Oil and Gas Operation.

**a. SCHEDULE PUBLIC HEARING BY BOARD.** The Community Development Department shall schedule a public hearing by the Board at the next regularly scheduled meeting for which proper notice can be accomplished following receipt of the Request for Operational Conflict Waiver.



- b. NOTICE OF PUBLIC HEARING ON REQUEST FOR OPERATIONAL CONFLICT HEARING.** The notice of public hearing on Request for Operational Conflict Waiver shall be prepared by the Community Development Department and shall include a description of the proposed Oil and Gas Operation, description of the operational conflict waiver that has been requested, and the date, time and location of the hearing.
- (1) PUBLICATION OF NOTICE OF HEARING.** Not less than fourteen (14) calendar days prior to the hearing, the Community Development Department shall publish the notice of public hearing in the County's official newspaper(s). The applicant shall be responsible for the cost of publication.
- (2) NOTICE OF HEARING TO ADJACENT PROPERTY OWNERS.** Not less than fourteen (14) calendar days prior to the hearing the applicant shall mail written notice of hearing to owners of real property within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, and within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Oil and Gas Operation is located on public land. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the Office of the Gunnison County Assessor.
- (3) NOTICE OF HEARING TO OWNERS OF WATER RIGHTS.** Where the ownership information is available through the local water commissioner for the Colorado Division of Water Resources, not less than fourteen (14) calendar days prior to the hearing the applicant shall mail written notice of hearing to any owners of water rights in any ditches or other water structures likely to be affected by the proposed Oil and Gas Operation. The list of owners of such water rights shall be compiled



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

by the applicant.

- (4) NOTICE OF HEARING TO OWNERS OF NON-ADJACENT PROPERTY WITHIN AN EXISTING SUBDIVISION, OR 35-ACRE TRACT DEVELOPMENT.** Not less than fourteen (14) calendar days prior to the hearing the applicant shall mail written notice of hearing to all of the surface landowners within any existing subdivision or 35-acre tract development that is located within 1500 feet of the subject parcel when the Oil and Gas Operation is located on private land, or within 1500 feet of the Section (640 acres) in which the Oil and Gas Operation is located when the Operation is located on public land. The list of property owners to be notified shall be compiled by the applicant using the most current list of property owners on file with the Office of the Gunnison County Assessor.
  - (5) CERTIFIED MAIL.** The applicant shall mail the written notice by certified mail, return receipt requested. The applicant shall submit a list of the property owners and owners of water rights and proof of mailing to the Community Development Department one week prior to the hearing.
  - (6) VALIDITY OF NOTICE.** The applicant is responsible for the accuracy of lists of property owners and water rights owners to whom notice is provided. If the applicant makes reasonable good faith efforts to accomplish the notice responsibilities identified above, then the failure of any property owner to receive notice shall not affect the validity of hearing or other conduct of the Board.
- c. DETERMINATION ON OPERATIONAL CONFLICT BY BOARD.** If the Board determines that the applicant has met its burden of proof with a preponderance of evidence that application of the standard(s) to the Oil and Gas Operation will result in an operational conflict with a state or federal statute,



**SECTION 1-108: OIL AND GAS OPERATION STANDARDS.**

regulation, or other requirement, the Board may waive the standard(s) to the extent necessary to avoid the operational conflict. The Board may impose conditions that are necessary to minimize any negative impacts of the waiver.

**T. WAIVER OF STANDARDS FOR TECHNICAL INFEASIBILITY OR ENVIRONMENTAL PROTECTION.** At any time during the application process the County may waive one or more of the Oil and Gas Operation Standards set forth in this Section 1-108 in accordance with the following procedures, if the Operator demonstrates to the satisfaction of the County the following:

**1. TECHNICAL INFEASIBILITY.**

- a. NO ECONOMICAL TECHNOLOGY.** There is no economical technology commercially available to conduct the Oil and Gas Operation in compliance with the standard(s); and
- b. PROTECTION OF PUBLIC HEALTH, SAFETY, WELFARE AND THE ENVIRONMENT.** The conduct of the Oil and Gas Operation if the standard(s) is waived will be protective of public health, safety, welfare and the environment

**2. ENVIRONMENTAL PROTECTION.** Protection of public health, safety welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

**3. DETERMINATION ON REQUEST FOR WAIVER.** The decision-maker shall consider a request for waiver during its review and final decision on the Oil and Gas Operation. The decision-maker may impose conditions on the waiver that are necessary to minimize any negative impacts.

**SECTION 1-109 CONDUCT OF PUBLIC HEARING.**

**A. HEARING PROCESS.** A public hearing shall be conducted in accordance with the following process:

**1. RIGHTS OF ALL PERSONS.** Any person may appear at a public hearing and submit evidence, including oral testimony, either individually or as a representative of an organization.



**SECTION 1-109: CONDUCT OF PUBLIC HEARING.**

Comment may also be submitted in written form before or during the hearing, or within a period of time after the hearing has closed as designated by the review body chairperson.

**2. ORDER OF PROCEEDINGS.** The order of the proceedings shall be as follows:

- a. **INTRODUCTION BY STAFF AND CONFIRMATION OF ADEQUATE PUBLIC NOTICE.** The Community Development Department shall introduce the matter before the decision-making body and report whether or not the required notice has been accomplished.
- b. **PROPONENT'S PRESENTATION.** The proponent shall make an oral presentation.
- c. **STAFF PRESENTATION.** The staff shall present the staff report.
- d. **QUESTIONS BY DECISION-MAKING BODY.** The decision-making body may ask questions of the staff, or the proponent.
- e. **PUBLIC COMMENTS.** The public may make comments regarding the matter under consideration. The chairperson conducting the public hearing shall set reasonable time limits for comments. If any comment is so limited, the person offering that comment shall have an opportunity to enter it into the record in writing at the public hearing.
- f. **PROPONENT RESPONSE.** The proponent may respond to any comments made by the public or Community Development Department, or questions raised by the decision-making body.
- g. **COMMUNITY DEVELOPMENT DEPARTMENT RESPONSE.** The Community Development Department may respond to any statement made by the proponent, the public, or the decision-making body.

**3. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING.**

- a. Once the public testimony portion of the hearing has

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## **SECTION 1-109: CONDUCT OF PUBLIC HEARING**

minutes. The record shall consist of the written and taped record of oral proceedings, including testimony and statements of personal opinions, the minutes of the hearing and other meetings of the review body, all applications, exhibits, and papers submitted in any proceeding before the decision-making, administrative, or review body, the Community Development Department's staff report, and the decisions of the review and decision-making bodies

- 7. EX PARTE COMMUNICATIONS.** Members of decision-making bodies shall not engage in *ex parte* communication about applications under review or reasonably anticipated to come under review. If an *ex parte* communication is attempted by telephone, in person, by telefax or other means outside of a regularly scheduled meeting, the member of the decision-making body involved shall first attempt to stop the party from the prohibited behavior, then document the communication and notify the Community Development Director by telephone or in written form. The Community Development Director shall then enter that documentation into the public file. The Community Development Director shall report that documentation at the next meeting or hearing on the subject application. No *ex parte* communication shall be considered by a decision-making body, or any of its members, in making a decision on an Oil and Gas Permit matter.

## **SECTION 1-110: ENFORCEMENT AND PENALTIES.**

### **A. OIL AND GAS OPERATIONS IN VIOLATION OF THESE REGULATIONS.**

- 1. OIL AND GAS OPERATORS THAT HAVE NOT OBTAINED A PERMIT IN COMPLIANCE WITH THESE REGULATIONS OR DO NOT COMPLY WITH OIL AND GAS PERMIT REQUIREMENTS.** Any Operator engaging in Oil and Gas Operations who does not obtain an Oil and Gas Permit pursuant to these Regulations, who does not comply with Oil and Gas Permit requirements, or who acts outside the jurisdiction of the Oil and Gas Permit may be enjoined by the County from engaging in such Oil and Gas Operations and may be subject to such other criminal or civil liability as may be prescribed by law. In addition, if the County prevails in whole or part in any action, the Operator shall pay all



reasonable attorney fees and expert costs incurred by the County.

**2. SUSPENSION OF OIL AND GAS PERMIT.** If the County determines at any time that there is a violation of the conditions of the Oil and Gas Permit or that there are material changes in an Oil and Gas Operation as approved by the permit, the Community Development Director or designee may, for good cause temporarily suspend the Oil and Gas Permit. In such case, upon oral or written notification by the Community Development Director or designee, the Operator shall cease operations immediately. The Community Development Director or designee shall forthwith provide the Operator with written notice of the violation or identification of the changed condition(s). The Operator shall have a maximum of fifteen (15) days to correct the violation. If the violation is not timely corrected, the Permit may be further suspended pending a revocation hearing. The Operator may request an immediate hearing before the Board regarding the suspension. The Board shall hold the hearing within ten (10) days of the Operator's written request.

**3. REVOCATION OF OIL AND GAS PERMIT.** The County may, following notice and hearing, revoke an Oil and Gas Permit granted pursuant to these Regulations if any of the activities conducted by the Operator violate the conditions of the Oil and Gas Permit or these Regulations, or constitute material changes in the Oil and Gas Operation approved by the County. The County shall provide written notice to the Operator of the violation or the material changes, and the time and date of the hearing. No less than thirty (30) days prior to the revocation hearing, the County shall provide written notice to the permit holder setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days prior to the hearing. Following the hearing, the County may revoke the Oil and Gas Permit or may specify a time by which action shall be taken to correct any violations of the Oil and Gas Permit to avoid revocation.

**B. TRANSFER OF PERMITS.** An Oil and Gas Permit may be transferred only with the written consent of the County. The County shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and

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## **SECTION 1-110: ENFORCEMENT AND PENALTIES**

conditions contained in the Oil and Gas Permit and these Regulations, and appropriate state and federal regulations and conditions, that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public, and the environment; and that an adequate guaranty of financial security can be timely made.

- C. INSPECTION.** The County may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether an Oil and Gas Operation is in violation of the provisions of these Regulations.
- D. JUDICIAL REVIEW.** Any action seeking judicial review of a final decision of the County shall be initiated within thirty (30) calendar days after the decision is made, in the District Court in and for the County of Gunnison, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.
- E. NO REVIEW OR APPROVAL FOR PERSONS SUBJECT TO ENFORCEMENT ACTION.** No permit application shall be processed or approved pursuant to these Regulations for an Operator or for property that is subject to an ongoing enforcement action.

### **SECTION 1-111: COMMENCEMENT OF OPERATION.**

The Operation shall be commenced within three (3) years of the issuance of an Oil and Gas Permit under these Regulations or the Permit shall terminate and be of no force and effect.

### **SECTION 1-112: GUARANTY OF CONDITIONS OF APPROVAL.**

The County may require financial security to guaranty compliance with any conditions of approval imposed by the County. The amount of security shall be based on estimated costs to comply with the conditions of approval.

### **SECTION 1-113: AMENDING THESE REGULATIONS.**

- A. PURPOSE.** The purpose of this Section is to provide a process by which the Board may, from time to time, amend, supplement or repeal these Regulations.



**SECTION 1-113: AMENDING THESE REGULATIONS.**

- B. INITIATION.** An amendment to these Regulations may be initiated by the Board, or by the Planning Commission.
- C. PROCESS.** The following process shall apply to an application for an amendment to these Regulations:
  - 1. BOARD MOTION.** The Board may initiate an amendment by motion directing the Community Development Director to submit a proposed amendment and report to the Planning Commission for review and for further action pursuant to this Section.
  - 2. PLANNING COMMISSION INITIATIVE.** The Planning Commission may initiate an amendment by submitting a written recommendation for proposed amendment to the Board. If the Board chooses to go forward with the Planning Commission initiative, the Board shall direct the Community Development Director to submit a report to the Planning Commission for review and further action pursuant to this Section.
  - 3. REVIEW BY PLANNING COMMISSION.** The Planning Commission shall review the report of the Community Development Director. The Planning Commission shall consider the standards below and shall make a recommendation to the Board to approve, approve with modifications, table for further study, or deny the proposed amendment.
  - 4. BOARD PUBLIC HEARING.** The Planning Commission's recommendation shall be forwarded to the Board, together with a complete copy of the Community Development Director's report, and the Board shall conduct a public hearing.
  - 5. BOARD REVIEW AND ACTION.** The Board shall consider the proposed language, any relevant support materials, the Community Development Director's report, the Planning Commission's recommendation, the public testimony and evidence given at the public hearing, and compliance of the language with standards below. Following closure of the public hearing, the Board may, by written resolution, adopt the amendment, adopt the amendment with modifications, table for further study or deny the amendment. Such resolution shall include findings that address the review standards below.

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## **SECTION 1-113: AMENDING THESE REGULATIONS**

- D. FACTORS TO CONSIDER.** The decision to amend the text of these Regulations is at the legislative discretion of the Board and is not controlled by any one factor. The Board shall consider the following in determining whether to adopt a proposed amendment, adopt a proposed amendment with modifications, table it for further study or deny it.
- 1. CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY.** Consistency of the proposed amendment with any comprehensive plan that may be adopted by Gunnison County;
  - 2. CHANGED CONDITIONS.** Changed conditions, including the economy of Gunnison County;
  - 3. EFFECT ON THE NATURAL ENVIRONMENT.** Effect of the proposed amendment on the natural environment;
  - 4. COMMUNITY NEEDS.** Community needs;
  - 5. DEVELOPMENT PATTERN.** Development pattern;
  - 6. CHANGES IN OR CLARIFICATION TO APPLICABLE LAW.** Changes in or clarification to applicable law;
  - 7. PUBLIC HEALTH, SAFETY AND WELFARE.** Public health, safety and welfare;
  - 8. COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY.** Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

## **SECTION 1-114: DEFINITIONS.**

Where a term used in these Regulations is not defined, the definitions in Article 2 of the *Gunnison County Land Use Resolution* shall apply.

- 1. Aggrieved Party.** The applicant, the owner of the subject property, or any person or member of the public.
- 2. Board.** The Board of County Commissioners of Gunnison County, Colorado.



3. **Centralized Exploration and Production Waste Management Facility.** A facility, other than a commercial disposal facility regulated by the Colorado Department of Public Health and Environment, that (1) is either used exclusively by one owner or operator or used by more than one operator under an operating agreement; and (2) is operated for a period greater than three (3) years; and (3) receives for collection, treatment, temporary storage, and/or disposal produced water, drilling fluids, completion fluids, and any other exempt Exploration and Production wastes that are generated from two or more production units or areas or from a set of commonly owned or operated leases. This definition includes oil-field naturally occurring radioactive materials (NORM) related storage, decontamination, treatment, or disposal.
4. **Chemical Product.** Any substance consisting of one or more constituent chemicals that is marketed or sold as a commodity. Chemical Products shall not include substances that are known to be entirely benign, innocuous, or otherwise harmless, such as sand, walnut shells, and similar natural substances.
5. **Closed Loop Drilling Process or System.** A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage and the use of solids removal equipment which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused to continue drilling the well bore. The solids are placed in containment, either a shallow lined pit or an above ground container, provided on location. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be re-used. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.
6. **Conventional Reserve Drilling Pit.** A pit, usually divided into two chambers, utilized during drilling where the pit has the primary function of allowing drilling water to be re-used by allowing the drill cuttings or solids to settle out in one section and allowing liquids to flow to the second section for recycle purposes. The pit is frequently a large pit 15 to 20 feet deep and lined with an impermeable liner. The size of the pit depends upon the bore hole diameter and depth of well being drilled.
7. **County.** Gunnison County, Colorado, its officers, employees and

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8. **Degradation.** Lowering in grade or desirability; lessening in quality.
9. **Exploration and Production Waste. (E&P Waste).** Those wastes associated with Oil and Gas Operations to locate or remove oil or gas from the ground or to remove impurities from such substances and which are uniquely associated with and intrinsic to oil and gas exploration, development or production operations that are exempt from regulation under the Resource Conservation and Recovery Act (RCRA).
10. **Flowlines.** Also known as or called gathering lines. Those segments of pipe from the wellhead downstream through the production facilities ending at:
  - a. In the case of gas lines, the gas metering equipment; or
  - b. In the case of oil lines, the oil loading point or LACT unit; or
  - c. In the case of water lines, the water loading point, the point of discharge to a pit, or the injection wellhead.
11. **Ground Water.** Subsurface waters in a zone of saturation.
12. **High Water Line Or Mark.** The line that water impresses on the land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it, but not limited to, a clear natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, and the presence of litter or debris.
13. **Hydraulic Fracturing Additive.** Any chemical substance or combination of substances, including any chemicals and proppants, that is intentionally added to a base fluid for purposes of preparing a hydraulic fracturing fluid for treatment of a well.
14. **Hydraulic Fracturing Fluid.** The fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.
15. **Linear Feature.** A road, gathering line, or pipeline that is necessary to cross a water body or connect or access a well or gathering line. A linear feature is not considered necessary simply



because it is the most proximate or least expensive method for crossing a water body or connecting or accessing a well or gathering line.

- 16. Mitigation.** The following actions, prioritized in order of preference:
- **Avoiding Impacts.** Avoiding an impact by not taking a certain action or parts of an action; or
  - **Minimizing Impacts.** Limiting the degree or magnitude of the action or its implementation, or by changing its location; or
  - **Rectifying Impacts.** Repairing, rehabilitating, or restoring the impact area, facility or service; or
  - **Reducing or Eliminating Impacts.** Reducing or eliminating the impact over time by preservation and maintenance operations; and
  - **Other Provisions for Addressing Impacts.** Replacing or providing equivalent biological, social, environmental and physical conditions, or a combination thereof.
- 17. Non-Point Source (NPS) Pollution.** Pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition, or percolation.
- 18. Oil and Gas Operations.** Exploration for oil or gas, including but not limited to conventional oil and gas and coalbed methane gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil and gas well; production facilities and Operations including the installation of flow lines and gathering lines; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.
- 19. Operation(s).** Oil and Gas Operations.
- 20. Operator.** The applicant, a parent or subsidiary entity or person, or an entity that has a financial interest in the Operation.
- 21. Pit.** Any natural or man-made depression in the ground used for oil or gas exploration or production purposes; a pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.
- a. Well Cuttings Pit.** A pit lined with an impermeable liner and utilized to receive dry cuttings from a closed loop drilling



process. Liquids are removed prior to placing the cuttings in the pit. No liquids, other than possibly stormwater, are retained in the pit.

- b. **Flare Pit.** A pit used exclusively for flaring gas.
  - c. **Water Storage and Flowback Pit.** Specially engineered, constructed pits use to store water for fracturing operations and to receive flowback following such operations.
22. **Pitless.** Pitless with respect to drilling, means there is no pit regardless of size or function. This includes conventional reserve drilling pits and drilling cutting pits, but does not include flare pits which may be utilized to contain necessary flaring during the drilling, completion, or up-set conditions. An above ground water tight metal or other material container is utilized instead of a sub surface pit to hold drilling cuttings until they are disposed of.
23. **Parcel.** A tract or lot of land upon which the Operation will occur.
24. **Person.** Any individual, partnership, corporation, association, company, or other public or corporate entity, including but not limited to the state or federal governments, and any of their political subdivisions, agencies, or instrumentalities.
25. **Planning Commission.** Gunnison County Planning Commission.
26. **Production Facilities.** All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.
27. **Referral Agency.** An agency, organization, or technical consultant deemed appropriate and necessary by the County to review an application and provide professional analysis and recommendations, including without limitation other County offices and departments, and municipal, state, or federal agencies having an interest in or authority over all or part of the application or permit and legal consultants.
28. **Regulation(s).** These Regulations for Oil and Gas Operations.
29. **Sensitive Wildlife Habitat.** A natural or man-made environment that contains the elements of food, shelter, water, and space in a combination and quantity necessary to sustain one or more wildlife



or plant species at stable population levels in historically-used habitats. Sensitive wildlife habitat areas include, but are not limited to, nesting, brood rearing areas, rookeries, leks, migration corridors, calving and fawning grounds for big game; critical winter range for big game and for sage grouse.

- 30. Significant.** Of considerable or substantial consequence.
- 31. Site.** An area one mile in radius around an existing or proposed well pad.
- 32. Significant Adverse Effect/Impact.** An impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impact, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.
- 33. Water Body.** Any surface waters which are contained in or flow in or through Gunnison County, but does not include ephemeral streams, roadway ditches, water in sewage systems, water in treatment works of disposal systems, water in potable water distribution systems, stock ponds or irrigation ditches not discharging to live streams, and all water withdrawn for use until use and treatment have been completed.:
- 34. Water Body Related Terms.**
- a. Ephemeral River, Stream, Lake, Reservoir, Pond, Spring, or Wetland.** A water body that normally holds water or flows less than 60 days a year as a result of ground water discharge or surface runoff.
  - b. Intermittent River, Stream, Lake, Reservoir, Pond, Spring, or Wetland.** A water body that normally holds water or flows at least 60 days a year as a result of ground water discharge or surface runoff.
  - c. Perennial River, Stream, Lake, Reservoir, Pond, Spring, or Wetland.** A water body that normally holds water or flows continuously during all of the year as a result of ground water discharge or surface runoff.



# Attachment A

## BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY RESOLUTION NO. 11-17

### A RESOLUTION ADOPTING A SCHEDULE OF FEES FOR OIL AND GAS OPERATIONS APPLICATIONS

**WHEREAS**, the Board of County Commissioners adopted the *Gunnison County Temporary Regulations for Oil and Gas Operations* on May 9, 2003; and

**WHEREAS**, Section 1-103: E. Classification of Impact Review for Oil and Gas Permit of the *Gunnison County Temporary Regulations for Oil and Gas Operations* identifies the level of review for Oil and Gas Operations; and

**WHEREAS**, the Gunnison County Community Development Department charges fees to defray the cost of processing and reviewing applications by the County; and

**WHEREAS**, the Board of County Commissioners is informed of the costs associated with the review of Oil and Gas Operations applications; and

**WHEREAS**, the Board of County Commissioners has not previously set fees for the review of Oil and Gas applications;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Gunnison County, Colorado:

1. The Gunnison County Community Development Department Schedule of Fees for Oil and Gas Operations applications is hereby adopted as identified in Exhibit A (attached).
2. The Gunnison County Community Development Department Schedule of Fees for Oil and Gas Operations becomes effective upon the recordation of this Resolution with the Office of the Gunnison County Clerk and Recorder.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Chamberland, and adopted this 19<sup>th</sup> day of April, 2011.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

Hap Channell  
Hap Channell, Chairperson

Paula Swenson  
Paula Swenson, Commissioner

Phil Chamberland  
Phil Chamberland, Commissioner

Attest:

Katherine Haase  
Katherine Haase, Deputy County Clerk





**EXHIBIT A**

**GUNNISON COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
SCHEDULE OF FEES FOR OIL AND GAS OPERATIONS APPLICATIONS**

| <b><u>Classification of Impact Review</u></b>                      | <b><u>Application Fee</u></b> |
|--|-------------------------------|
| Oil and Gas Permit for No Significant Impact Oil and Gas Operation | \$ 1,200.00                   |
| Oil and Gas Permit for a Minor Impact Oil and Gas Operation        | \$ 3,000.00                   |
| Oil and Gas Permit for a Major Impact Oil and Gas Operation        | \$ 5,000.00                   |

