

DRAFT
OIL & GAS REGULATIONS
AND
PERMITTING PROCESS

A Proposed Addition to the Elbert County Zoning Regulations
(Part II, Section 26 of the Elbert County Zoning Regulations)



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OIL & GAS REGULATIONS

AND

PERMITTING PROCESS

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(Part II, Section 26 of the Elbert County Zoning Regulations)

Table of Contents

Section 26.1 AUTHORITY AND ENFORCEMENT.....Page 5

A. Authority; Citations.....Page 5

B. Purpose.....Page 6

C. Applicability.....Page 5

D. Effective Date.....Page 6

E. Nonconforming UsesPage 6

F. Right to Enter.....Page 7

G. False or Inaccurate Information.....Page 8

H. Violations; Enforcement; Civil ActionPage 8

Section 26.2 REVIEW PROCEDURES.....Page 9

A. Review Criteria.....Page 9

B. Minor Oil & Gas Facility.....Page 10

C. Major Oil & Gas Facility.....Page 15

D. Annual Compliance ReviewPage 22

E. Permit Modifications.....Page 23

F. Permit Expiration; Extensions.....Page 25

G. Waivers.....Page 25

H. Operational Conflicts Waiver.....	Page 26
I. Withdrawal of an Application.....	Page 27
J. Permit Revocation	Page 27
Section 26.3 APPLICATION SUBMITTAL REQUIRMENTS.....	Page 28
A. General Requirements.....	Page 28
B. Submittal Requirements Table.....	Page 29
C. Lighting Description and Location of Site Lighting.....	Page 31
D. Safety and Security Plan.....	Page 31
E. Visual Mitigation Plan and Visual Mitigation Techniques.....	Page 32
F. Wildlife Management Plan.....	Page 33
G. Water Supply Plan and Surface Water / Aquifer Protection.....	Page 35
H. Grading and Erosion Control Plan and Storm Water Management Plan.....	Page 38
I. Roads; Access; Haul Routes; and Road Maintenance Agreement.....	Page 40
J. Waste Management Plan.....	Page 40
K. Oil and Gas Development Permit Application.....	Page 41
L. Fees.....	Page 42
M. Emergency Response and Spill Protection and Clean-Up Plan.....	Page 42
N. Vicinity Map	Page 42
O. Facility Improvement Plan.....	Page 43
P. Performance Security.....	Page 48
Q. Insurance.....	Page 49
R. Weed Management.....	Page 49
S. Re-Vegetation Plan.....	Page 49
Section 26.4 GENERAL DEVELOPMENT STANDARDS.....	Page 50

A. General Operational Procedures.....Page 50

B. Control and Disposal of Produced liquids.....Page 51

C. Location and Maximum Number of Wells.....Page 52

D. Setbacks.....Page 52

E. Air Quality.....Page 53

F. Geologic Hazards and Floodplains.....Page 54

Section 26.5 DEFINITIONS.....Page 55

Section 26.6 APPENDICES.....Page

A. Elbert County Right to Enter Form.....Page

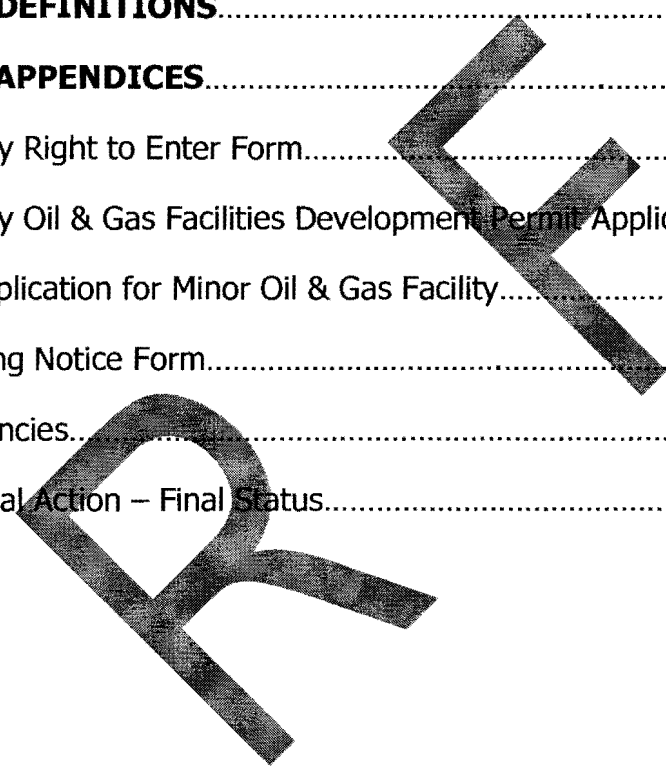
B. Elbert County Oil & Gas Facilities Development Permit Application Form.....Page

C. Notice of Application for Minor Oil & Gas Facility.....Page

D. Public Hearing Notice Form.....Page

E. Referral Agencies.....Page

F. Notice of Final Action – Final Status.....Page



PART II, SECTION 26 OIL AND GAS REGULATIONS

(A Proposed Addition to the *Elbert County Zoning Regulations*)

Section 26.1: AUTHORITY AND ENFORCEMENT

A. AUTHORITY; CITATION

These Regulations are authorized by C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., and 30-28-101 et seq. They may be cited as these Regulations.

B. PURPOSE

This section of the *Elbert County Zoning Regulations* is enacted to protect and promote the health, safety, values, convenience, order, prosperity and general welfare of the present and future residents of Elbert County. It is Elbert County's intent by enacting this section to facilitate the development of oil and gas resources within the unincorporated area of Elbert County, while mitigating potential conflicts between existing, as well as planned land uses. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other.

Owners of sub-surface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their sub-surface mineral interests, subject to compliance with the provisions of this section and any other applicable statutory and regulatory requirements.

Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with these Regulations. Should it be established by competent evidence that a proposed minor or major Oil and Gas Facility cannot be operated in compliance with these Regulations, County land use approval for such a facility shall be denied, subject to the provisions of Section 26.2.H (Waiver) and Section 26.2.I (Operational Conflicts Waiver).

C. APPLICABILITY

These Regulations shall apply to all lands within the unincorporated area of Elbert County. It shall be unlawful to construct, install, or cause to be constructed or installed (including site grading), any Oil and Gas Facility within the unincorporated portions of Elbert County unless approval has been granted pursuant to these Regulations by the Director of Community & Development Services and/or the Board of County Commissioners. Such approval shall be recognized through the issuance of an "Oil and Gas Development Permit", which is to be posted at the Oil & Gas Facility.

These Regulations, upon adoption by the Board of County Commissioners, shall replace and supersede any reference to "oil and gas drilling operations" referenced in the *Elbert County Zoning Regulations* (May 13, 2010 version, recorded at Reception No. 512064, Book 721, Page 424), for the individual zone districts or as referenced in "Uses Permitted by Special Review", *Part II, Section 18*. These Oil and Gas Regulations are to be added as *Part II, Section 26 of the Elbert County Zoning Regulations*, with the "Definitions" section (currently *Part II, Section 26*), becoming *Part II, Section 27 of the Elbert County Zoning Regulations*.

D. EFFECTIVE DATE

These Regulations shall become effective on the date specified in the adopting resolution of the Board of County Commissioners in accordance with State law. These Regulations shall apply to all Oil and Gas Facilities for which construction has not commenced or a building permit has not been issued as of the effective date of these Regulations.

E. NONCONFORMING USES

1. An Oil & Gas Facility use which was in place as of the effective date of these Regulations shall be allowed to continue so long as the operation does not cease for an uninterrupted period of twelve (12) months or more.
2. Normal or routine maintenance of a facility described in subsection E above will not subject the facility to these Regulations. 'Normal or routine maintenance' does not include the resumption of production or operations at a facility involving the addition or modification of visible structures,

equipment, or infrastructure or an increase in the surface area occupied by the facility. Any such additions, modifications, or increases must comply with the standards set forth in these Regulations and must be approved as a Minor or Major Oil and Gas Facility pursuant to these Regulations. "

3. Non-conforming Oil & Gas Facilities that are either abandoned or proposed to be expanded shall be treated as new Oil & Gas Facilities and be required to follow all procedures and meet all applicable standards for such uses as provided in these Regulations.
4. Nothing herein shall be construed as a regulatory requirement to close or abandon an existing Oil & Gas Facility.

F. RIGHT TO ENTER

1. The Operator of an approved Oil & Gas Facility shall provide the telephone number and e-mail address of a contact person who may be reached twenty-four (24) hours a day, 365 days per year, for purposes of being notified of any County inspection of the site.
2. Any site on which drilling or other Oil and Gas Operations are being conducted under an approved Oil and Gas Development Permit may be inspected by the County or its consultants any time, to ensure compliance with the requirements of the approved Oil and Gas Development Permit, Facility Improvement Plan, Development Standards, and any agreements between Elbert County and the Applicant, provided twenty four (24) hour notice is given to the contact person at the telephone number and/or e-mail address supplied by the Applicant. If the contact person does not answer or respond, calling the number (or leaving a message on an available answering machine or voice mail service at the number) or leaving an e-mail message, at least twenty four (24) hour in advance of the proposed inspection shall constitute sufficient prior notice.
3. By accepting an approved Oil and Gas Development Permit, the Applicant grants consent for Elbert County officials and its agents and/or any necessary emergency personnel to enter the site without notice to investigate potential hazardous or emergency situations, or if a spill or other environmental situation has occurred on the site. For the purpose of implementing and enforcing this Subsection F, the Applicant shall

provide the County with an "Elbert County Right to Enter" form (attached as **Appendix A**) (executed by the surface owner and submitted with the Oil and Gas Development Permit Application), which specifies that County personnel and its consultants, may need to enter the site at any time during the review of an Oil and Gas Facility application and thereafter upon reasonable notification to the Operator. If entry is denied, the County shall have the right to discontinue the processing of any pending application, to halt the effectiveness of an issued permit, or to obtain an order from a court of competent jurisdiction to obtain entry. For the purposes of this subsection, emergency is defined as an event that can be reasonably construed as presenting an imminent danger to persons, property or the environment.

4. The County reserves the right to visit the site during normal business hours without notice.

G. FALSE OR INACCURATE INFORMATION

The Board shall revoke approval of an Oil and Gas Development Permit if false or inaccurate information was provided during the permitting process. Prior to such action, the Applicant and the Director shall be provided with an opportunity to be heard at the public meeting before the Board of County Commissioners, at least ten (10) days after providing written notice to the Applicant. If the Board then determines that the Applicant provided information or documentation upon which approval was based, which the Applicant, its authorized representatives, and employees knew, or reasonably should have known, was false, misleading, deceptive, or inaccurate, the Board shall revoke the Permit or impose additional conditions.

H. VIOLATIONS; ENFORCEMENT; CIVIL ACTION

In the event any building or structure is or is proposed to be erected, constructed, re-constructed, altered or used, or any land is or is proposed to be used, in violation of any provision of these Regulations and prior to an "Oil and Gas Development Permit" being issued, the County Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, re-construction, alteration, or use, or upon approval of the Board of County

Commissioners, may refer the matter to the District Attorney for prosecution of violation of state law.

Section 26.2: REVIEW PROCEDURES

A. REVIEW CRITERIA

An Oil & Gas Development Permit shall only be approved and issued for an Oil and Gas Facility if the proposed application demonstrates compliance with the following:

- a. Suitability – The suitability of the location of the proposed facility given its size, design, and operational characteristics. Factors to be considered include: noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts, and public safety. These factors will be evaluated in accordance with applicable State, County, and Federal standards.
- b. Adequacy of existing or proposed roads and access to the site - Factors for consideration include: existing and proposed road alignment, intersections, condition, structure and sight distances, traffic volumes and types of equipment; dust control; and existing road uses.
- c. Site Characteristics - The overall characteristics of the site. Factors for consideration include: topography, natural hazards (landslides, flooding, wildfire, etc.), cultural and historical uses on the proposed site, and current resource values (open space corridor and wildlife habitat).
- d. Mitigation of Impacts - The proposed Oil & Gas Facility can mitigate impacts through other acceptable means that meet the intent of these Regulations, and shall be constructed and operated in compliance with all applicable standards of these Regulations.

What standards?

No standards.

- e. Compliance with these Regulations – The application must demonstrate compliance with all applicable requirements and standards of these Regulations.

B. MINOR OIL & GAS FACILITY

1. Defined

Minor Oil & Gas Facility is defined as: An individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas including, associated equipment required for such production; intermediate lines which extend from the wellhead, storage tanks, tank batteries, gathering flow lines, and ancillary equipment including, but not limited to, drip stations, vent stations, pigging facilities, chemical injection stations, and valve boxes. Use of Minor Oil & Gas facilities are encouraged provided the footprint of the permanently disturbed area is not increased. Temporary storage and construction staging yards in place for less than six (6) months shall require a Minor Oil & Gas Permit. Land use applications for a proposed Minor Oil & Gas Facility shall be processed administratively by Community & Development Services without a public hearing before the Elbert County Planning Commission or the Board of County Commissioners.

2. Review Process for Minor Oil & Gas Facilities

- a. Pre-Application Meeting. Prior to submittal of the application, a Pre-Application Meeting shall be required between the Applicant and County staff to discuss the procedures and submittal requirements.
- b. Application Form. The application submittal shall be made to Community & Development Services and shall include a completed and signed "Elbert County Oil & Gas Facilities Development Permit Application Form" (**Appendix B**), and the submittal requirements identified in the "Application Submittal Requirements for an Oil and Gas Development Permit," at Section 26.3.
- c. Notice to Property Owners. The Applicant shall identify the owners of record of all real property within;

1. one (1) mile radius of the wellhead
2. one (1) mile radius of an ancillary facility not located on the drilling pad if applicable (Geometric center)
3. the area defined by the tangents of the circles described in 1 and 2 above if applicable. (See Figure 1 below)

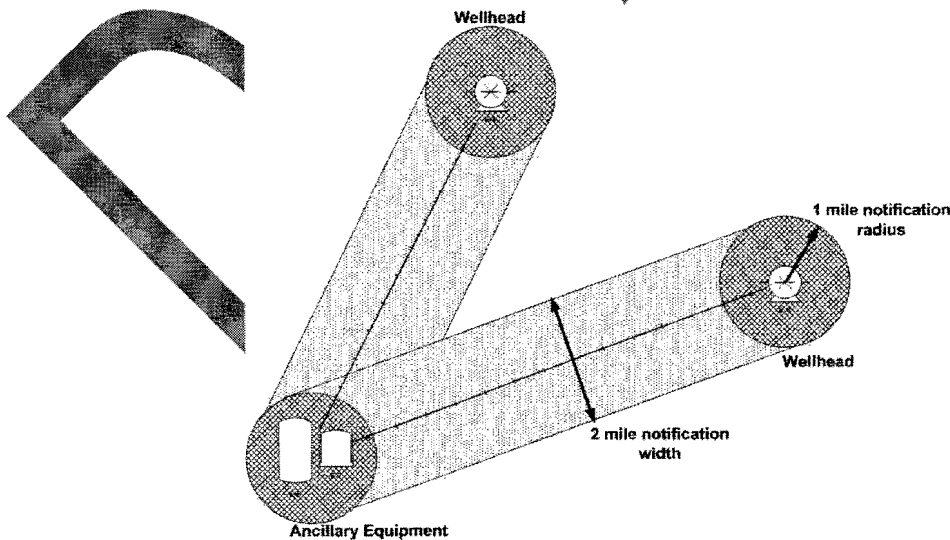
Should any part of a platted subdivision fall within the areas defined above, all platted parcels within said subdivision will require notification.

The Applicant shall mail all such owners a "Notice of Application for Minor Oil & Gas Facility," in the form attached as **Appendix C**, via certified mail. The Applicant shall submit a list of the property owners so notified, accompanied with evidence of mailing, as a part of the application package.

In the event the Applicant fails to mail a notice to a required landowner or otherwise fails to comply with the written notice required in this Section, the landowner who did not receive such complying notice may waive such notice by appearing at the hearing or by submitting a written waiver to the Director prior to the hearing. Otherwise, notification must be repeated.

What hearing?

Figure 2



d. Administrative Review

1. Within fourteen (14) business days (Monday through Thursday) of the date that the application is date-stamped and accepted, Community & Development Services shall review the application and notify the Applicant in writing via U.S. Mail or electronic mail, if the application submittal requirements are complete and acceptable to begin the referral process. This review will include a field inspection of the proposed site by Community & Development Services staff and other County agencies as appropriate.
2. Should Community & Development Services determine that the application, as submitted, is not complete, written notice of the specific deficiencies shall be provided to the Applicant within fourteen (14) business days (Monday through Thursday) of the initial submittal. No further action, including approval, shall be taken on an application determined to be incomplete, until the specified deficiencies have been corrected.
3. Review of a complete application and approval or denial will typically occur within twenty-one (21) business days (Monday through Thursday) of initial or corrected submittal. If a permit is not approved within twenty-one (21) business days (Monday through Thursday), Community & Development Services will contact the Applicant with an estimate of when the review of the application will be completed.

- e. Review Criteria; Approval The information in the application and any accompanying documentation, shall demonstrate that the proposed Minor Oil & Gas Facility meets the requirements of Section 26.2.C: Review Criteria for an Oil & Gas Development Permit. If these requirements are met and if the Facility Improvement Agreement (see definition) has been fully executed, all fees have been paid, and all necessary performance security (see definition) has been provided; the

Director shall issue an approval of the Oil & Gas Development Permit for the proposed Minor Oil & Gas Facility, which approval may contain conditions necessary to ensure compliance of the facility with these Regulations. The Facility Improvement Agreement and any other development agreements shall be recorded once the required recording fees have been paid by the applicant. Notice of an approval shall be posted in the Oil & Gas Permitting portion of the Community & Development Services website.

- f. Denial If the Director determines the proposed Minor Oil & Gas Facility does not comply with and/or will not or cannot be constructed and operated in compliance with the requirements of Section 26.2.C, then he/she shall issue a written denial of the application, specifically stating the reason for its denial.
- g. Notice of Action - Final Status Appendix F shall be mailed to the Applicant and the surrounding landowners who received a notice of the application, as described in Section 26.2, 2, C. The Notice of Action - Final Status shall recite whether the application has been approved, approved with conditions, or denied, and shall be mailed via first class mail within three (3) business days (Monday through Thursday) of final determination.
- h. Appeals; Notice of Action - Final Status for a Minor Oil & Gas Facility may be appealed to the Board of County Commissioners. Any appeal shall be submitted, in writing, to Community & Development Services, Attention: Director, within twenty-one (21) business days (Monday through Thursday) from the date on the Notice of Action - Final Status. The decision shall become final upon the expiration of the time to file an appeal.
- i. Appeal Procedure All appeals shall be in writing and specifically state the reason(s) for the appeal. The Board of County Commissioners shall consider and decide the appeal at its next regularly scheduled or special public meeting following the public notice. Both the Applicant and the Director shall be notified and given an opportunity to present evidence at the

hearing. The board may reverse the Director's decision and direct that the application be approved, with or without conditions, if the Applicant provides evidence that:

1. the proposed Minor Oil & Gas Facility complies with all applicable requirements of this section; or
2. the Applicant has demonstrated that it is not practicable to develop the site in compliance with the applicable regulations because

(a) factors arising at the site are not typical of those found at other sites in the county,

(b) these factors are not the result of negligent or intentional conduct or a violation of state or federal regulations by the Applicant or any of its employees, agents, contractors or subcontractors; and

(c) provided, that the presence of these elements will not justify approval of an application out of compliance with these regulations if such approval would detrimentally affect adjacent properties or public safety to a degree greater than that normally associated with oil & gas development in the county. The decision of the Board is a final decision, subject to appeal to the district court pursuant to C.R.C.P. 106.

- j. Final County Action Denial of an application for a Minor Oil & Gas Facility by the Director, or the Board of County Commissioners, shall constitute final action from the County. The same, or substantially the same application for that site may not be re-filed for one year from the date of denial.

Arbitrary

C. MAJOR OIL & GAS FACILITY

Applications for approval of Major Oil & Gas Facilities require public hearings before the Elbert County Planning Commission and the Board of County Commissioners.

1. Defined

Major Oil & Gas Facilities include:

- a. Any facility that consolidates, markets or transports production or production fluids from one or more minor facilities. Modifications that are integral to a permitted major facility, and that do not increase the impacts of the facility, do not require the submittal of a new permit application. However, any modification to a major facility does require notification of and approval by Community and Development Services.
- b. Any Oil and Gas Facility that does not meet the definition of Minor Oil & Gas Facility or any storage and construction staging yards in place for longer than six (6) months.

2. Review Process for Major Oil & Gas Facilities

- a. Pre-Application Meeting Prior to submittal of the application for a Major Oil & Gas Facility, a Pre-Application Meeting shall be required with staff to discuss the procedures and submittal requirements.
- b. Application Form The application submittal shall be made to Community & Development Services and shall include a completed and signed "Elbert County Oil & Gas Facilities Development Permit Application Form" (**Appendix B**) and the submittal requirements identified in Section 26.3, "Application Submittal Requirements".
- c. Application Contents The application shall include two (2) copies of the submittal requirements identified in Section 26.3.
- d. Staff Review for Completeness Within fourteen (14) business days (Monday through Thursday), of the date that the

application is date-stamped and submitted, Community & Development Services shall review the application for completeness. If the application is deemed complete, Community & Development Services will commence project review pursuant to the applicable standards and requirements. If the application is incomplete, the Applicant will be notified, in writing via mail or electronic mail, of the deficiency and the application shall be withdrawn from the review process until the required information is submitted.

- e. Referral Agencies Once the submittal is determined complete, Community & Development Services shall notify the Applicant, in writing via US Mail or electronic mail, of the number of copies of the submittal information needed to distribute to one or more referral agencies identified in Appendix E. Community and Development Services shall select the referral agencies appropriate to any given application. Mailing addresses of the referral agencies shall be provided to the Applicant. The Applicant shall provide referral packets to the staff planner in unsealed manila envelopes, with adequate first-class postage (not affixed) and a return address, addressed to the appropriate referral agencies with submittal information properly folded and compiled. Staff shall include a referral response sheet and distribute the referral packets to referral agencies.

- f. Referral Agency Comments If referral agencies elect to comment, they shall comment within twenty-one (21) Elbert County business days (Monday through Thursday), of mailing. After the twenty-one (21) business days (Monday through Thursday), any referral agency comments received will be accepted and, at the discretion of the case planner, may require applicant response.

Additional referral periods may be required based upon the extent of design changes initiated through the initial referral period. The length of any additional referral periods shall be determined by the staff planner.

All referral agency comments shall be provided by staff to the Applicant upon receipt from the referral agency. The Applicant shall address all comments of referral agencies, by identifying, in writing, the extent to which the project has been revised in response to the comments.

Community & Development Services staff may submit comments on the application as an additional referral agency during or after the referral period(s).

g. Revised Application if Required Subsequent to the referral period(s), the Applicant shall submit revised application materials which satisfactorily address issues raised during the referral period. A written response to all referral comments must be included.

h. Staff Recommendation Within seven (7) business days (Monday through Thursday) of receipt of the Applicant's revised applicable materials and written response to the referral comments, the staff planner will contact the Applicant, in writing, to provide status of the re-submittal. Community & Development Services may recommend approval, approval with conditions, or denial based on an assessment of the application against the Review Criteria, Section 26.2.A.

i. Public Hearings Following the 7 day review of the revised application materials, staff will notify the applicant, in writing, of the public hearing dates for both the Planning Commission and the Board of County Commissioners.

All applications for Major Oil & Gas Facilities shall be scheduled for public hearings before the Planning Commission and the Board of County Commissioners in accordance with the provisions of this section.

j. Notice of Hearings

Newspaper Notice The Applicant shall be responsible for publishing notice of the public hearings before the Planning Commission and Board of County Commissioners in a local

paper of general circulation at least fourteen (14) calendar days prior to the scheduled hearing dates. Both hearing dates may be published in the same notice, provided published notice predates the Planning Commission hearing date by at least fourteen (14) days.

Written Notice At least fourteen (14) calendar days prior to each of the scheduled hearing dates, the Applicant shall mail a written notice of the hearing by certified mail in accordance with 26.2, A, 2, c (Figure 1). The notice shall be in the form attached as **Appendix D: "Public Hearing Notice Form."** At least fourteen (14) calendar days prior to the public hearing, the Applicant shall provide the following to Community & Development Services:

- 1) Alphabetical list of the landowners;
- 2) Map showing their relationship to the site;
- 3) A copy of the notice sent to the landowners;
- 4) A certificate of mailing.

In the event the Applicant fails to mail a notice to a required landowner or otherwise fails to comply with the written notice required in this Section, the landowner who did not receive such complying notice may waive such notice by appearing at the hearing or by submitting a written waiver to the Director prior to the hearing. If notice is not waived, applicant must re-notice.

Sign Notice At least fourteen (14) days prior to the Planning Commission public hearing, the Applicant is responsible for preparing and posting the "Notice of Public Hearing" sign(s) on the subject property. Location of sign(s) on the property will be specified by Community & Development Services.

Such notice shall consist of at least one (1) sign facing parallel to each adjacent road right-of-way. Such sign(s) shall measure not less than four feet by four feet (4' x 4'); size of letters shall be a minimum of three inches (3") high and such signs shall be erected no further than ten feet (10') beyond the edge of the adjacent right-of-way on posts which shall locate the bottom of

the sign no less than three feet (3') above the ground. All signs shall be clearly legible to persons on the adjacent right-of-way and shall be completed and installed in a neat and professional manner. All signs shall be visible and legible throughout the entire period, and shall read as follows:

NOTICE OF PUBLIC HEARING

"Oil & Gas Development Permit"

"Notice is hereby given that the Planning Commission, on _____(day of the week), _____(month), ____ (year), at _____(time PM), and the Board of County Commissioners, on _____(day of the week), _____(month), ____ (year), at _____(time PM) or as soon as possible thereafter will consider an application for a Major Oil & Gas Permit pursuant to the current Elbert County Zoning Regulations. Further information may be obtained by calling the Elbert County Community & Development Services Department, 215 Comanche Street, Kiowa, Colorado 80117, Telephone: 303-621-3136. Said hearings are to be held in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado."

Permit Name and Number: _____

Legal Description of Property: _____

Description of Facility _____

Date of Application: _____

Published In: _____ (Name of Newspaper),
_____ (Date of Publication).

Further requirements include:

- 1) Notarized affidavit verifying the date of the sign posting required at least fourteen (14) days prior to the hearing date.
- 2) This affidavit must be submitted to **Community and Development Services** at least ten (10) days prior to the Public Hearing date.
- 3) All signs must remain on the property until the final hearing, and must be removed no later than seven (7) days following the final hearing.
- 4) Signs must be photographed and submitted for the applicant's file in **Community and Development Services** as per the following form:

(ATTACH PHOTO HERE)

The above sign was posted on _____ (date),
 pursuant to the current Elbert County Zoning Regulations by
 _____ (name of applicant).

Project Name and Number: _____

Signature of Applicant/Representative:

Signed and sworn before me this date: _____

NOTARIZED BY:

Notice shall be sent by Community & Development Services at the Applicant's expense to any other person, agency or organization that has filed a written request with the Director to receive notice of a Major Oil & Gas Facility undergoing public review.

Website Notice The staff planner shall place a notice of both the Planning Commission and Board of County Commissioner's public hearings on the County's website at least fourteen (14) calendar days prior to the scheduled hearing dates. The website shall be updated if the hearing dates change. Errors in the website hearing notice shall not negatively impact the determination of public notice compliance set forth herein.

- k. Planning Commission Review Staff shall prepare a staff report for the public hearing before the Planning Commission. At the public hearing the Planning Commission shall evaluate the Major Oil & Gas Facility request, staff report, referral agency comments, Applicant responses, and public comment and testimony. The Planning Commission will then make a recommendation to the Board of County Commissioners to approve, approve with conditions, continue, table for further study, or deny the Oil & Gas Development Permit request. The Planning Commission's decision shall be based on evidence presented, and compliance of the application with the Review Criteria of Section 26.2.C.

(no standards)

- l. Board of County Commissioners Public Hearing The Board of County Commissioners hearing shall be scheduled for the earliest available date, taking into consideration the public notice requirements of this Section, but no later than 120 calendar days after the final Planning Commission hearing. Staff shall prepare a staff report for the public hearing before the Board of County Commissioners. At the public hearing the Board of County Commissioners shall evaluate the Major Oil & Gas Facility request, taking into consideration the Planning Commission recommendation, staff report, referral agency

Standards
unspecified

comments, Applicant responses, review criteria of section 26.2.A and any public comment and testimony.

The Board of County Commissioners may approve, approve with conditions, continue, table for further study, remand to the Planning Commission, or deny the Oil & Gas Development Permit Application.

If the Board of County Commissioners approves the Oil & Gas Development Permit, said permit shall not become effective until all conditions of approval are met, all fees paid, and all related documents and agreements have been recorded.

If denied by the Board of County Commissioners, a re-submittal of the same, or substantially same, application shall not be accepted within one (1) year from the date of denial by the Board of County Commissioners, or, in the event of litigation challenging the denial, from the date of the entry of the final judgment. However, if evidence is presented to the Board of County Commissioners showing a substantial change in conditions or circumstances, the Board of County Commissioners may allow a new application to be submitted. A new application and processing fee shall be required.

- m. Notice of Action - Final Status Appendix F shall be mailed to the Applicant and the landowners who received a public hearing notice (Appendix D). The Notice of Action - Final Status shall recite whether the application has been approved, approved with conditions or denied, and shall be mailed via first class mail within three (3) business days (Monday through Thursday) of final determination.

D. ANNUAL COMPLIANCE REVIEW

Each approved Oil & Gas Facility is subject to annual review, or more frequently if the Board of County Commissioners deems appropriate, to ensure compliance with these regulations and any conditions of approval imposed on the permit. In the event an approved Major Oil & Gas Facility is found to be out of compliance with these regulations or any conditions of approval imposed on the permit, Community & Development Services shall notify the owner/operator of such non-compliance in writing, detailing such non-compliance, and shall request that the

facility be brought into compliance within seven (7) calendar days or be subject to revocation of the operating permit for the facility. In the event the condition cannot be addressed within seven (7) calendar days, the owner/operator must supply a written justification, plan and schedule within the initial seven (7) calendar day period. This plan is to be submitted to Community and Development Services and must describe the proposed activities to attain compliance. This plan must be approved by the Director of Community and Development Services. Nothing herein shall prevent a review for compliance with these regulations based on a complaint by the public, or any other information that has come to the attention of Community and Development Services.

E. PERMIT MODIFICATIONS

Where an Oil and Gas Facility has been approved and the Applicant desires to modify the subject facility by; changing previously approved permanent equipment, adding new permanent equipment, site layout, new grading activities, new operating plan, etc., an application to modify the original application shall be required.

Changes to permanent equipment include, but are not limited to, changes of existing equipment or operations that result in greater impacts.

Permit modifications shall be processed as either Minor or Major Modifications, as follows:

1. Minor Permit Modification

a. Minor permit modifications include the following:

- (1) Relocation of individual facilities and equipment within the pad area of an approved Oil & Gas Facility.
- (2) Addition to or reconfiguration of, approved equipment or facilities of a Minor Oil & Gas Facility.
- (3) A proposed modification, equivalent to a request for a new Minor Oil and Gas Facility, based on the reasonable judgment of the Director of Community and Development Services.

(4) Any significant change to the approved grading plan, based on the reasonable judgment of the Director of Community & Development Services.

b. Applicant shall submit a narrative, Facility Improvement Plan and appropriate fees as established by the Board. Community & Development Services shall have fourteen (14) business days (Monday through Thursday) to review the proposed modifications. The Director may waive submission requirements to the extent the required materials are already on file.

c. The Director shall review and issue a written decision on the Application. The Application may be granted administrative approval with or without conditions, if it complies with the Section 26.4 General Development Standards. If the Application is denied, the decision may be appealed, within fourteen (14) days, pursuant to Section 26.2 A.2.h,i.

d. Limited access to County roads will mitigate health, safety and visual impacts. Operators are encouraged to consolidate or cluster minor production facilities, in an orderly manner, at single access points to County roads. Such access points will be limited to three per linear mile.

Impossible to predict

A waiver to this requirement may be granted by the Director of Community and Development Services to;

1. avoid platted subdivision.
2. allow for required setbacks.
3. protect riparian areas.
4. protect forested areas.
5. protect wildlife, wildlife habitat, or endangered species.
6. accommodate circumstances when a surface use agreement is not possible.
7. comply with Road and Bridge recommendations.

8. comply with a court order.

2. Major Permit Modification When in the reasonable judgment of the Director of Community & Development Services, a proposed modification is equivalent to a request for a new Major Oil & Gas Facility, the proposal shall be processed pursuant to the complete process for Major Oil & Gas Facilities, Section 26.2.B. This process includes all public review and submission requirements. The Director may waive submission materials which are already on file.
3. Notice of Operations As a condition of any approved modifications, the Applicant shall provide written notice to the Director at least five (5) Elbert County business days (Monday through Thursday) prior to the commencement of any on-site work associated with the permitted modification.

F. PERMIT EXPIRATION

Approval of a Minor or Major Oil & Gas Facility, or an approved modification thereof, shall expire if construction of the facility or the approved modification has not commenced within two (2) years of final County approval. No extensions will be granted.

G. WAIVERS

1. Authorized Waivers to these Regulations may be requested by the Applicant or the Director. All applications where a waiver is requested shall be processed in accordance with the standards and procedures outlined in this Section which is the exclusive procedure for requesting a waiver of requirements, other than Section 26.4 M. (PARCEL SIZE; MAXIMUM NUMBER OF WELLS), and Section 26.2.H. (Operational Conflicts Waiver).
2. Review Criteria , The Community and Development Services Director, as appropriate, may grant a request for wavier. No waiver shall be granted however, when, in the opinion of the Director, the applicant has not provided reasonable and adequate evidence justifying the request presented, or when the request is determined to be a self-imposed hardship which can be rectified by means other than a waiver.

If a request for waiver is denied by the Director of Community and Development Services, the applicant may appeal the decision, in writing,

within 30 days of decision. The Board of County Commissioners will consider the appeal at the next regularly scheduled hearing.

When, in the opinion of the Director, the impacts of a requested waiver warrant input from the public, the Director may choose to require a public hearing in compliance with Section 26.2.A, 2, C or 26.2, B, 2, j respectively.

H. OPERATIONAL CONFLICTS WAIVER

A waiver of one or more provisions of these Regulations shall be granted if the operational effect of these Regulations actually conflicts with state statute or regulation.

1. All applications where a waiver due to operational conflicts is requested shall be processed as a Major Oil & Gas Facility and heard in a noticed public hearing by the Board of County Commissioners. The Applicant shall have the burden of proving an actual, material, irreconcilable operational conflict between the requirements of this section and those of state statute or regulation in the context of the proposed facility.
2. For purposes of this Section, an operational conflict exists where an actual application of a County condition of approval or regulation prevents compliance with State statutory or regulatory requirements and where County regulations would prevent the development, production, or utilization of oil and gas resources.
3. If the Board of County Commissioners determines that compliance with the requirements of these Regulations results in an operational conflict with State statutes or regulations, a waiver to this section shall be granted, in whole or in part, but only to the extent necessary to remedy the operational conflict. The Board of County Commissioners may condition the approval of a waiver as necessary to protect the public health, safety, and welfare.
4. If the Applicant, or any person entitled to receive notice of the original application for the Oil & Gas Facility, wishes to seek judicial review of a final Board of County Commissioner's decision on the operational conflict waiver request, they may appeal to the district court pursuant to C.R.C.P. Rule 106(a)4.

I. WITHDRAWAL OF AN APPLICATION

A request to withdraw an application shall be submitted, in writing, to Community & Development Services. Withdrawal of the application shall preclude reactivation. There will be no refund of application fees when an application is withdrawn. The submittal of a new application and processing fee shall be required in order to pursue a proposed facility that has been previously withdrawn.

J. PERMIT REVOCATION

In the event any Oil & Gas Facility is not brought into compliance with its approved permit standards and conditions, the County may schedule a hearing to consider revocation of the permit. For Minor Oil & Gas Facilities, the hearing shall be held by the Director of Community & Development Services. For Major Oil and Gas Facilities the hearing shall be held by the Board of County Commissioners. Notice shall be given to other property owners and the permit holder in the same manner as for the original permit review and approval. At the conclusion of the hearing, the Director or the Board, as appropriate, shall determine whether: (1) the failure of compliance is so serious as to require revocation of the permit and resolve the same; or (2) the permit holder may be given the opportunity to bring the facility into compliance with these Regulations and any existing and new conditions of approval. The action of the Director or the Board as appropriate shall be memorialized in writing and recorded by the Elbert County Clerk and Recorder. This document shall serve as the final decision of the County, subject to review by the district court.

SECTION 26.3 MAJOR AND MINOR APPLICATION SUBMITTAL REQUIREMENTS

A. GENERAL REQUIREMENTS

For the purpose of referrals, the Applicant must submit two (2) copies of the application. Submittal requirements are listed in the "Submittal Requirements Table" (Table 1) shown on the next page. The Applicant must submit 2 copies of the application. Once Community & Development Services has determined the submittal to be complete, the Applicant shall be notified via mail or electronic mail and instructed to provide the number of referral copies required if applicable. To the extent a submittal requirement is of a continuing nature, it shall also be considered a General Development Standard under Section 26.4. The Director or the Board of County Commissioners, as appropriate, may require that the Applicant provide any additional study, diagram, information or documentation needed to assist in determining whether the proposed Oil & Gas Facility will be in compliance with the applicable requirements of these Regulations.

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B. SUBMITTAL REQUIREMENTS TABLE

Submittal Requirements – Please see the appropriate section of the General Development Standards for more detail on specific submittal requirements.

	Minor	Major	Pipeline
1. Completed Oil and Gas Development Permit Application Form	X	X	X
2. Application Fee (To be determined by separate BOCC resolution)	X	X	X
3. Emergency Response Plan & Spill Protection and Clean-Up Plan	X	X	X
4. Certificate of Mailing	X	X	X
5. Copies of application forms for all applicable state or federal permits, including COGCC Forms 1 & 2.	X	X	X
6. Color aerial photo showing facility location and 2 miles radius	X	X	X
7. Vicinity Map			
A) Section, township, range	X	X	X
B) Site boundary	X	X	
C) North arrow and scale	X	X	X
D) Current surface ownership within 1,320 feet of site, including the location of residences.	X	X	X
E) Other site-specific information identified and requested at the Pre-Application Meeting.	X	X	X
8. Facility Improvement Agreement Exhibit – 11" X 17" format, prepared by a Registered Colorado Surveyor or a Colorado licensed engineer	X	X	X
9. Facility Drilling and Completion Plan Narrative – a general description of the facility, equipment and material to be on site, and general timeline for major activities on the site (estimated drilling date, completion, reclamation, etc.):	X	X	X
10. Sound Control Measures and Schematic Details (as applicable): Narrative and Schematic	X	X	
11. Lighting Description and Location of Site Lighting: Narrative and Schematic	X	X	
12. Safety/Security Plan: Narrative	X	X	
13. Visual Mitigation Plan & Visual Mitigation Techniques: Narrative and Schematic	X	X	
14. Wildlife Management Plan: Narrative	X	X	X

15. Water Supply Plan	X	X	
16. Surface Water/ Aquifer Protection Plan	X	X	X
17. Grading and Erosion Control Plan and Storm Water Management Plan: Narrative	X	X	
18. Roads, Access, Haul Routes, & Road Maintenance Agreement: Narrative and Map	X	X	
19. Waste Management Plan: Narrative	X	X	X
20. Weed Management Plan: Narrative	X	X	X
21. Re-Vegetation Plan: Narrative and Schematic	X	X	X
22. Other site specific information identified and requested at the Pre-Application Meeting.	X	X	X
23. Facility Improvement Agreement	X	X	X – when County R.O.W. involved
24. Surface Agreement or Waiver Surface Agreement must include 1) Access egress and ingress 2) Re-vegetation plan 3) Setback requirements 4) Agreements between operator and owner that demonstrate no negative effect to adjacent property owners	X	X	X
25. Documentation of Mineral Rights	X	X	X

* Pipelines are reviewed as a Major Oil & Gas Facility; however, because submission requirements for pipelines are somewhat fewer than for Major Oil & Gas Facilities generally, they are separately shown here and have control over conflicting requirements.

C. LIGHTING DESCRIPTION AND LOCATION OF SITE LIGHTING

All lighting shall be shielded to direct light toward the operation or equipment and to minimize impact to surrounding properties. Lighting on the site should be adequate to insure safety of the work crew and safe operations on the site, while employing techniques and practices to minimize light impact to surrounding properties. The location of all site lighting shall be shown on the Facility Improvement Plan.

D. SAFETY & SECURITY PLAN

Provide as-built facilities map certified by a Colorado professional engineer, showing the name, location and description of all equipment, including the size, type and content of all pipelines and tanks. A revised final Facilities Improvement Plan, with revised title information, may be submitted to fulfill this requirement. To the extent allowed by law, the as-built facilities map shall be held confidentially. To the extent allowed by law, the right of inspection of the as-built facilities map shall be denied to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).

Safety practices in accordance with state and federal law, including the Occupational Safety and Health Act of 1970, Public Law 91-596 84 Stat. 1590 91st Congress, S.2193, December 29, 1970, as amended through January 1, 2004, shall be used at all times during site development, drilling, and production to minimize danger to the general public.

All facilities containing any tank, spill containment facility, or other structure containing hazardous materials, produced fluid such as oil, gas liquids, or produced water shall be;

1. kept free of weeds, grass, or rubbish.
2. labeled as to contents and capacity.
3. secured as follows;

- a. Security fencing and a locked gate for all unattended Oil & Gas Facilities within 1320 feet of any existing residence, public or private school, other existing commercial occupancy as defined by the building code or recreational facility designated by the appropriate federal, state, or local authority.

- b. Where no fencing is required, open-ended discharge valves on all storage tanks, pipelines, and other containers shall be

secured (locked) at any facility that is unattended or accessible to the general public.

E. VISUAL MITIGATION PLAN AND VISUAL MITIGATION TECHNIQUES

The Operator shall use the following standards and techniques to minimize the visual impact of Oil & Gas Facilities:

1. The Operator shall replace earth adjacent to drainage ways to match naturally occurring grades and in accordance with the requirements outlined in the *Elbert County Construction Standards and Specifications Manual*.
2. Oil and Gas Facilities shall use uniform colors for all components to be on-site for six (6) months or longer, provided however, temporary tank containers that are routinely shuttled from one site to another are specifically exempted from this section. The following standards shall apply:
 - a. Uniform, non-contrasting, non-reflective color tones, similar to Bureau of Land Management Standard Environmental and Supplemental Colors coding system shall be used for all equipment remaining on site after the drilling phase is completed.
 - b. Colors shall be earth-tone and matched to land, (not sky), and slightly darker than the adjacent landscape.
3. The Operator shall minimize damage to existing trees and vegetation.
4. Pad dimensions for facilities shall be the minimum size necessary to provide a safe work area. Surface disturbance shall be minimized.
5. When an Oil & Gas Facility is located within 1,320 feet of a residential, church, commercial, or school use, a perimeter decorative fence shall be approved by Community & Development Services and shall be constructed of wrought iron or other acceptable material. Such fencing may be combined with or installed in lieu of the security fence required by subsection C above, and shall be installed once the drilling/fracking phase of the operation has been completed and prior to production being initiated. In addition, landscaping shall be installed around the perimeter screen fencing as follows:

- a. A minimum six foot (6') tall evergreen tree shall be provided for every thirty linear feet (30') of fencing. The trees shall be planted in clusters to appear natural. Such clusters shall be positioned to provide the maximum amount of screening to surrounding properties.
 - b. Vegetation shall be watered and kept in living condition for the first two (2) growing seasons from planting.
 - c. A landscape bond shall be required in a dollar amount equal to the total costs estimate for the plant materials, including installation. Such estimate shall be provided by the Applicant at the time of initial application for the Oil and Gas Facility. The landscape bond will be refunded after the initial two year period provided the vegetation is alive. Should the vegetation not survive the two growing seasons initial period from planting, the bond will be used to replace the dead vegetation with similar vegetation.
 - d. Alternatively the applicant may pay the County an installation fee equal to the total costs estimated for the plant materials, including installation and maintenance.
6. The following techniques may also be used to minimize visual impacts of an Oil & Gas Facility.
- a. Establishment of berms with re-seeding of native grasses and trees.
 - b. Shaping slopes (cuts and fills) to appear as natural forms.
 - c. Designing the facility to utilize natural buffers.
7. Upon completion of the well or other work associated with the development of the site, including construction of compressors, tank batteries and roads, the Operator shall re-seed disturbed areas not in active use for those facilities with native grasses or other vegetation similar to existing vegetation, or as directed by property owner.

F. WILDLIFE MANAGEMENT PLAN

1. The Oil and Gas Facility shall not cause significant degradation of wildlife, including any federal, state or Colorado Natural Heritage Program

identified species of concern, or to their habitat. At a minimum, the facility and its operation shall comply with the Colorado Department of Wildlife's recommended Standard Operating Practices for all Oil and Gas Operations in Colorado.

2. When planning facilities, the Operator shall consult and reference the current wildlife occurrence data, including the Colorado Department of Wildlife's Natural Diversity Information Source database (NDIS) and the Colorado Natural Heritage Program database to identify species of concern that may occur in the vicinity of the proposed Oil and Gas Facility. Occurring species must be surveyed, mapped and reported using Colorado Department of Wildlife protocols and existing Colorado Department of Wildlife occurrence data, including those on the defined list of species for which limited data exists and/or where occurrences may move from one year to the next.
3. Surveys will be conducted within 1/2 mile of the proposed Oil and Gas Facility on lands legally accessible to the Operator. All data from wildlife surveys performed shall be forwarded by the Applicant to Community & Development Services, Colorado Department of Wildlife, and Colorado Natural Heritage Program on completion.
4. Community & Development Services may consider the comments of Colorado Department of Wildlife and shall rely on any of the standard operating procedures in the creation of conditions of approval to address site-specific wildlife mitigation for an Oil and Gas Facility. The site-specific mitigation or best management practices, at the discretion of Community & Development Services, may be included as conditions of approval for an Oil & Gas Development Permit.
5. The following measures shall be included in the site specific wildlife mitigation procedures required under this subsection E, as appropriate:
 - a. The "Restricted Surface Occupancy" areas listed by the Colorado Department of Wildlife should be avoided to the maximum extent possible when planning and conducting Oil and Gas Development Operations. Avoidance of these areas is the presumptive standard for Oil and Gas Development in Elbert County.

- b. Oil and Gas Facilities, roads, fencing, and lighting shall be sited to minimize the impact and disturbance on wildlife habitat and wildlife corridors as identified or mapped by the Colorado Division of Wildlife.
- c. To the greatest extent practicable, align pipelines with established roads in order to minimize the construction of new roads and reduce habitat fragmentation and disturbance.
- d. In areas where vegetation is removed re-vegetate disturbed areas with native grasses, plants, and shrubs, or as directed by the property owner. To the greatest extent practicable, keep the removal of trees to a minimum.
- e. During pipeline construction for trenches that are left open for more than five (5) calendar days and are greater than five (5) feet in width, install wildlife escape ramps where the trench crosses well-defined game trails and at a minimum of 1,320-foot intervals where the trench parallels well-defined game trails.
- f. When crossing streams, drainages, or irrigation ditches with a pipeline, use boring technology or other best management practices, so that little of the channel, bank, and riparian vegetation are impacted.
- g. In lieu of a site-specific mitigation review for each facility, the Applicant may submit to Community & Development Services a multiple-site wildlife plan to address the cumulative impacts to wildlife from the estimated total number of facilities. Upon review and acceptance by the County, additional facilities may be added to an accepted multiple-site wildlife plan.

G. WATER SUPPLY PLAN AND SURFACE WATER/AQUIFER PROTECTION

The County finds that protection of the water resources is a prerequisite for residential and commercial activity in Elbert County, and must be ensured by any Applicant for an Oil & Gas Development Permit. The Oil and Gas Facility may not pose any significant risk nor cause any degradation in quality or quantity of these subsurface water resources. At a minimum, the Oil and Gas Facility shall comply

with Colorado Oil & Gas Conservation Commission Rules Sections 324 and 325. In addition, the following shall apply:

1. The Operator shall certify that the proposed source and volume of any fresh or potable water required for the operation of the Oil and Gas Facility is legally decreed or permitted as acceptable for use for Oil and Gas Operations and shall provide documentation in support of the certification. When the source is a well, a well permit is to be included
2. The Oil and Gas Facility shall not cause degradation in the quality or quantity of surface waters from the addition of non-point source pollution.
3. The entire pad site with the Oil and Gas Facility shall be located a minimum of one-thousand feet (1,000') from the normal high-water mark of any water body, or 30 feet higher in elevation from any water body. In all cases, a minimum setback of 200 feet must be maintained. Any chemicals, liquids, or refueling areas shall not be placed within 1000 feet of riparian and wetland areas.
4. No chemical, liquid or refueling areas that are not located on a pad site shall be placed within 1000 feet of wetlands or a riparian area.
5. Prior to commencement of any drilling operations, the Operator will contact, by certified mail, all surrounding property owners with active domestic, irrigation or livestock wells, that fall within the following notification area,
 - a. one (1) mile radius of the wellhead;
 - b. one (1) mile radius of the horizontal well bore;
 - c. the area defined by the tangents of the circles described in 1 and 2 above if applicable; (See Figure 3 on next page) and

ask permission to conduct water sampling and analysis pre-drilling, post drilling, post completion, and post production every three (3) years for a period of fifteen (15) years. The green and white postal receipts are to be submitted to Community and Development Services 5 days prior to drilling operations.

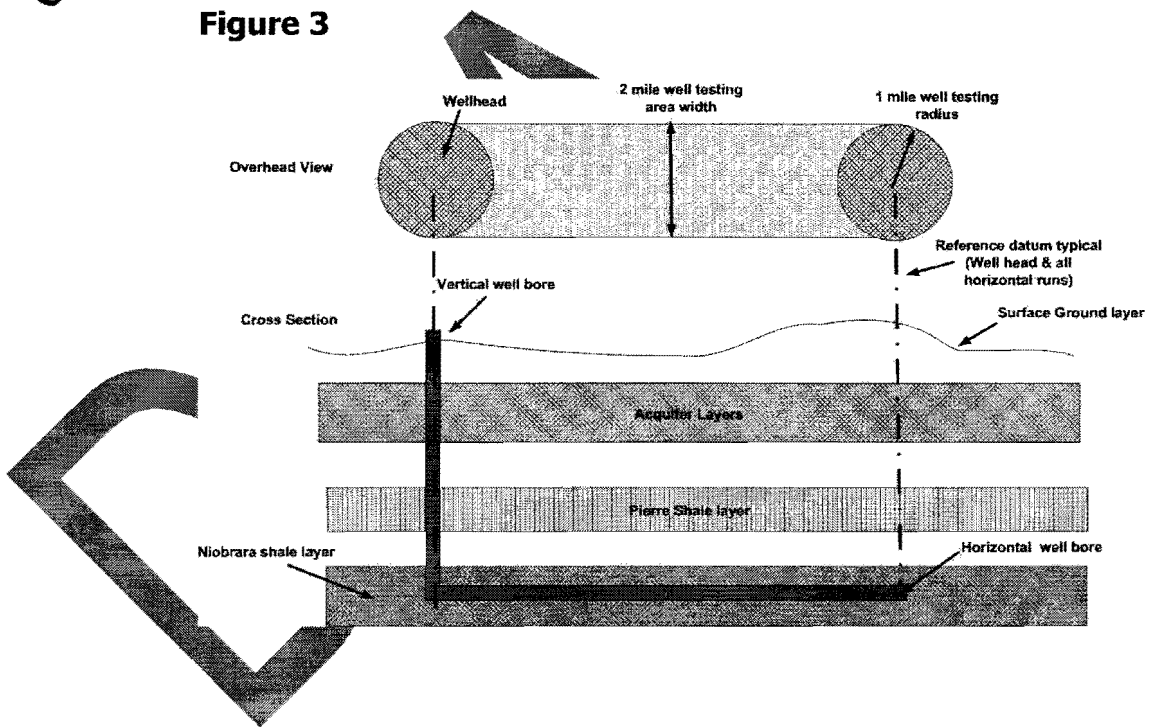
No time to cure.
What if permission is refused? Remedy?
Notice of test results required?

The testing schedule will restart after any completion, drilling, stimulation or alteration of existing wells. The drilling of a new well on an existing pad will trigger a re-start of the testing schedule for any existing well on that pad, provided that those existing wells were previously included in a testing schedule. Additional "post completion" test(s) may be required if changes in water quality are identified during follow-up testing. The Director of Community and Development Services may require further water well sampling at any time in response to complaints from water well owners.

No. CDS is not required to protect a property right.

Additional testing, for cause as determined by CDS, will be done at any interval for any resident within the test area. A request for further testing must be submitted in writing and must include reason for request.

Figure 3



- The wells will be analyzed for relevant changes as compared to the pre-drilling analysis. The "Initial baseline testing" described in this paragraph shall include all tests listed in appendix "B" and shall be conducted by a non-affiliated, certified laboratory. The costs for such testing and analysis shall be the responsibility of the Operator. The Operator shall provide copies of such water tests and all analyses to the property owners and to

Elbert County Environmental Health Department. All such tests and analyses shall comply with Colorado Oil & Gas Commission water well testing and water-bearing formation protection procedures and requirements.

7. Within three (3) months of each collection of samples used for the test, copies of all test results described above shall be provided to the County and the landowner where the water quality testing well is located.
8. Until such time as final reclamation of a site has been completed as described in the Colorado Oil & Gas Conservation Commission Reclamation Regulations, all "Test and Survey" reports and water well testing information that have been required by the Colorado Oil & Gas Commission to determine the presence of waste or occurrence of pollution, as well as the results from well-head monitoring to allow safe and convenient determinations of pressure and fluid flow, shall be forwarded to Community & Development Services, Attention: Director.
9. If free gas or a methane concentration level greater than 1 mg/L is detected in a water quality testing well, compositional analysis and carbon isotopic analyses of methane carbon shall be performed to determine gas type (thermogenic, biogenic or an intermediate mix of both). If the testing results reveal biogenic gas, no further isotopic testing shall be done. If the carbon isotope test results in a thermogenic or intermediate mix signature, annual testing shall be performed thereafter and an action plan shall be drafted by applicant to determine the source of the gas. Regardless of gas type, If the methane concentration level increases by more than 5 mg/L between sampling periods, or increase to more than 10 mg/L, an action plan shall be drafted to determine the source of the gas.
10. Only closed-loop (no open pits) drilling systems shall be permitted in Elbert County.

H. GRADING AND EROSION CONTROL PLAN AND STORM WATER MANAGEMENT PLAN

1. Oil and Gas Facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of vegetated land surface. At all times best

management practices shall be used to prevent storm water discharges from impacting surface water quality. The Operator of all Oil and Gas Facilities shall apply for and obtain approval of a grading and erosion control permit prior to any land disturbance. Grading and erosion control permits are issued by the Elbert County Road & Bridge Department. Prior to the permit being issued, the County Engineer shall review and approve all drainage and erosion control plans and reports. Storm water management for construction activities at oil and gas sites shall be in compliance with the *Colorado Oil and Gas Conservation Commission Policy for Storm Water Management Inspections, Enforcement and Interaction with Water Quality Control Commission Regulations (August 16, 2006)*.

2. The entire disturbed area of the site used for active operation shall have all topsoil stripped to a depth not exceeding the depth of the topsoil, as reported in the notes section of the Facility Improvement Plan. The topsoil will be placed on the highest point of the site to mitigate erosion and run-off in storm conditions or spill events. The Operator will grade the site to direct surface run-off into a catch pit on site. The Operator will remove suitable amount of material other than topsoil on the site to construct at least a twelve inch (12") high berm around the entire site, except at the access/egress point. The access/egress point will slope back into the site to prevent run-off from the site. A containment ditch with the capacity to contain surface runoff will be formed around the external perimeter of the berm. The ditch and any run-off containment area (detention pond or "catch pit") will be lined with an impermeable liner with a minimum thickness of 40 mil to protect the soil and groundwater from contamination.
3. Upon completion of all on-site development operations, excluding the production phase, all structural pads shall be removed, the run-off mitigation will be removed and set up in a manner to prevent surface and storm water collecting around the well site. All sub-soil from the mitigation phase will be replaced and the disturbed site area will be "deep ripped" or plowed to bring the soil back to the similar level of compaction prior to the development operations. The topsoil will be replaced and subsequently seeded. Seed mix will either be that recommended by the jurisdictional soil conservation district or per the surface use agreement, and be

irrigated and managed until the area grows back to a similar level prior to the pad development.

I. ROADS, ACCESS, HAUL ROUTES, AND ROAD MAINTENANCE AGREEMENT

1. The operator shall enter into a Road Operations and Maintenance Agreement with the County Public Works Department. This Agreement will include, but is not limited to, the following:

- a. Vehicle haul routes. Vehicle haul routes are prohibited in platted subdivisions.
- b. The construction, improvements, and maintenance of access routes to oil & gas facilities. Such access routes shall, to the extent feasible, minimize visual impact on the public, taking into account the needs of the surface owner.
- c. Roadway maintenance
- d. Offsite improvements, including but not limited to, turning lanes and traffic signals. Costs related to all necessary traffic and engineering studies, as well as the review thereof, are the responsibility of the applicant.
- e. Overweight vehicles
- f. Dust suppression and mitigation
- g. Financial securities that insure performance and compliance with the Road Operations and Maintenance Agreement.

2. The Operator's obligations under the Road Operations and maintenance Agreement are subject to the provisions of the Elbert County Construction standards and Specification Manual.

J. WASTE MANAGEMENT PLAN

1. When an Oil and Gas Facility becomes operational, all construction-related debris shall be removed from the site. The site shall be maintained free of debris and excess materials at all times during operation.

2. No burning of trash shall occur on the site.
3. All human waste shall be fully contained and disposed of off-site at an appropriately licensed facility in accordance with all County Regulations.
4. Operators shall ensure that all exploration and production waste is properly stored, handled, transported, treated, recycled or disposed of to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources.
5. A written plan for waste management through the beneficial reuse and recycling of exploration and production waste is required. The plan shall describe the proposed use of the waste and the methodology for recycling of the majority of the exploration and production waste.

K. OIL AND GAS DEVELOPMENT PERMIT APPLICATION

For Oil and Gas Facilities to be located upon real property with split estates, for which the Operator does not own or lease the surface estate, the Application form (**Appendix B**) shall be accompanied with the following information:

1. The name, address, telephone and fax numbers and e-mail address of all owners of the property; documentation of surface ownership; evidence of surface owner notification; copies of surface use/damage agreements and leases affecting the area where the Oil and Gas Facility will be constructed, including proof of right-of-entry for ingress/egress and installation of all necessary infrastructure, and other such provisions relating to the use of the surface estate as may be appropriate. Such submitted agreement(s) may be redacted to delete any provisions pertaining to financial and/or non-monetary compensation that the Operator has paid to the surface owner. For Minor and Major Facilities located within a parcel or parcels for which the Operator is the current owner or lessee of the surface estate, the Operator shall provide a copy of a current title policy reflecting ownership or a copy of the lease.
2. Documentation of mineral interest ownership, including name, address, telephone and fax numbers, and email address of the owner of the mineral interests, included within the COGCC spacing unit.

L. FEES

The application filing fee and the County Engineer review/inspection fee as set by the Board of County Commissioners shall accompany the application. In the event any additional plan, study, survey or other information is required, or to the degree a specialized consultant is necessary to adequately review and provide input during the application process, the Applicant will be required to provide the same and cover the costs associated with such additional information or review.

M. EMERGENCY RESPONSE AND SPILL PROTECTION AND CLEAN-UP PLAN

The Applicant shall provide an emergency response plan to the Elbert County Office of Emergency Management, Community & Development Services and the jurisdictional fire district. The plan shall at a minimum, consist of the following information:

1. Name, address, and phone number, including 24-hour emergency numbers for at least two (2) persons responsible for emergency field operations.
2. A written response plan for any potential emergencies that may be associated with the construction, drilling, completion, or operation of the facilities. This plan shall include, but not be limited to the following: explosions, fires, gas, chemical, water pipeline leaks or ruptures, spills, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents. This plan shall be coordinated with and approved by the Office of Emergency Management prior to beginning field operations.
3. Provision of training, equipment and materials for fire and medical personnel.

The Applicant shall include copies of all applicable state and federal permits (or applications in process for the same) needed for the proposed Oil & Gas Facility, including Colorado Oil & Gas Conservation Commission Forms 1 & 2.

N. VICINITY MAP

The Applicant shall provide a vicinity map showing the proposed Oil & Gas Facility location and roads within two (2) miles of the proposed well site. The vicinity map shall include the section, township and range the facility is to be located in, a north arrow and scale, as well as the current surface ownership of

the proposed well site. The vicinity map shall delineate the well site boundaries, and the location of residential units located within the boundaries described in Sec 26.2, A, 1, c, Figure 1. The vicinity map will also include any other items requested at the Pre-Application Meeting.

O. FACILITY IMPROVEMENT PLAN (FIP)

1. **Prior to production**, a Facility Improvement Plan shall be submitted that includes the following information:

a. Facility Drilling and Completion Plan Narrative The Drilling and Completion Plan Narrative shall include projected start and completion dates for construction and operation, the method of drilling, hours of operation during construction and operation and a description of the equipment to be used. The following information shall also be included;

i. horsepower of site equipment

ii. estimated size of the pad area

iii. number of cubic yards of fill material needed to be brought to, or removed from the site during the construction and drilling process

iv. transportation plan

v. production and post-operating activities, including a site reclamation plan pursuant to Colorado Oil & Gas Conservation Commission requirements

vi. description of the maintenance and irrigation for at least two (2) growing seasons, after re-vegetation and landscaping for major facilities

vii. description of the location, specific species, planting schedule, size, planting method, quantity of seed mixture or plant material to be used, mulching, and other related activities

viii. noise mitigation plan

- ix. four (4) color photos taken from the center of the proposed well site facing north, south, east, and west and labeled accordingly
 - x. a color aerial photograph shall be included with the submittal which clearly delineates the site boundary and radiuses at 1/4 mile, 1-mile, and 2-mile radiuses from the well site
- b. Drilling and Completion Sketch Plan A Drilling and Completion Sketch Plan is required that includes the following:
- i. a facility Improvement Plan Exhibit at a scale of 1" to 50' or similar scale to adequately show the various components of the entire site.
 - ii. dimensions, provided in square feet and in acres, of the lease area. The graphic will show the total area of the site to be disturbed.
 - iii. proposed location of all structures, tanks, wells, and any other Oil and Gas equipment, any active, inactive, or abandoned wells.
 - iv. for any abandoned or inactive wells within the site boundaries as described in Sec 26.2, A, 1, c, Figure 1, the operator will advise Community and Development Services whether its operations will cause interference at anticipated pressures for the abandoned well bore.
 - v. any proposed pipelines (intermediate, gathering, and transmission lines).
 - vi. on-site and adjacent features such as floodplain designations, water courses, drainage, utility lines and easements, ditches, wetlands or aquatic habitat, significant plant ecosystems, wildlife habitat and migration routes, geologic features, vegetative cover, dams, reservoirs, mines, and known cultural resources.

- vii. distance to residences, buildings, and structures within the site boundaries as described in Sec 26.2, A, 1, c, Figure 1.
- viii. existing and proposed contours and pad elevations.
- ix. existing and proposed roads within the site as well as ingress and egress from public or private roads.
- x. details of proposed visual mitigation including buffers, berms, fences, structures, and other screening devices, if applicable (Specify type, height & materials).
- xi. proposed re-vegetation and landscaping shall be addressed in the exhibit or be addressed in the surface use agreement.
- xii. schematic detail of any proposed sound mitigation structures.
- xiii. location of all proposed exterior lighting shall be indicated and lighting shall be directed away from residential areas or be effectively shielded from such areas.
- xiv. schematic and description of the fencing to be used around the well site before and after the drilling phase of the project is completed.
- xv. a title block located at the center and top of each sheet of the Facility Improvement Plan Graphic with the following information: name of the proposed site, legal description including the quarter-section, township, range, size of site, whether the site is a Minor or Major Oil & Gas Facility, the Elbert County Oil and Gas File Number (to be provided by Community & Development Services), and sheet 1 of 2, 3, etc. The name of the proposed facility is based upon the legal description or the street address as shown in Figure 2, below.

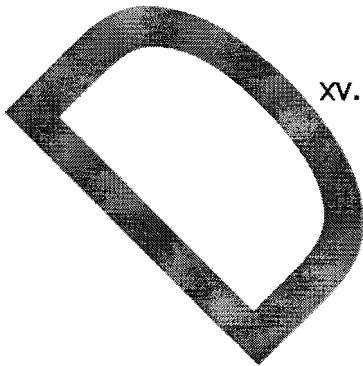


Figure 2

For Legal Description:

Black Gold - Field One
NW¼ Section 31, Township 6 South, Range 63 West,
of the 6th P.M.
5.1 acres
Minor / Major Oil & Gas Facility – EC O&G Well No. 2011-001
Sheet 1 of ____

For Street Address (obtained from Assessor's Office):

3215 Elbert County Road 17
NW¼ Section 31, Township 6 South, Range 63 West,
of the 6th P.M.
4.5 acres
Minor / Major Oil & Gas Facility – EC O&G Well No. 2011-002
Sheet 1 of ____

*All construction or equipment installation required to begin the production of the well requires a Drilling and Completion Plan Narrative and Sketch Plan.

2. **Following the completion of the well**, and prior to production, the following is required.

- a. A final Facility Improvement Plan Graphic is required that includes all changes to the initially submitted drilling and completion sketch plan. The Applicant shall provide a scale drawing showing what facilities and equipment will be located on the site after drilling, during the production phase. The final Facility Improvement Plan Graphic shall include all items included in section of 26.3,G,1,b,i-xv (drilling and completion sketch plan).

The following signature blocks shall be provided dependent on whether the application is for a minor or a major Oil and Gas Facility.

"This Minor Oil and Gas Facility Improvement Plan is hereby approved this _____ day of _____(month), _____ (year), by the Director of Community & Development Services.

Director - Community & Development Services

Recorded this _____ day of _____(month), _____ (year), by the Elbert County Clerk and Recorder's Office, at Book _____, Page _____, and Reception No. _____

The following signature blocks shall be provided for Major Oil and Gas Facilities:

This Major Oil and Gas Facility Improvement Plan is hereby recommended for approval this _____ day of _____(month), _____ (year), by the Director of Community & Development Services.

Director of Community & Development Services

This Major Oil and Gas Facility Improvement Plan is hereby approved this _____ day of _____ (month), _____ (year), by the Elbert County Planning Commission.

Chairman of the Elbert County Planning Commission

This Major Oil and Gas Facility Improvement Plan is hereby approved this _____ day of _____(month), _____ (year), by the Elbert County Board of County Commissioners.

Chairman of the Board of County Commissioners

Recorded this _____ day of _____(month), _____ (year), by the Elbert County Clerk and Recorder's Office, at Book _____, Page _____, and Reception No. _____.

P. PERFORMANCE SECURITY

2. For a Minor Oil & Gas Facility, the Applicant shall provide one (1) form of the following security to ensure compliance with mitigation requirements set forth in these Regulations and specific conditions of approval for Minor Facilities which include: the actual estimated cost to implement conditions of approval with a minimum of \$10,000 performance security (irrevocable letter of credit or cash deposit) for each Minor Oil & Gas Facility up to 15 facilities subject to uncompleted conditions of approval (maximum \$150,000); or \$7,500 performance security for Operators with more than 15 Minor Oil & Gas Facilities subject to uncompleted conditions of approval (maximum \$175,000). The Applicant may propose a master bond for all operations controlled by the Applicant within Elbert County for review and consideration. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public or surface owners required by the applicable standards contained in this section with regard to County approval. Specific Minor Oil & Gas Facilities shall be released from the performance security requirement after the Applicant demonstrates to the Director that all conditions of approval have been met. If the installation of plant and landscape materials is required as mitigation measures under this section, the performance security shall remain in place for two (2) years after installation or until the site meets all County requirements.

3. For a Major Oil & Gas Facility, the Applicant shall meet all performance guarantee requirements and procedures as required in the approved Facility Improvement Agreement.
4. Performance security exemptions may be granted pursuant to the waiver procedure at Section 26.2.H. Activities that fall under Colorado Oil & Gas Conservation Commission jurisdiction are exempted from this performance security coverage in this section. This section is not meant to replace or supersede the Colorado Oil & Gas Conservation Commission's financial assurance requirement.

Q. INSURANCE

Each Applicant for a permit shall maintain general liability insurance for property damage and bodily injury to third parties as required by the COGCC, and such policy shall include Elbert County as a certificate holder so that the County may receive advance notice of cancellation.

R. WEED MANAGEMENT

The Operator shall be responsible for ongoing weed control for all permitted Oil and Gas Facilities and the access roads under Operator's control. The appropriate weed control methods and species to be controlled shall be determined through review and recommendation of the Natural Resource Conservation Service, the Colorado State University Extension Service and/or the Kiowa Soil Conservation District, in accordance with the Colorado Noxious Weed Act and any applicable Resolution of the Board of County Commissioners for the management and eradication of noxious weeds in Elbert County.

S. RE-VEGETATION PLAN

Where site grading reduces or destroys existing vegetation, the Operator, after consultation with the surface owner and the Kiowa Conservation District shall develop a re-vegetation plan for the site. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related components compatible with the surrounding land and in accordance with industry best management practices. The Operator may, in consultation with NRCS, develop a standard re-vegetation format for all sites within the County, for submittal with Oil & Gas Development Permit Applications. Re-contouring and re-vegetation of the surface to pre-disturbance conditions equivalent to adjacent undisturbed areas will generally be required. The County

may also approve a plan for an alternative post-disturbance reclamation, provided the surface owner and the Applicant agree.

SECTION 26.4 GENERAL DEVELOPMENT STANDARDS

All Oil and Gas Facilities shall be constructed and operated consistent with the standards contained in this Section. The development standards in this Section recognize the need to avoid operational conflicts, the rights of surface owners, the right of the County to determine land uses, and the right of the mineral estate to extract minerals. For both Minor and Major Oil & Gas Facility applications, Community & Development Services shall determine the level of detail required based on the potential impacts of the proposed facility.

A. GENERAL OPERATIONAL PROCEDURES

All construction, maintenance, and operations of the Oil and Gas Facility shall be conducted in such a manner so as to be compatible with Elbert County rural lifestyle. The following standards shall apply:

1. The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest existing residences or platted subdivision lots.
2. All facilities with engines or motors (except wellhead compressor engines) shall be electrified if located within 1,320 feet of distribution voltage (3-phase power with a distribution voltage of 12.47 kV – 3-phase power). Internal combustion engine powered artificial lift equipment may be used prior to the time that a site facility is electrified. If gas is used for on site operations, this provision is waived.
3. All facilities which are not electrically operated shall be equipped with "quiet design" mufflers (also referred to as hospital grade or dual dissipative) or equivalent. Such mufflers shall be properly installed and maintained in proper working order.
4. When well drilling operations are occurring within one-quarter (1/4) mile of a residence, or office, retail, school or church use, adequate noise mitigation sound barriers shall be used and placed so as to minimize noise. Sound baffling plans and a narrative description of noise mitigation

shall be required at the time of the Oil & Gas Development Permit Application.

B. CONTROL AND DISPOSAL OF PRODUCED LIQUIDS

1. On-site containment and disposal of water associated with Oil & Gas Facilities shall be in accordance with applicable Federal, State and County requirements and all other provisions of these Regulations. No liquids may be disposed of on site, to the roadways or on the surface.
2. The Applicant shall incorporate on-site treatment of, and adequate on-site storage capacity for, produced and back-flow waters to reduce the volume of water used in the drilling process and to reduce truck volume on County roads. Except during drilling and completion, Operator shall use reasonable efforts to transport produced water by pipeline, to a central treatment location site or transport to a CDPHE approved facility for disposal. The final disposition of produced water from any Oil and Gas Operation shall be by the most environmentally beneficial method based upon its relevant characteristics. The disposal method will be determined in consultation with the Colorado Oil & Gas Conservation Commission and the Colorado Department of Public Health and Environment, in accordance with relevant regulatory agency requirements and industry best management practices. The liquids will be tested by a CDPHE accredited environmental lab for the analyses listed in table X. Community & Development Services and the Elbert County Health and Environment Department shall receive a copy of the test results, which will be public information.
3. Produced and back-flow liquids shall be removed from the county *unless* it is taken to an integrated recycling facility whose construction is approved pursuant to the requirement set forth in Elbert County Zoning Regulations. Disposal wells are permitted only if included in an approved integrated recycling facility.
4. Secondary containment shall be constructed or installed around all tanks containing crude oil, condensate, or produced water; and shall be sufficient to contain the total volume of all tanks on site plus fifty percent (50%). Secondary containment structures shall be sufficiently impervious to contain discharged material.

C. LOCATION AND MAXIMUM NUMBER OF WELLS

For all Oil & Gas Facilities, the number of well pads and surface facility locations shall not exceed four (4) within any single 640-acre governmental section of real property.

No surface production facilities may be located within 1320 feet of a platted subdivision. Notwithstanding the foregoing, nothing contained in this Subsection shall be construed so as to require the closure or abandonment of any existing well.

D. SETBACKS

1. A setback of at least thirteen hundred and twenty (1320) feet shall be required between the wellhead and the closest existing residential structure, domestic well, or platted building envelope. A waiver to this standard may be granted if verified written consent is obtained from the affected surface property owner(s).
2. A setback of at least two hundred (200) feet shall be required between a minor facility and the closest property line. A waiver to this standard may be granted by the Director if verified written consent is obtained from the affected property owner(s).
3. Setbacks between a Major Oil & Gas Facility structure boundary and the closest existing residential, commercial, or industrial building or property lot line shall be determined on a site specific basis, based on the approval standards identified in the "Approval Standards for an Oil and Gas Development Permit" section of these Regulations, as applicable. In no instance shall setbacks for a major facility be less than those required for a Minor Oil & Gas Facility, unless waived by the affected landowner(s), where applicable.
4. The setback distance shall be measured from the nearest edge of the affected pipeline(s). When a pipeline is proposed within ¼ mile of residential, commercial, schools, and other habitable structures, and at road crossings, the Director shall require the Applicant to provide a risk-based engineering study for all, or part, of its proposed pipeline right-of-way and may require the implementation of more stringent construction, operation standards, or greater setbacks.

E. AIR QUALITY

No Oil and Gas Facility shall cause significant degradation to air quality. The following requirements apply to all facilities:

1. Air emissions from the operations shall be, at a minimum, in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S.
2. Oil and Gas Facilities are prohibited from causing airborne emissions that are known to cause negative health impacts to humans or animals.
3. Vapor recovery systems shall be used for all permanent Oil and Gas Facilities in place of the practice of "flare-off" of vapors and gases.
4. Oil and Gas Facilities and equipment shall be operated in such a manner that odors and dust do not constitute a nuisance or hazard to public health, safety, welfare, and the environment.
 - a. At a minimum, compliance with Colorado Oil & Gas Conservation Commission Rules Section 805.b.(1) shall be met.
 - b. Operators shall employ practices for control of fugitive dust. Such practices shall include, but are not limited to the use of speed restrictions, regular road maintenance, and restriction of earthmoving construction activity during high-wind days.
5. Greenhouse Gas Reduction – The Operator shall make every reasonable effort to minimize methane emissions by using all feasible "green completion" techniques, pursuant to Colorado Oil & Gas Conservation Commission Rules Section 805(3) and the installation of "low bleed" pneumatic instrumentation.
6. Emission Control Equipment – The Operator shall comply with existing Environmental Protection Agency rules and any future regulations validly adopted by an authority. To the maximum extent possible, all fossil fuel powered engines used on site shall employ the latest emission-reduction technologies, e.g. high pressure direct injection of fuel and exhaust gas recirculation.

F. GEOLOGIC HAZARDS AND FLOODPLAINS

1. Oil and Gas Facilities shall not be located in an identified geologic hazard area.
2. Oil and Gas Facilities shall not be located in a flood hazard area as depicted on the Elbert County flood Hazard Maps, except as allowed by Elbert County Floodplain Regulations.

DATA

SECTION 26.5: DEFINITIONS

The following word, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Additional definitions are located in *Part II, Section 27* of the *Elbert County Zoning Regulations*. All other words, terms and phrases used in these Regulations shall be given their usual, customary and accepted meaning in the oil and gas industry.

Abandonment: The permanent abandonment of a well, based on the Operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC). PRESUMPTION OF PERMANENT ABANDONMENT OF A "Major Oil and Gas Facility" shall be based upon non-use or non-operation for one year without notification to the Director of the intent to resume operations under specified conditions.

Access Road: A road located on Private property between the site on which an Oil and Gas Facility is located and the municipality or County road or state highway serving such a facility, constructed in accordance with the private road standards as specified in the *Elbert County Standards and Specification Manual*.

Agricultural: Land that is currently zoned "Agricultural (A)" and in use for farm or ranch purposes, including pastures, and assessed in the County Assessor's records as agricultural land.

Applicant: That person, corporation or other legal entity possessing the legal right to develop the mineral resource or their "Authorized Representative" who applies for an "Oil and Gas Development Permit (OGDP)" from Elbert County.

Authorized Representative: One authorized to make binding representations on behalf of the Applicant.

Best Management Practices (BMP): Established techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health, the environment, wildlife and cattle, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. BMPs are intended to promote the best practices or intended to promote the best practices or solutions in the conduct of operations.

Board: Elbert County board of County Commissioners.

Business day: An Elbert County business day shall be Monday thru Thursday, omitting holidays, as is consistent with the County operation hours.

REF