

# DRAFT

## Two Proposed Methods of Obtaining an Oil and Gas Development Permit

### in Elbert County, Colorado

October, 2012

*Policy Statement – It is Elbert County's intent to facilitate the development of oil and gas resources within the unincorporated area of Elbert County, while mitigating potential negative impacts to surrounding property owners. It shall be Elbert County's policy to attempt to enter into a Memorandum of Understanding (MOU) with individual oil and gas production companies that are active within the County. The MOU will incorporate Best Management Practices (BMPs) for all proposed oil and gas development activity that company engages in within Elbert County. For those oil and gas production companies that enter into a MOU with Elbert County, the permitting process will be administrative and will follow an expedited permitting process. Those oil and gas production companies that choose not to enter into a MOU with Elbert County will follow the requirements of the Special Use Review process for Minor and Major Oil and Gas Facilities.*

Both of these proposed methods for obtaining an Oil and Gas Development Permit will require amendments to the *Elbert County Zoning Regulations, Part II, Section 18 – Uses Permitted by Special Review*. Specific language will need to be added to include both Minor and Major Oil and Gas Facilities. The steps envisioned for the two proposed methods of obtaining an Oil and Gas Development Permit are as follows:

#### Method One

### STEPS FOR OBTAINING AN OIL AND GAS DEVELOPMENT PERMIT

#### IN ELBERT COUNTY

#### WITH AN EXECUTED MEMORANDUM OF UNDERSTANDING

Process for obtaining an Oil & Gas Permit in Elbert County when the oil/gas company enters into a Memorandum of Understanding (MOU) with Elbert County that incorporates industry Best Management Practices (BMPs):

#### Step 1 – Initial Meeting with C&DS Staff

The applicant should schedule a meeting with the Oil and Gas Planner assigned to oil and gas permitting. The purpose of this meeting is to: discuss the administrative process versus the Special Use Review process for oil and gas permitting in Elbert County, provide information about both processes, provide the "Oil & Gas Development Permit Application" form, provide the "standard" MOU language and the "standard" Road Maintenance Agreement language, checklist of items required for the Pre-Application Meeting, and provide a copy of the fees associated with oil and gas permitting.

### Step 2 – Pre-Application Meeting

Once the applicant submits the necessary items for a Pre-Application Meeting and pays the \$100.00 fee, the Oil and Gas Planner will schedule the Pre-Application meeting at the next possible date. Representatives of the oil and gas company, Elbert County staff and the appropriate fire district will meet to discuss: the proposed facility and the "standard" BMPs to be included in the MOU (the applicant can suggest other BMPs they are willing to include or discuss alternative methods of satisfying BMPs.); proposed haul routes will be established; the "standard" Road Maintenance Agreement and language for the Agreement; proposed development timeline, the checklist of items required for formal submittal; fees and any additional expenses related to the application review and processing. The fire district will discuss items required for emergency services' review of the proposed facility. After the Pre-Application Meeting, the Oil and Gas Planner will prepare final copies of the MOU and Road Use Agreement for the applicant's signature.

### Step 3 – Application and Submittal Items

The completed Oil & Gas Development Permit Application form, the appropriate fees, and items required from the checklist generated at the Pre-Application Meeting will be reviewed for completeness within five (5) Elbert County business days. In addition, an original, notarized signature copy of the MOU and the Road Maintenance Agreement provided by the Case Planner, will be included for consideration by the Board of County Commissioners for their next scheduled public hearing. If the MOU and the Road Maintenance Agreement are approved by the Board of County Commissioners, the application moves on to Step 4 in the process.

### Step 4 – Coordination with COGCC and Oil & Gas Development Permit Issuance

After approval of the MOU and Road Maintenance Agreement by the Board of County Commissioners, Community & Development Services will provide an executed MOU to the Colorado Oil and Gas Conservation Commission (COGCC) to be attached to Form 2 and/or Form 2A. Once the COGCC provides confirmation of MOU via written correspondence, then the Elbert County Oil & Gas Development Permit is issued and construction of the facility may begin. Once an MOU is executed and the oil/gas production company agrees to follow the same BMPs at all their facilities in Elbert County, the MOU may be used for all similar facilities in Elbert County. Should the oil/gas production company require modifications or amendments to the previously executed MOU, such modifications/amendments shall require approval by the Board of County Commissioners.

*Estimated time of completion when a MOU between Elbert County and the oil and gas production company is utilized is thirty (30) to forty-five (45) days. This time period can run concurrently with the COGCC permitting process.*

Method Two

STEPS INVOLVED IN OBTAINING AN OIL AND GAS DEVELOPMENT PERMIT

IN ELBERT COUNTY

WITHOUT AN EXECUTED MEMORANDUM OF UNDERSTANDING

The process for obtaining and an Oil & Gas Development Permit in Elbert County when the oil/gas production company chooses not to enter into a Memorandum of Understanding (MOU) with Elbert County will be the Special Use Review Process for either a Minor or Major Oil and Gas Facility. The approval process requires a community meeting and two public hearings; one before the Elbert County Planning Commission and one before the Board of County Commissioners.

Step 1 – Initial Meeting with C&DS Staff

The applicant should schedule a meeting with the Case Planner assigned to oil and gas permitting. The purpose of this meeting is to: discuss the Special Use Review process for permitting a Minor or Major Oil and Gas Facility in Elbert County; provide the "Oil & Gas Development Permit Application" form, provide the "standard" Road Maintenance Agreement language, checklist of items required for the Pre-Application Meeting, and provide a copy of the fees associated with oil and gas permitting.

Step 2 – Pre-Application Meeting

Once the applicant submits the necessary items for a Pre-Application Meeting and pays the \$100.00 fee, the Case Planner will schedule the Pre-Application meeting at the next possible date. Representatives of the oil and gas company, Elbert County staff and the appropriate fire district will meet to discuss: the proposed facility and discuss potential BMPs to be included as conditions of approval for the Use by Special Review; proposed haul routes will be established; the "standard" Road Maintenance Agreement and to finalize language for the Agreement; the checklist of items required for formal submittal; fees and any additional expenses related to the application review and processing. The fire district will discuss items required for emergency services' review of the proposed facility. After the Pre-Application Meeting, the Case Planner will prepare final copies of the Road Use Agreement for the applicant's signature.

Step 3 – Community Meeting

The applicant will arrange a date for the community meeting based upon input from the Case Planner. Once the applicant and the Planner have determined a community meeting date, the applicant will send out community meeting notification letters for property owners within 1 mile of the proposed oil/gas facility. The applicant will be responsible for conducting the meeting, with the Case Planner in attendance to discuss the Use by Special Review process and to answer questions related to the permitting of the oil and gas facility.

Step 4 – Formal Application Submittal

After the required Community Meeting has been conducted, the applicant may file the items necessary for the formal Use by Special Review Application. The applicant shall provide a "one copy submittal" for

review by the Case Planner before providing multiple copies for each referral agency. Once the Planner reviews the "one copy submittal" for completeness, and determines the necessary requirements have been addressed, the applicant may submit the formal application with the necessary number of copies for the various referral agencies. In addition to the required submittal items, the applicant shall provide the application fee, County Engineer review fees (to be placed in the Elbert County Engineer escrow account), and any other fees for specialized outside consultants determined by Community and Development Services to be appropriate for sufficient review of the application.

#### Step 5 – Referral Agencies' Review and Comment

The Case Planner assigned to oil and gas permitting will send the various County departments and other referral agencies copies of the application for review and comment. The County departments and referral agencies shall have twenty-one (21) days to review the proposal and provide the Case Planner with their comments. Comments are forwarded to the applicant with the expectation that the applicant will address significant issues raised from the referral process. Once the outstanding issues are addressed by the applicant, public hearing dates are set for the Planning Commission and the Board of County Commissioners.

#### Step 6 – Notification to Surrounding Property Owners and Publication for Public Hearing Dates

The applicant is responsible for sending a certified letter to surrounding property owners within one mile of the proposed oil/gas facility announcing the Use by Special Review public hearings before the Planning Commission and the Board of County Commissioners. The property where the facility is to be located will have a sign posted at the access point off the county road or state highway. The public hearings dates will also be published in a newspaper of general circulation. Public hearing dates will be posted on the Elbert County homepage.

#### Step 7 – Planning Commission Public Hearing

The Planning Commission will consider the Community & Development Services staff report and presentation, the applicant's presentation, and comments from the public, regarding the proposed oil/gas facility. The Planning Commission will make its recommendation based upon the testimony given at the public hearing, compliance with the standards in the Elbert County Zoning Regulations for oil and gas facilities, and mitigation of impacts to surrounding properties. The Planning Commission may recommend approval of the Use by Special Review, approval with conditions, or denial of the application.

#### Step 8 – Board of County Commissioners' Public Hearing

The Board of County Commissioners will consider the Planning Commission's recommendation, Community & Development Services staff report and presentation, the applicant's presentation, and comments from the public, regarding the proposed oil/gas facility. The Board of County Commissioners will make its decision based upon the testimony given at the public hearing, compliance with the standards in the Elbert County Zoning Regulations for oil and gas facilities, and mitigation of impacts to surrounding properties. The Board of County Commissioners may approve the Use by Special Review, approve the Use by Special Review with conditions, or deny the Use by Special Review.

Step 9 – Completion of Conditions of Approval

and Recordation of Use by Special Review

The applicant will coordinate with the Case Planner to complete all conditions of approval imposed by the Board of County Commissioners. Once all conditions of approval have been met, the Use by Special Review graphic will be recorded by the Case Planner and the Oil and Gas Development Permit will be issued by Community & Development Services.

*Estimated time for completion of Use by Special Review process four (4) to six (6) months. It is anticipated that the review fees and application fees for Use by Special Review process will be more expensive than the associated fees for the MOU process, primarily due to more staff time for review and more engineering review time for each application.*