

1 | **Saguache County Land Development Code**
2 | **Article XXI**

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4 | **OIL AND GAS OPERATIONS**
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6 | **XXI.1. Authority:**

7 | This Section is
8 | authorized by *inter alia*, C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., 30-28-101 et seq., 30-28-
9 | 201, et seq.
10 |

11 | **XXI.2. Purpose:**

12 | This Article XXI is enacted to protect and promote the health, safety, morals, and convenience,
13 | order, prosperity and general welfare of the present and future residents of the county...It is
14 | recognized that under state law the surface and mineral estates are separate and distinct interests
15 | in land and that one may be severed from the other. Owners or leasees of subsurface mineral
16 | interests have certain legal rights and privileges, including the right to use that part of the surface
17 | estate reasonably required to extract and develop their subsurface mineral interests, subject to
18 | compliance with the provisions of this Section and any other applicable statutory and regulatory
19 | requirements. Similarly, owners of the surface estate have certain legal rights and privileges,
20 | including the right to have the mineral estate developed in a respectful manner, and to have
21 | adverse land use impacts upon their property, associated with the development of the mineral
22 | estate, minimized and mitigated through compliance with this Section. Should it be established by
23 | competent evidence that a proposed major or minor facility cannot be operated in compliance with
24 | this Section, county land use approval for such a facility may be denied.
25 |

26 | **XXI.3. Jurisdiction:**

27 | This Article XXI shall apply to public and private lands within the unincorporated area of
28 | Saguache County.
29 |

30 | **3.1. General Procedures.**

- 31 |
- 32 | 3.1.1. Construction, installation and operation of oil and gas facilities which are subject to
33 | this Section shall not commence until administrative approval has been granted by
34 | the relevant authority in accordance with the requirements of this Section.
35 |
- 36 | 3.1.2. Planning Commission review and recommendation together with Board of County
37 | Commissioners review and approval shall be required for all activities and facilities.
38 |
- 39 | 3.1.3. This Section provides standards for development review of the surface impacts and
40 | natural resource protection requirements for oil & gas operations that consider
41 | applicable state and federal standards. Saguache County requires the appropriate use
42 | of directional drilling, the placement of multiple wells on a single pad, the use of
43 | closed loop (“pitless”) systems, the use of non-toxic or “green” drilling and fracturing
44 | fluids and other techniques, including current and available best management
45 | practices, designed to protect the integrity of the surface estate and subsurface water
46 | resources.
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48 |

1 **XXI.4. DEFINITIONS**

2 For the purposes of this Article, the following words, terms and phrases shall have the following
3 meanings, except where the context clearly indicates a different meaning:

4 **4.1. ACCESS ROAD.** A road located on private property between the site on which an oil and
5 gas facility is located and the municipal or county road or state highway serving such a
6 Facility, constructed in accordance with applicable Land Development Code standards.

7 **4.2. AGRICULTURAL LAND.** Any land that is used to produce plant or animal products in
8 a raw or unprocessed state and/or any property that is used for grazing livestock.

9 **4.3. APPLICANT.** The person, corporation or other legal entity possessing the legal right to
10 develop the mineral resource or any other use proposed in connection thereof for the site in
11 question: generally, the applicant will be the owner or lessee of the mineral interests.

12 **4.4. COLLECTION LINE.** A pipeline to a well designed to collect produced or waste water
13 and transport it to a central disposal area (evaporation pit or injection well).

14 **4.5. COGCC.** Colorado Oil and Gas Conservation Commission.

15 **4.6. COMPATIBLE/COMPATIBILITY.** Able to exist or act together harmoniously,
16 considering noise levels, odors, potential fire hazard, visual impacts, and effects to surface
17 water and groundwater quality/quantity, adequacy of the road system, air quality and
18 surrounding land uses and inhabitants.

19 **4.7. COMPRESSOR STATION.** An installation consisting of one or more individual
20 compressors, located on a gathering or transmission line, or both.

21 **4.8. CONTAMINATED SOIL.** Soils impacted by production operations in a way that
22 adversely affects their ability to support normal uses or could adversely affect water quality in
23 the future.

24 **4.9. COUNTY.** Saguache County, its Board of Commissioners or other agency of Saguache
25 County with delegated authority to set or enforce these regulations.

26 **4.10. CORRIDOR.** The route within which a pipeline right-of-way is located.

27 **4.11. DESIGNATED AGENT.** An agent designated by the owner or lessee, as defined by the
28 Colorado Oil & Gas Conservation Commission.

29 **4.12. EASEMENT.** Authorization by a property owner for the use of a designated portion of
30 his or her property by another, for a specified purpose.

31 **4.13. EVAPORATION PIT.** A lined excavated pit used for storing and evaporating
32 wastewater produced in degasification activities, during drilling and/or production.

33 **4. 14. EXHIBIT A -**

34 **4.15. FACILITY.** Either a minor a major oil and gas facility as defined in Section 5.

35 **4.16. FLOW LINE.** Those segments of pipe from the wellhead downstream through the
36 production facilities ending at:

- 37 - In the case of gas lines, the gas metering equipment; or
38 - In the case of oil lines, the oil loading point or LACT unit; or

1 - In the case of waterlines, the water loading point, the point of discharge to a pit, or the
2 injection wellhead.

3 **4.17. GAS WELL.** A well having a pressure and volume of natural gas, specifically, producing
4 methane, often in combination with a variety of other substances such as butane, propane and
5 carbon dioxide.

6 **4.18. GATHERING SYSTEM.** All Pipelines from the meter at the end of the flow line to the
7 compressor station. A system consisting of well (or gathering), lateral, and trunk pipelines
8 that transport oil, gas or other products derived from oil and gas production to a central
9 facility or transmission line, and so classified under the United States Department of
10 Transportation and/or COGCC regulations.

11 **4.19. GEOPHYSICAL OPERATION.** See Seismic Exploration/Operation.

12 **4.20. GOLD BOOK.** The “Surface Operating Standards for Oil and Gas Exploration and
13 Development” prepared by the United States Department of the Interior Bureau Of Land
14 Management and the United States Department of Agriculture Forest Service, most current
15 edition.

16 **4.21. MINERAL ESTATE.** Mineral interest in real property that is shown by the real estate
17 records of the county in which the real property is situated and that is not owned as part of the
18 full fee title to the real property.

19 **4.22. NON-CROPLAND.** Any land used in ways other than those defined as agricultural
20 land.

21 **4.23. OPERATING PLAN.** A general description of a facility identifying purpose, use, typical
22 staffing pattern, seasonal or periodic considerations, routine hours of operating, source of
23 services/infrastructure, and any other information related to regular functioning of that
24 facility.

25 **4.24. OPERATOR.** A company or individual who has been permitted by the Colorado Oil and
26 Gas Conservation Commission and by Saguache County to conduct any type of oil and gas
27 exploration, extraction or development activity on a permitted site.

28 **4.25. PAD AREA.** The areas associated with any oil, gas or injection well that are either
29 directly disturbed by the drilling or are subsequently affected by the operation of production
30 facilities, excluding the access road.

31 **4.26. PAD SIZE.** Pad size shall be measured from the edge of the disturbed area.

32 **4.27. PIT.** Any natural or man-made depression in the ground, either lined or unlined, used
33 for oil or gas exploration or production purposes. Pit does not include enclosed steel,
34 fiberglass, concrete or other similar vessels, which do not release their contents to surrounding
35 soils.

36 **4.28. POLLUTION.** The contamination or other degradation of the physical, chemical or
37 biological properties of water or air, including, but not limited to: change in temperature, taste,
38 color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other
39 substance into water or air as will or is likely to create a nuisance or render such water or air
40 harmful, detrimental or injurious to public health, safety or welfare, or to domestic,
41 commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wild
42 animals, birds, fish or other aquatic, life or native flora.

1 4.29. POTENTIAL CONSERVATION AREA (PCA). Areas known to contain significant
2 ecological or biological features or species of concern as defined and identified by the Colorado
3 Natural Heritage Program (CNHP).

4 4.30. PRODUCED WATER. Water that is extracted from the ground in the process of
5 accessing and extracting gas or oil.

6 4.31. PRODUCING (IN PRODUCTION). The development stage in which marketable oil
7 and gas are extracted from a well; may also signify the extraction level at which the
8 quantitative terms of the lease are fulfilled.

9 4.32. RECOMPLETION. The operator reenters a well to complete or deepen the well to a
10 new formation from that in which a well has previously been completed.

11 4.33. RECREATIONAL LAND(S). Lands that are used for the purpose of public or private
12 outdoor recreational activities. Recreational activities may be active or passive and may
13 include, but shall not be limited to; sports fields, playgrounds, public parks, camping sites,
14 horse back riding, cross-county skiing, snowshoeing, hunting and fishing.

15 4.34. RESERVE PIT. Those pits used to store drilling fluids for use in drilling operations or
16 to contain exploration and production waste generated during drilling operations.

17 4.35. RESIDENTIAL AREA. Having an existing residence or platted subdivision lot located
18 within a one-quarter mile radius of a facility site.

19 4.36. RESTRICTED SURFACE OCCUPANCY AREA (RSO). Restricted surface occupancy
20 areas are highly sensitive wildlife habitats where avoidance of anthropogenic structures and
21 disturbances is the most effective method of protecting sensitive species and wildlife.

22 4.37. RIGHT OF WAY. A tract or strip of land, separate and distinct from the adjoining
23 property, that is owned, occupied or intended to be occupied by an oil, gas and/or water
24 pipeline.

25 4.38. SEISMIC EXPLORATION/OPERATION. All activities associated with acquisition of
26 seismic data including but not limited to surveying, shothole drilling, recording, shothole
27 plugging and reclamation.

28 4.39. SPACING. Acreage dedicated to each well producing from the same formation. Spacing
29 regulations are established by the Colorado Oil & Gas Conservation Commission.

30 4.40. SPECIES OF CONCERN. Any plant or animal species or subspecies of state or federal
31 concern as identified by the Colorado Division of Wildlife, the Bureau of Land Management,
32 U.S. Department of Agriculture, U.S. Fish and Wildlife Service or the Colorado Natural
33 Heritage Program, including any species listed as threatened, endangered, candidate or
34 currently under litigation pursuant to the Endangered Species Act.

35 4.41. SPLIT ESTATE. Land in which the ownership of the surface estate and the ownership
36 of the mineral estate are held by different parties.

37 4.42. STORM WATER MANAGEMENT PLAN. A detailed analysis of how storm water on
38 the site will be managed, including the system's design and how it will be constructed to meet
39 applicable County and Colorado Department of Health and Environment requirements.

1 4.43. SUBCONTRACTOR. A company or individual who is employed by an Operator to
2 conduct drilling, oil and gas services, waste disposal, or other related activity on the permitted
3 premises or otherwise in Saguache County.

4 4.44. SURFACE ESTATE. An interest in real property that is less than full fee title and that
5 does not include mineral rights as shown by the real estate records of the county in which the
6 real property is situated.

7 4.45. SURFACE OWNER BILL OF RIGHTS - Surface Owner Bill of Rights (SRA) (Exhibit
8 A) as referred to in the Saguache County Oil & Gas Operations regulations, a separate
9 document to be executed by the surface owner acknowledging/understanding of areas which
10 can be negotiable with the operator as they work to relate to impacts on the surface rights.

11 4.46. TIMING LIMITATION AREAS. Any area where a time restriction on development
12 activity is required to protect a PCA, species of concern or other ecological process or feature
13 during sensitive seasonal or lifecycle processes.

14 4.47. TRANSMISSION LINE. A pipeline transporting oil, natural gas or any other products
15 derived from oil and gas production, which is defined as a transmission line by the Department
16 of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

17 4.48. WATER BODIES. The term “water bodies” shall include reservoirs, lakes, perennial or
18 seasonally flowing rivers, streams, creeks, springs, irrigation ditches, aquifers, wetlands, playa,
19 arroyos, stock ponds and draws.

20 4.49. WELL. An oil or gas well, a hole drilled for the purpose of producing oil or gas, a well
21 into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the
22 purpose of monitoring or observing a reservoir.

23 4.50. WORKOVERS. Commencement of operations on a producing well to restore or
24 increase production from formations that have been producing in the well bore.

25 All other words used in this Section shall be given their usual, customary and accepted meaning in
26 the oil and gas industry, or as defined in the Rules and Regulations of the Oil and Gas
27 Conservation Commission of the State of Colorado or the BLM “Gold Book”.

28 29 **XXI.5. Delineation of Major and Minor Oil and Gas Facilities.**

30 **5.1 Minor Facilities.** Minor oil and gas facilities require an Oil and Gas Operations
31 Permit. A minor oil and gas facility is defined as follows:

32 5.1.1. An individual well site built and operated to explore for or produce petroleum
33 and/or natural gas (methane), including auxiliary equipment required for such
34 production, i.e., separators, dehydrators, pumping units, tank batteries, and other
35 equipment located within the perimeter of the well site pad, employing engines or
36 motors with a cumulative horsepower rating of less than fifty (50) bhp, except that
37 the first facility proposed in an area where no other oil and gas development
38 currently exists will be processed as a major facility regardless of its size;

39 5.1.2. Facilities associated with gas gathering lines and water collection lines, such as:
40 drip stations, vent stations, pigging facilities, transfer pump stations and valve
41 boxes, where such equipment or facilities employ engines or motors with a
42 cumulative horsepower rating of less than fifty (50) bhp;

- 1 5.1.3. Individual wellhead compression and multiple well compression facility powered
2 by motors or engines with a cumulative horsepower of less than fifty (50) bhp;
3 5.1.4. Storage yards or construction staging areas occupying one (1) acre or less; or
4 5.1.5. Geophysical (Seismic) and Gas Exploration Operations, including, but not
5 limited to, seismic activities.

6 **5.2. Major Facilities.** A Major oil and gas facilities require an Oil and Gas Operations
7 Permit. Major oil and gas facilities are defined as follows:

- 8 5.2.1. The first oil or gas facility proposed for an area where no other oil and gas
9 development currently exists will be processed as a major facility.
10 5.2.2. Compressor stations and associated facilities, which serve multiple wells
11 employing engines and/or motors with a cumulative horsepower rating of fifty
12 (50) bhp or more;
13 5.2.3. Water injection stations and associated facilities;
14 5.2.4. Storage yards and construction staging yards, which occupy an area greater than
15 one (1) acre;
16 5.2.5. Any other facility related to the production of oil and/or gas, which contains
17 engines and/or motors with a cumulative horsepower rating of fifty (50) bhp or
18 more;
19 5.2.6. Gas treatment facilities, which serve multiple wells or gathering systems;
20 5.2.7. Chemical injection stations – Due to the size, quality, value and sensitivity of the
21 underlying aquifers, chemical injection waste facilities are not permitted in oil and
22 gas operations;
23 5.2.8. Pipelines located outside an individual well site.
24

25 **XXI.6. Application Submittal Requirements for an Oil and Gas Operations Permit**

- 26 6.1 The applicant shall submit a minimum of sixteen complete copies, or a number as
27 directed by the Land Use Administrator, of the application and associated materials
28 detailed below, along with the filing fee as set by the Board of County Commissioners.
29 6.2 An applicant may provide a copy of a Form 34 and/or Application for Permit to Drill
30 (APD) or other application submitted to the Colorado Oil and Gas Conservation
31 Commission and/or federal Environmental Assessment (EA) or Environmental
32 Impact Statement (EIS) as documentation for one or more of the following submittal
33 requirements, if it contains information sufficient to demonstrate compliance with
34 these regulations and that information is highlighted.
35 6.2.1. **Applicant.** The name, address, telephone and fax numbers, and e-mail address
36 for the applicant; and if the applicant is to be represented by an agent, a
37 notarized letter signed by the applicant authorizing the agent to represent the
38 applicant and also stating the same information for the agent.
39 6.2.2. **Surface Ownership.** For Facilities to be located upon real property with split
40 estates, for which the Operator does not currently own or lease the surface
41 estate, the Operator shall provide the name, address, telephone and fax numbers
42 and e-mail address of the owner of the property; documentation of surface
43 ownership; evidence of surface owner notification, including the Landowner Bill
44 of Rights which may be procured from the County Land Use Office; copies of

1 any surface use/damage agreements and leases affecting the area where the Oil
2 and Gas Operation will be conducted, including proof of right of entry for
3 ingress and egress and installation of all necessary infrastructure, and such
4 other provisions relating to the use of the surface estate as may be appropriate.
5 Such submitted agreement(s) may be redacted to delete any provisions
6 pertaining to financial and/or non-monetary compensation that the Operator
7 has paid to the surface owner. If such agreements have not been executed, an
8 Operator shall submit a notarized written consent or written waiver to the
9 proposed Major or Minor Facility that has been executed by the owner(s) of the
10 surface estate for the parcel(s) upon which such Facility is to be located. Should
11 the Operator neither have entered into a Surface Damages or Surface Use
12 Agreement with the owner(s) of the surface estate, nor secured a written
13 consent or waiver executed by the owner(s) of the relevant parcel, the Operator
14 shall submit a written certification to that effect, together with a copy of the
15 bond that has been posted as security for possible surface damages as required
16 by the COGCC rules. For Major and/or Minor Facilities located within a
17 parcel or parcels for which the Operator is the current owner or lessee of the
18 surface estate, the Operator shall provide a copy of a current title policy
19 reflecting the same or a copy of the lease.

20 **6.2.3. Mineral Interest Owner.** Documentation of mineral interest ownership,
21 including name, address, telephone and fax numbers and email address of the
22 owner of the mineral interests.

23 **6.2.4 Parcel Location.** The legal description (referencing lot and block or tract
24 numbers, homesteads, or metes and bounds), property address and common
25 description of the parcel on which the Operation is proposed to be located. A
26 copy of the recorded deed or lease to the parcel should be included.

27 **6.2.5. Identification of Previously Approved Uses.** List any Federal, State and
28 County permits, which have been previously approved under the Land
29 Development Code after April 1988 for the parcel on which the Operation is
30 proposed.

31 **6.2.6 Characteristics and Current Condition of the Operation Location.**
32 Identification of physical characteristics and descriptions of current conditions
33 of the site where the Operation is proposed to occur, including water bodies,
34 soils and vegetation, roads, potential geologic hazards, other potential mineral
35 resources, and any other characteristics requested by the Land Use Department
36 to determine potential impacts. Indications if trees or other vegetation have
37 been removed and changes caused either by weather-related or human activity
38 within the past five years.

39 **6.2.7. List of Adjacent Land Parcels.** A listing of all land parcels and land uses that
40 are within 1500 feet of the boundaries of the parcel on which the project is
41 proposed, including all properties that are separated from the parcel by a
42 roadway or would be adjacent to the parcels except for the existence of the
43 roadway.

44 **6.2.8. Vicinity Map.** A vicinity map which shall, at a minimum, include the following:

45 **6.2.8.1. Operation Location.** Location of the Operation on a United States
46 Geological Survey quadrangle map or on a recorded plat if the proposed
47 Oil and Gas Operation is within an approved subdivision, including GPS

1 localization coordinates, with the location highlighted so that it is easy
2 to see.

3 **6.2.8.2 Topographic Features.** Water bodies, contour lines and elevations,
4 within one mile of the proposed well pad.

5 **6.2.8.3. Roads.** All public and private roads that traverse and/or provide access
6 to the proposed Oil and Gas Operation, and identification of the public
7 or private entity having jurisdiction over each road(s).

8 **6.2.8.4. Easements.** Easements recorded or historically used that provide access
9 to or across, or other use of, the parcel.

10 **6.2.8.5. Special Districts, Municipalities, Subdivisions, Structures.** Locations
11 of special district boundaries, municipalities, subdivisions, and
12 commercial or residential structures within three miles of the site.

13 **6.2.8.6. Proximity of other Oil and Gas Operations.** Location of other Oil and
14 Gas Operations within five miles of the site.

15
16 **6.2.9. Site Plan Map.** A map with north arrow and appropriate scale (generally
17 1"=50') for the parcel where the Oil and Gas Operation will occur, indicating
18 the following:

19 **6.2.9.1. Easements and Rights-of-Way.** Utility easements and rights-of-way.

20 **6.2.9.2. Improvements.** Any existing improvements.

21 **6.2.9.3. Proposed facilities** Proposed facilities such as well pad size and
22 location, structures, pipelines, tanks, wells, pits, flow lines,
23 impoundment facilities, temporary living quarters, staging and storage
24 areas and equipment, fencing, type and location of exterior lighting.

25 **6.2.9.4. Gathering System Lines.** All gathering lines for any Facility shall be
26 shown on the site plan for each individual well. Prior to installation of
27 gathering lines, an Encroachment Permit shall be obtained from the Road
28 and Bridge Department for any road crossings and work in County rights-
29 of-way or a County Road.

30 **6.2.9.5 Site Features.** Any significant site features including floodplains, water
31 bodies, drainage patterns, cultural and archeological resources.

32 **6.2.9.6. Topography.** Existing and proposed topography at five-foot intervals
33 or some other interval established by the Land Use Department as
34 necessary to portray the direction and slope of the area affected by the Oil
35 and Gas Operation.

36 **6.2.9.7. Lease Boundary.** All boundaries of the lease(s) upon which the proposed
37 Operation will take place.

38 **6.2.9.8. Color photos, 8" x 10"** of the proposed well site and adjacent areas
39 facing north, south, east, and west showing existing landscape. Photos
40 should be taken during a season when vegetation features can be clearly
41 documented.

42 **6.2.10. Application and Permits.** Copies of all local, state and federal applications
43 authorizing or required for the Operation, and permits, when issued.

44 **6.2.11. Operation Plan.** A plan including projected start and completion dates for
45 construction and operation, the method of drilling, hours of operation during
46 construction & operation; description of equipment used, including
47 horsepower; transportation, production and post-operation activities, including

1 a site reclamation plan pursuant to COGCC requirements and Section 8.5.8 of
2 this Article.

3 **6.2.12. Reasonably Foreseeable Future Development Plan. Prior to production,**
4 the operator shall provide a summary of the operator’s projected development
5 scenario including location and density of well pads, wells, roads, pipelines and
6 major facilities for all of the proposed and adjacent lands owned or operated by
7 the permittee.

8 **6.2.13. Water and Sewer.** Detailed data on the projected use of water, its availability
9 and source and a plan for sewage handling

10 **6.2.14. Noxious Weed and Introduced Species Prevention Plan.** A plan for the
11 management and prevention of noxious weeds and/or harmful introduced
12 species on the site that complies with all County and State requirements..

13 **6.2.15. Waste Management Plan.** A plan for the handling, storage, transportation,
14 treatment, recycling and disposal of waste generated by the operation,
15 including exploration and production (E & P) waste.

16 **6.2.16. Access and Transportation Routes/Plan.** A map that identifies the access
17 route to and within the parcel, color photos of the proposed road locations to
18 be used for accessing the property, and a narrative estimating the number and
19 types of vehicles anticipated per day, including weights, that will travel over
20 the route(s).

21 **6.2.17. Roadway Impact Analysis.** An analysis of the impacts of the Operation to the
22 roadway system within the County.

23 **6.2.18. Visual and Sound Mitigation Plans.** Measures proposed to minimize and
24 mitigate the visual and sound impacts of the Operation.

25 **6.2.19. Identification of Water Structures.** Identification of irrigation ditches and
26 other water structures, ownership of water rights appurtenant thereto, and
27 evaluation of any impacts to the structures, water rights or water quality.

28 **6.2.20. Water Quality Non-Point Source Impacts.**

29 **6.2.20.1. Identification of All Water Bodies.** An inventory and location of all
30 water bodies, including aquifers, within three miles of the proposed Oil
31 and Gas Operation.

32 **6.2.20.2. Description of Existing Water Quality.** A description of existing
33 water quality based upon a current baseline water quality analysis of all
34 water bodies that lie within one mile of the parcel, down and side
35 gradient, and a sampling of water bodies beyond one mile of the parcel,
36 to be determined in consultation with the responsible local water
37 conservation agency.

38 **6.2.20.3. Non-Point Source Impacts to Water Quality.** A description of
39 potential non-point source pollution associated with the proposed Oil
40 and Gas Operation and proposed mitigation.

41 **6.2.20.4. Mitigation and Avoidance.** Proposed avoidance and mitigation
42 measures to minimize the water quality impacts associated with the
43 Operation that fully meet the requirements of Article XVIII, “Significant
44 Groundwater Recharge Zones”, of the Saguache County Land

1 Development Code. Proposed mitigation may include an erosion control
2 plan required under this Section

3 **6.2.21. Soil Suitability.** Maps and tables identifying the types of soil in the proposed
4 parcel, in accordance with the National Soil Survey.

5 **6.2.22. Biological Assessment (BA) Report.** A site-specific biological assessment,
6 including the results of consultation with the Colorado Division of Wildlife, and
7 any other relevant agencies as listed in Article II of the Land Development
8 Code, to determine the presence of any significant biological resources within a
9 one-mile radius of the proposed project area, with the landowner’s permission.
10 Biological assessments shall include presence of or potential habitat for
11 sensitive species and plant communities, wildlife corridors and migration routes,
12 critical wintering habitat, calving or other significant wildlife habitat. The BA
13 should include an analysis and evaluation of the impacts of the Operation on any
14 biological resources identified, and proposed mitigation including identification
15 of any RSO areas and/or recommended timing restrictions. Mitigation measures
16 must, at a minimum, meet the requirements under Article XX “WILDLIFE” of
17 the Saguache County Land Development Code and Section 8.4.3. of this Article.
18 The BA report shall include detailed description and GIS recordings of all
19 significant biological resources identified. If the one mile radius includes
20 private property not owned by the owner of parcel proposed for the project,
21 permission to access the relevant parcels for the purpose of performing the BA
22 should be sought from the relevant property owner(s).

23 **6.2.23. Vegetation.** A written description of the type, character, and density of
24 existing and proposed vegetation on the parcel, a summary of the impacts of
25 the Operation on vegetation, and proposed mitigation.

26 **6.2.24. Drainage and Erosion Control Plan.** A plan that identifies existing and
27 proposed drainage patterns and the methods for controlling erosion during
28 construction and operation phases of the Operation.

29 **6.2.25. Emergency Response Plan.** An emergency response plan that addresses fire
30 protection and hazardous spills, including the name and contact information
31 for the applicant’s incident commander, proposed signage, access/evacuation
32 routes, and health care facilities anticipated to be used. The plan must be
33 approved by the County’s office of Emergency Management and shall include a
34 provision for the Oil and Gas Operator to reimburse the appropriate
35 emergency response service providers for costs incurred in connection with an
36 emergency, pursuant to section 9.1 of this Article.

37 **6.2.26. Flood Hazard.** If applicable, a map showing the boundaries of a 100-year
38 flood, delineating the possible depth of flood waters on the proposed site, and
39 the proposed location of public improvements within the flood boundaries,
40 including buildings, utilities and roads. This information must be certified by a
41 professional engineer.

42 **6.2.27. Fire Hazards.** An assessment of fire and wildfire hazards within three miles of
43 the site, and a plan for mitigating wildfire hazards.

44 **6.2.28. Geologic Hazards.** An assessment of the geologic hazards within three miles
45 of the site, including but not limited to induced earthquakes, hydrothermal/

1 volcanic intrusion breaches, subsidence and mudflows, and a plan for mitigating
2 geologic hazards.

3 **6.2.29. Cultural Survey.** A cultural, historical, and archeological assessment of the
4 parcel, which has been submitted for review by the relevant agencies pursuant
5 to the Land Use Development Code. The Cultural Survey shall include
6 identification, GIS recording and evaluation of any potential cultural,
7 archeological or historical resources within a ¼ mile radius of the proposed
8 project area, including Native American burial or other culturally significant sites
9 that meet the requirements for eligibility for registry under the National
10 Historical Preservation Act.

11 **6.2.30. Existing and Future Land Uses.** A written summary of the existing uses of
12 the parcel and the proposed future land uses of the parcel after completion of the
13 Operation, including any prime agricultural land designation by the
14 Conservation District's soil survey of Saguache County.

15 **6.2.31. Technical Infeasibility Waiver.** Documentation of the basis for any technical
16 infeasibility waiver from the Oil and Gas Operation Standards that the applicant
17 may request pursuant to this Section.

18 **6.2.32. Geophysical (Seismic) Operations.** A permit application for geophysical
19 operations shall also include the following information:

20 6.2.32.1.A Surface Use Plan including all of the information required above, the
21 general location of shothole exploration, the likelihood of detonation failure
22 and surface restoration

23 6.2.32.2. Operator Certification.

24 6.2.32.3. List of hazardous and/or explosive materials to be used.

25 6.2.32.4. Identification of any wildlife habitat as mapped by the Colorado.

26 6.2.32.5. A description of the time period and duration of the operation and any
27 seasonal restrictions per the Colorado Division of Wildlife and/or applicable
28 Federal and/or State permits.

29 6.2.32.6. Documentation authorizing the proposed Geophysical (Seismic)
30 Operation executed by the owner or lessee of the mineral estate(s) and from
31 the surface owner that is the subject of the Geophysical Operation.
32

33 Note: Certain submittal requirements may be waived or modified by the Land Use
34 Administrator if it is demonstrated that the material to be waived or modified is not
35 applicable to the specific application.
36

37 **XXI.7. APPLICATION and REVIEW PROCESS.** Applicants for an Oil and Gas Operations
38 Permit shall comply with the following procedures:

39 **7.1 Pre-Application Meeting.**

40 7.1.1. All Applicants for either a Minor or Major Facility shall schedule and attend a
41 pre-application meeting with a member of the Land Use Department before
42 submitting an application. The purpose of the pre-application meeting is to
43 inform the Applicant of the applicable procedures, submittal requirements,
44 development standards, and other pertinent matters before the Applicant finalizes
45 its proposal. If a formal permit application is not submitted within one hundred-

1 eighty (180) days of the pre-application meeting, a new pre-application meeting
2 must be scheduled and held before the formal application will be accepted.

3 7.1.2. It shall be the Applicant's responsibility to invite the surface owner to the pre-
4 application meeting by sending a letter at least thirty (30) days in advance of the
5 pre-application meeting to the surface owner, inviting the surface owner to attend
6 the meeting. Proof of such notice shall be submitted to the Land Use Department
7 by a certificate of mailing.

8 **7.2. Review Procedure for all Oil and Gas Operations Permit Applications.**

9 Proposed Oil and Gas Facilities require an Oil and Gas Permit, applications for which
10 shall be administratively processed by the Land Use Administrator or a designee, and
11 presented to the Planning Commission for review and recommendation and to the
12 Board of County Commissioners for final decision.

13 **7.2.1. Determination of Completeness by Land Use Administrator.** The Land Use
14 Administrator or a designee shall determine whether the application is complete
15 and includes all of the required information prior to beginning any review of an
16 application under this Article. Relevant COGCC forms may suffice as a portion of
17 the application, subject to Administrative Review. The Land Use Department
18 shall, within (ten) 10 days of receiving the application, notify the applicant in
19 writing that the application is either complete or incomplete, or shall indicate a
20 date by which such determination shall reasonably be made.

21
22 **7.2.1.1. Application Is Not Complete.** If the application is not complete, the
23 Land Use Department shall inform the applicant of the deficiencies in
24 writing and shall take no further action on the application until the
25 deficiencies are remedied.

26
27 **7.2.1.2. Failure To Correct Constitutes Withdrawal.** If the applicant fails to
28 correct the deficiencies within 60 days of the postmarked or certified date of
29 the mailing of the notification of incompleteness, the application shall be
30 considered withdrawn.

31
32 **7.2.1.3. Application Is Complete.** If the application is complete, the Land Use
33 Department shall certify it as complete, assign the application an agenda
34 date with the Planning Commission and provide notification of the meeting
35 date to the applicant.

36
37 **7.2.1.4. Completeness is not a determination of compliance.** A determination
38 that an application is complete shall not constitute a determination that it
39 complies with the applicable standards of this Article.

40 **7.2.2. Notice to Adjacent and Affected Property Owners.**

41
42 **7.2.2.1.** The Land Use Department shall provide written notice by certified mail
43 to owners of real property within three miles of the subject parcel in which
44 the Oil and Gas Operation is proposed to be located. This notice shall be
45 mailed within ten business days of the application being determined
46 complete by the Land Use Administrator. A copy of the notice will be
47 provided to the applicant. The applicant shall pay the cost of mailing the
48 notice. The notice shall include:

- a description of the Oil and Gas Operation;
- a map showing the location of the proposed Operation, including a physical address and GPS coordinates;
- the identification of the Applicant and its designated agent, including contact information for the Applicant and its agent;
- a vicinity map showing the site, existing and proposed access roads; construction, facilities and description of the equipment proposed to be used or located upon the site, both during and after completion of the Facility; and
- the date of the public meeting of the Planning Commission(s) to review the application in accordance with subsection 8.6.1.

The property owners to whom notice is mailed shall be determined by the Land Use Department using the most current list of property owners maintained by the Office of the Saguache County Assessor. The notice to affected surface owners shall provide a statement that all written comments regarding the application must be received by the Land Use Department within thirty days after the postmarked date of the notice, with such specific deadline referenced in the Notice.

7.2.2.2. Subdivisions and Associations. If any part of an existing subdivision or 35-acre tract development is within 3 miles of the subject parcel in which the Oil and Gas Operation is located, the Land Use Department shall notify all of the surface landowners within the existing subdivision or 35-acre tract development. If any landowners required to be provided notice are also members of a condominium or homeowner’s association, the Land Use Department shall also provide written notice to the association in the same manner as other landowners.

7.2.2.3. The Applicant shall post a notice (to be obtained from the Land Use Department) in a conspicuous place on the property or closest public roadway within 5 days of the submittal of the oil and gas operations permit application to the Land Use Department. The Applicant shall submit to the Land Use Department a photograph of the posted notice taken at the time of posting, which displays the date and time of said posting.

7.2.2.4. Pursuant to COGCC rules, it shall be the responsibility of the notified surface owner(s) to give notice of the proposed operation to any affected tenants. Waiver of notice requirements by any affected surface owner does not eliminate that surface owner’s responsibility to notify affected tenants of the proposed operation. The Land Use Department shall notify the surface owner of this responsibility

7.3. Land Use Department Review. The Land Use Department shall review the application. The express purpose of the review is to ensure that the proposal complies with all applicable development standards and requirements.

7.4. Review by Referral Agencies. The Land Use Department may require the application materials or any portion thereof be submitted for professional analysis and recommendations by any other review agency, organization, or technical

1 consultant deemed appropriate and necessary to complete the review, including
2 other County offices and departments, municipal, state, or federal agencies having an
3 interest in or authority over all or part of the proposal, and other reasonable
4 substantive experts and legal consultants. The applicant shall be responsible for all
5 necessary costs associated with the referral. The referral review and comment period
6 shall be thirty (30) days from the date that the application is deemed complete.
7

8 **7.5. Report.** Following the referral review and comment period, the Land Use
9 Department shall prepare a report that identifies whether the Oil and Gas Operation
10 complies with the Oil and Gas Operation Standards set forth in this Article.
11

12 **7.6. Public Review Procedure.** All applications for permits for oil and gas operations
13 shall be scheduled for public review according to the following process:

14 **7.6.1. Review by Planning Commission.** The application for an Oil and Gas
15 Operation Permit shall be considered by the relevant Planning Commission(s)
16 following a properly noticed public meeting.

17 **7.6.2. Schedule Public Meeting by Planning Commission(s).** A public
18 meeting of the relevant Planning Commission(s) shall be scheduled within
19 forty-five (45) calendar days of the date of completeness determination.

20 **7.6.3. Notice of Public Meeting.** Public notice shall be given as follows:

21 **7.6.3.1. Publication of Notice.** The notice shall be published no less than
22 thirty (30) days prior to the date of the meeting, in the newspaper of
23 record and any other publication(s) deemed necessary and appropriate
24 by the Land Use Administrator.

25 **7.6.3.2. Notice to Affected Parties.** No less than thirty (30) days prior to the
26 date of the public meeting of the Planning Commission(s) to review the
27 application, the Land Use Department shall provide written notice by
28 certified mail to affected parties as defined in Section 8.2.2.

29 **7.6.4. Planning Commission Recommendation.** Following the public meeting, the
30 relevant Planning Commission(s) shall recommend to the Board of County
31 Commissioners that the application for an Oil and Gas Operation Permit be
32 approved, approved partially, approved with conditions, or denied, based upon
33 the Oil and Gas Operation Standards set forth in Sections 8 and 9 of this
34 Article.
35

36 **7.6.5. Review and Decision by Board of County Commissioners.**

37 **7.6.5.1. Schedule of Public Hearing.** After the Planning Commission(s)
38 conveyance of recommendation(s) to the Board of County Commissioners,
39 the permit application shall be placed on the Board's agenda and a public
40 hearing scheduled. Notice of the public hearing shall be made as detailed
41 in section 8.6.3. The public hearing shall be conducted in accordance with
42 Section 11 of this Article.

43 **7.6.5.2. Oral Announcement.** Immediately following the public hearing, the
44 Board may proceed to verbally render its provisional decision on the
45 application, or it may take the matter under advisement until an
46 announced date certain.

1 **7.6.5.3. Written Resolution.** Following the Board of County Commissioners'
2 oral announcement of its decision, a written resolution shall be adopted as
3 its final action or decision on the application. This written resolution shall
4 set forth findings based upon competent evidence in the record of
5 proceedings before the Board and any applicable federal, state or county
6 statutes, rules, regulations or policies. The Land Use Department shall
7 prepare the written resolution for the Board of County Commissioners'
8 consideration within fifteen (15) days of the verbal decision, or such period
9 of time as the Board of County Commissioners may specify.

10 **7.6.5.4. Final Decision.** For the purposes of judicial review, the Board of
11 County Commissioners' final action or decision on an application shall be
12 deemed to have been made as of the date upon which the Board of County
13 Commissioners executes the written resolution, which shall constitute the
14 Board of County Commissioners' final action or decision.
15

16 **7.6.6. Review Criteria:** Review and decision to approve, approve partially, approve
17 with conditions or deny an application for an oil and gas facility shall be made
18 and determined based upon its compliance with all applicable performance
19 standards and other requirements of this Article and by applying the following
20 criteria to the evidence in the record of proceedings before the Planning
21 Commission and the Board of County Commissioners:

22 **7.6.6.1 Need.** The demonstrated need for the facility, in the location proposed,
23 to serve the applicant's existing and projected oil and gas development,
24 production and operational requirements.

25 **7.6.6.2. Suitability.** Suitability of the location of the proposed facility given its
26 size, design and operational characteristics. Factors to be considered include,
27 but are not limited to, noise levels, impacts upon air and water quality,
28 vibration and odor levels, fire protection and access requirements, visual
29 impacts, wildlife impacts and public safety.

30 **7.6.6.3. Adequacy of Existing Roads and Access to the Site.** Consideration
31 of existing and proposed road alignment, intersections, condition, structure
32 and site distances; traffic volumes and types of equipment; dust control;
33 existing road uses; and documentation of the Applicant's legal right to use the
34 proposed access(es).

35 **7.6.6.4. Site Characteristics.** Factors to be considered include, but are not
36 limited to: topography, natural hazards (landslides, flooding, wildfire), current
37 resource values (water resources; open space corridor, prime agricultural land,
38 other potential minerals, wildlife habitat), identified natural heritage, historic,
39 cultural and archeological sites, and other special designations under various
40 provisions of the Land Development Code, such as significant recharge areas
41 and areas designated "unique and irreplaceable".

42 **7.6.6.5. Compatibility.** Compatibility with existing uses and those which can
43 reasonably be anticipated, based upon present subdivision and land use
44 approvals for properties located within the surrounding affected area, as
45 determined by the Board of County Commissioners, based upon competent
46 evidence in the record. A Facility's compatibility with land uses in the
47 surrounding area which the Board of County Commissioners finds will be

1 affected by its operation, shall be determined by the applicant's projected
2 ability to minimize and mitigate the impacts which it generates, as set forth in
3 the facility's operational plan. Provisions of the operational plan shall be in
4 accordance with proven management practices that are designed to protect the
5 public health, safety and welfare, and the value and integrity of the surface
6 estate and other natural, cultural, agricultural resources, and with all applicable
7 County regulations and standards.
8

9 **7.7. Coordination with State or Federal Actions and County Permitting Process**

10 Final action by the County on an Oil or Gas Permit application may be delayed until
11 any required Environmental Assessment (EA), Environmental Impact Statement
12 (EIS) or other permit by a state or federal agency is issued, so that the County will
13 have the benefit of the analysis and determinations made by other entities in reaching
14 its own decision.
15

16 **XXI.8. Performance Standards for All Oil and Gas Facilities.**

17 **8.1. Rights and Responsibilities.** Recognizing the need to avoid operational conflicts, yet
18 acknowledging the rights of surface owners to preserve the value of their property, the
19 right of the county to regulate land uses to protect and promote the health, safety and
20 well-being of the public and environment, and the right of mineral interest owners to
21 extract minerals (or the value thereof), the following criteria shall be used in siting oil
22 and gas facilities. Facilities that cannot comply with these criteria may be denied. All
23 negative impacts of operations will be required to be mitigated to an acceptable standard.
24 The County shall determine the compliance of the proposal using the standards contained
25 in this Section. Standards are listed in the order of their importance. Where conflicts
26 between standards occur, the higher ranked standard will be used.

27 **8.1.1.** The siting of a major or minor facility shall, at a minimum, lie within the COGCC
28 determined drilling window, or in a location that complies with COGCC rules and
29 regulations.

30 **8.1.2.** The standards in this Code shall not cause the operator to site the facility in: a
31 geologic hazard area; an area with slopes exceeding thirty (30) percent; an area of
32 wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area
33 within a floodway of a stream or river as shown on the Flood Insurance Rate Maps
34 (FIRM) or as determined by a state licensed professional engineer.

35 **8.1.3.** All facilities shall be sited to minimize the impact to existing residences, commercial
36 structures, public buildings, and county approved platted building envelopes, in
37 accordance with all provisions of this Article.

38 **8.1.4.** Facilities shall be constructed using, to the extent feasible, existing infrastructure.
39 This includes, but is not limited to, the use of existing roads, pipeline routes, and
40 well pads within the existing drilling windows.

41 **8.1.5.** All facilities shall be sited to minimize the impact to ongoing agricultural
42 operations. (See Exhibit A)

43 **8.2. Well Pad Density.**

44 **Finding:** The County finds that scenic resources are primary to the County's economy
45 and quality of life, and that the high quality of our vistas should be maintained to the
46 maximum extent feasible. Therefore the County finds that the potential impacts

1 attendant to future oil and gas development would be best mitigated for the County as a
2 whole if multiple wells are drilled on existing well pads, and the use of directional drilling
3 is maximized to reduce surface impacts.

4 **8.2.1.** Facilities shall be planned so that the well pad occupies and disturbs the least
5 surface area feasible to ensure safe and effective operations. (See Exhibit A)

6 **8.2.2.** Well pads generally shall not occur at a density of greater than 1 per 4 sq. miles.
7 The County may grant special exceptions to this standard under Sections 10.1 or 10.2
8 of this Article when the County finds that one or more of the following factors apply
9 in a manner that renders use of an existing well pad impractical: (See Exhibit A)

10 **8.2.2.1.** There are no existing well pads within feasible proximity of the proposed parcel.

11 **8.2.2.2.** Topographic characteristics of the site;

12 **8.2.2.3.** Natural resource constraints (e.g. wetlands);

13 **8.2.2.4.** The location of utilities or similar services;

14 **8.2.2.5.** Geological factors or where issues concerning distances between wells are present;

15 **8.2.2.6.** Other site conditions beyond the control of the applicant;

16 **8.2.2.7.** Safety concerns;

17 **8.2.2.8.** The spacing provision does not allow the mineral interest owner feasible
18 access to the mineral estate; or

19 **8.2.2.9.** At the request of the surface owner and with County approval.

20 **8.3. Land Use Coordination Standards.**

21 **8.3.1. Purpose:** The purpose of these standards for the coordination of land uses is to
22 minimize conflicts between oil and gas facilities and other land uses.

23 **8.3.2. Setbacks.** Setbacks of all oil and gas operations from occupied buildings; surface
24 property lines; water bodies and areas of agricultural, cultural, scenic, recreational,
25 environmental, or economic significance shall be adequate to assure no significant
26 degradation to the quality or value of any natural, cultural, recreational or economic
27 resource or affected property or activity. Setback requirements will be according to the
28 characteristics of the proposed site of the Facility, and the existing or planned land uses
29 and other resources proximal thereto. (See Exhibit A)

30 **8.3.3.** Major Facilities shall not be located in platted subdivisions containing any lots of
31 ten acres or less.

32 **8.3.4. Sound Emissions.**

33 **Findings:** 70% of the land in Saguache County is publicly-owned: national forest,
34 national park, BLM-managed lands, wildlife refuge, wilderness areas, etc. Ambient
35 sound levels are lower in most locations (20-35dBA daytime) than the standard for
36 rural residential areas (45dBA).
37

38 In some areas of the County, the viability of the facilities and activities that form
39 the economic base for the community is dependent on quietude.

40 Sound levels are measured in decibels, and increase logarithmically. The acoustic
41 energy between 25dBA and 45dBA is an increase in sound pressure energy of 100
42 times and represents a six fold increase in subjective sound perception. The

1 increase of sound energy from 15dBA to 45dBA is 1000 times, and an increase in
2 sound energy level from 15dBA to 55dBA is 10,000. Therefore, any determination
3 of “acceptable” sound levels cannot be arbitrary or absolute, but must take into
4 account the ambient sound levels existing on the parcel prior to the commencement
5 of operations. (See Exhibit A)

6 8.3.4.1. All construction, maintenance, and operations of the oil and gas facility
7 shall be conducted in such a manner so as to make the least noise possible.
8 (See Exhibit A)

9 8.3.4.2. The exhaust from all engines, motors, coolers and other mechanized
10 equipment, including compressor station fans, shall be vented in a direction
11 away from the closest existing building units or platted subdivision lots. (See
12 Exhibit A)

13 8.3.4.3. All minor and major facilities with engines or motors, not electrically
14 operated, shall be equipped with quiet design mufflers (also referred to as
15 “hospital grade” or “dual dissipative”) or equivalent. Such equipment shall
16 be properly installed and maintained in proper working order.

17 8.3.4.4. All facilities that have compressors, engines, or motors which generate
18 sound and are located within 400 feet of an existing residence, office,
19 institutional, commercial or industrial structure; or within 400 feet of
20 known wildlife habitat and/or migration routes; or within 400 feet of
21 recreational areas, must be placed behind a maintained, acoustically
22 insulated housing or a cover enclosing the motor or engine to further reduce
23 sound and lessen visual impact. (See Exhibit A)

24 8.3.4.5. No oil and gas operation shall exceed sound levels of 55 dBA between
25 7AM and 7 PM and 50 dBA between 7PM and 7AM when measured at a
26 distance of 350 ft. in any direction from the origin of the sound. The sound
27 can be measured at a greater distance if an impacted party requests that the
28 sound level shall also be measured at a point beyond three hundred fifty
29 (350) feet that said party believes is more representative of the noise impact.
30 If an oil and gas well site, production facility or gas facility is installed closer
31 than three hundred fifty (350) feet from an existing occupied structure,
32 sound levels shall be measured at a point twenty-five (25) feet from the
33 structure towards the noise source. In situations where measurement of
34 noise levels at three hundred and fifty (350) feet is impractical or
35 unrepresentative due to topography, the measurement may be taken at a
36 lesser distance and extrapolated to a 350-foot equivalent using the following
37 formula:

$$38 \text{ db(A) DISTANCE } 2 = \text{ db(A) DISTANCE } 1 - 20 \times \log_{10} (\text{distance } 2 / \text{distance } 1)$$

39

40 8.3.4.6. In determining noise mitigation requirements, specific site characteristics
41 shall be considered, including but not limited to:

- 42 a. Nature and proximity of adjacent development (design, location, type)
- 43 b. Prevailing weather patterns, including wind direction.
- 44 c. Vegetative cover on or adjacent to the site.
- 45 d. Topography.

1 8.3.4.7. Based upon the specific site characteristics set forth in this Section, the
2 nature of the proposed activity, its proximity to surrounding development,
3 and type and intensity of the noise emitted, one or more of the noise
4 abatement measures listed below may be additionally required: (See Exhibit
5 A)

- 6 a. Acoustically insulated enclosures for motors/engines.
- 7 b. Vegetative screen of trees and shrubs that may be placed within a fenced
8 enclosure.
- 9 c. Solid wall, fence or berm of acoustically insulating material surrounding
10 all or part of the facility.
- 11 d. Acoustically insulated building enclosing the installation.
- 12 e. Restrictions on hours of operation of certain activities

13 8.3.4.8. **Vibration.** All stationary equipment associated with minor and major
14 facilities shall be anchored on isolation pads so as to minimize transmission of
15 vibration through the ground. (See Exhibit A)

16 **8.3.4.9.** Sound levels may be monitored pursuant to Section 9.3.2 of this Article.

17 **8.3.5. Visual Impacts.**

18 8.3.5.1. To the maximum extent possible, the applicant shall use structures and
19 equipment of the minimum size necessary to satisfy functional
20 requirements. The Operator is encouraged to use low profile pumps and
21 equipment to mitigate visual impacts.

22 8.3.5.2. When clearing trees and vegetation for construction of minor and major
23 facilities, the applicant shall feather and thin edges of vegetation. (See
24 Exhibit A)

25 8.3.5.3. The applicant shall replace earth adjacent to water crossings at slopes
26 less than the natural angle of repose for the soil type of the site. (See
27 Exhibit A)

28 8.3.5.4. To the maximum extent possible, the applicant shall align access roads to
29 follow existing grades and minimize cuts and fills. (See Exhibit A)

30 8.3.5.5. Minor and major facilities shall be painted as follows: (See Exhibit A)

- 31 a. Uniform, non-contrasting, non-reflective color tones, similar to Munsell
32 Soil Color coding system.
- 33 b. Color matched to land, not sky, slightly darker than adjacent landscape.

34 8.3.5.6. The applicant shall minimize damage to existing trees and vegetation.
35 (See Exhibit A)

36 8.3.5.7. Pad dimensions for an oil and gas facility shall be the minimum size
37 necessary to provide a safe work area and minimize surface disturbance.
38 The pad shall be oriented in a manner to reduce visual impact of view
39 corridor or road; ideally the pad shall be sited perpendicular to any roads or
40 highways, not parallel. (See Exhibit A)

41 8.3.5.8. Upon completion of the well or other work associated with drilling, the
42 operator shall reseed the disturbed area with native grasses or other

1 vegetation similar in kind to surrounding vegetation. Re-vegetation on
2 cropland shall be accomplished within three months after completion and
3 within twelve months for non-crop land. The surface owner may agree,
4 in writing, to other suitable deadlines or type of re-vegetation, in
5 consultation with the NRCS. The Operator shall ensure that any weeds
6 in the re-vegetation area shall be mitigated prior to the re-seeding. The
7 requirements for re-vegetation shall not apply to main access roads and
8 the immediate areas surrounding the above-ground facilities, which are
9 necessary for safe operations, and which are to be graveled. (See Exhibit
10 A)

11 8.3.5.9. During operations, one or more of the following landscape practices shall
12 be applied, on a site specific basis: (See Exhibit A)

13 a. Establishment of ground covers, shrubs and trees. Landscaping shall be
14 appropriate to the surrounding territory and vegetation. Vegetation
15 clusters shall be placed ten (10) to fifteen (15) feet apart along the edge
16 of the permanent pad site or as otherwise agreed to by the surface
17 owner.

18 b. Shaping cuts and fills to appear as natural forms.

19 c. Cutting rock areas to create irregular forms.

20 d. Designing the facility to utilize natural screens.

21 8.3.5.10. **Exterior lighting**, when required, shall meet the standards set forth
22 under the Land Development Code. All lighting associated with oil and
23 gas development will be shielded to prevent direct visibility of the source of
24 light from off-site, directing all exterior lighting either toward the ground
25 or the surface of the building. The minimum lighting necessary to
26 effectively carry out operations safely shall be used. (See Exhibit A)

27 8.3.5.11. All facilities shall be sited in areas that maximize the amount of natural
28 screening available for the facility. Natural screening includes, but is not
29 limited to, the use of existing vegetation as a background, the construction
30 of the facility near mature stands of vegetation or behind ridges and natural
31 rock formations. (See Exhibit A)

32 a. All facilities shall be sited at the base of slopes, if possible, to provide a
33 background of topography and/or natural cover.

34 b. All facilities shall be sited to avoid crossing hills and ridges or
35 silhouetting.

36 c. All facilities shall be sited in order to minimize the amount of cut and fill
37 needed to construct the facility.

38 8.3.5.12. Minor and major facilities shall be sited away from prominent natural
39 features such as distinctive rock and land forms, vegetative patterns, river
40 crossings and other landmarks. (See Exhibit A)

41 8.3.5.13. All equipment used for construction, drilling, re-drilling, well
42 completion and re-completion and maintenance of the facility shall be
43 removed from the site within thirty (30) days of completion of the work
44 for which the equipment is used, unless otherwise agreed to by the
45 surface owner. Permanent storage of equipment on well pad sites shall
46 not be allowed, unless otherwise agreed to by the surface owner and

1 determined by Saguache County to be in conformance with the
2 applicable Land Development Code standards.

3 8.3.5.14. To the maximum extent possible, all utilities must be underground,
4 unless site specific factors make underground location of any utility
5 unadvisable. (See Exhibit A)

6 8.3.5.15. Colors of surface equipment used and rigs/wells must be approved
7 by Saguache County. (See Exhibit A)

8 **8.3.6. Safety and Security**

9 8.3.6.1. Security fencing and a locked gate for minor and major facilities shall be
10 required in the following locations:

11 a. Where there are four (4) or more existing residences within one thousand
12 (1000) feet of the facility site perimeter.

13 b. Where there is a public or private school within one thousand (1000) feet of
14 the facility site perimeter.

15 c. Where there is any other existing structure with commercial occupancy as
16 defined by the adopted building code within six hundred (600) feet of the facility
17 site perimeter.

18 d. Where there is an existing recreational facility designated by an appropriate
19 federal, state or local authority within one quarter mile six hundred (600) feet of
20 the facility site perimeter.

21 8.3.6.2. Safety practices generally accepted by the oil and gas industry shall be used
22 at all times during drilling and production to minimize the danger to the
23 general public. (See Exhibit A)

24 8.3.6.3. Open-ended discharge valves on all storage tanks, pipelines and other
25 containers shall be secured where the facility site is unattended and/or
26 accessible to the general public. (See Exhibit A)

27 8.3.6.4. All land within twenty-five (25) feet of any tank or other structure
28 containing flammable or combustible materials shall be kept free of dry weeds,
29 grass or rubbish. (See Exhibit A)

30 8.3.6.5. Where the applicant's visual mitigation plan specifies alternative security
31 fencing, the alternative fencing shall apply. (See Exhibit A)

32 **8.4. Environmental Quality Standards:**

33 **8.4.1. Water Quality:**

34 **Finding:** The majority of Saguache County is comprised of high altitude desert. Two
35 major aquifers, which supply water to San Luis Valley residents, towns, and
36 agricultural operations, lie partially within the County's boundaries. Much of the
37 County serves as a significant recharge area for these aquifers, which lie atop one
38 another and are referred to as the shallow, or unconfined aquifer and the deep, or
39 confined aquifer.
40

41 The Colorado Division of Water Resources (CDWR) oversees the water withdrawal
42 from these groundwater systems and carefully monitors the annual recharge of these
43 aquifers as well as the quality of the water contained in them. In 2004, the Rio Grande

1 Decision Support System study on the confined aquifer was completed, which
2 documents this fragile water system and allows the State Water Engineer to
3 promulgate rules regarding the aquifer based on the information provided by the study.
4 As a part of the Rio Grande Water Conservation District, Saguache County keeps itself
5 apprised of water drawn from the shallow or unconfined aquifer for the federally-
6 mandated Closed Basin Project. The Closed Basin Project helps supply Colorado's
7 water commitment to New Mexico and Texas under the federal agreement known as
8 the Rio Grande Compact. These vital aquifers are part of a vast water system that is
9 not fully understood, but upon which all life in the region depends. They are an
10 irreplaceable resource that the County will continue to collaborate to protect.

11 All streams and creeks are vital and precious water systems, which must be protected.
12 CDWR oversees and adjudicates the use of water from them. Those which rise and
13 flow in that part of the county located on the western side of the Continental Divide are
14 part of the Gunnison watershed, which is overseen by the Arkansas and Gunnison River
15 Water Conservation Districts and is subject to the Colorado River Compact. The County
16 will continue to collaborate with these agencies to protect these water resources.

17 The value of both surface and ground water and the life and lands that depend on them
18 is immeasurable, but by any method of assessment, significantly more valuable than all
19 currently known or projected oil and gas reserves that may lie beneath the County's
20 surface. Therefore, the County finds that the protection of the water resources is of
21 primary importance, and must be adequately ensured by any applicant for an oil and
22 gas facility permit.

23 **8.4.1.1. Nonpoint Source Pollution.** The Oil and Gas Operation shall not cause
24 significant degradation in the quality or quantity of surface waters from the
25 addition of nonpoint source pollution.

26 **8.4.1.2. Water wells.** The Oil and Gas Operation shall not cause significant
27 degradation in the water quality or water pressure of any public or private water
28 wells.

29 **8.4.1.3. Aquifer protection.** Acknowledging the quality and value of the
30 significant subsurface water resources underlying Saguache County, and all present
31 and future interests in those water resources, the Oil and Gas Operation may not
32 pose any significant risk nor cause any significant degradation to these water
33 resources. At a minimum, the Operation shall comply with COGCC Rules sections
34 324 and 325.

35 **8.4.1.4. "Green" drilling fluids** – The oil and gas operation shall use
36 environmentally benign, chemically inert, water-based drilling fluids.

37 **8.4.1.5. Well pad liner** – Well pads shall be lined with an impermeable liner of a
38 minimum thickness of 40 mil, in order to protect soil and groundwater from
39 contamination.

40 **8.4.1.6. Water body setbacks.** Activities associated with the Oil and Gas
41 Operation shall be located a minimum of 1000 feet from the normal high water
42 mark of any water body, unless such a setback would interfere with spacing
43 requirements established by the Colorado Oil and Gas Conservation Commission

1 **8.4.1.7. Storm water:** The operator shall submit a storm water management plan
2 and comply, at a minimum, with State storm water management standards.

3 **8.4.1.8. Monitoring:** An approved or conditionally approved Facility shall
4 comply with the following requirements:

5 a. Comply with COGCC water well testing and water-bearing formation
6 protection procedures and requirements.

7 b. Until such time as final reclamation of a site has been completed as described
8 in the COGCC Reclamation Regulations, all Test and Survey reports and water
9 well testing information that have been required by the COGCC to determine
10 the presence of waste or occurrence of pollution, as well as the results from
11 well-head monitoring to allow safe and convenient determinations of pressure
12 and fluid flow shall be forwarded to the Saguache County Land Use
13 Administrator.

14 c. All oil and gas operations shall comply with all applicable state water quality
15 standards and classifications established by the Water Quality Control
16 Commission.

17 d. Oil and gas operators will be required to fund the testing of water wells
18 within 3 miles of the perimeter of the operation, or as recommended by the
19 designated County authority.

20 1. Substances tested for must include all chemicals and additives used during
21 or created as a result of drilling or related activities.

22 2. Preliminary baseline testing must be done prior to any surface disturbing
23 activity and must be submitted as requested to the County designee.

24 3. Water well testing may be required for 3 to 5 years after drilling is
25 completed.

26 **8.4.1.9.** Comply with the Water Right Determination and Administration Act
27 and the Ground Water Management Act for beneficial uses of produced
28 water related to coalbed methane production.

29 a. Identify physical source of water and legal entitlement to use such
30 water (e.g., Water Court decree) for irrigation, dust control and
31 drilling.

32 b. Onsite containment and disposal of water associated with minor and
33 major facilities shall be in accordance with applicable federal, state and
34 county requirements and all other provisions of this Article.

35 **8.4.2. Air Quality.**

36 **Finding:** The County notes that the San Luis Valley has been found to be one of the
37 most optimal sites for solar energy generation in the United States.

38 **8.4.2.1.** No oil and gas operation shall cause significant degradation to air quality.
39 Specifically, all standards and requirements under the Clean Air Act and
40 Organic Act for the preservation of the Class 1 airshed of the Great Sand
41 Dunes National Park and Preserve and other applicable public lands shall be
42 met.

1 8.4.2.2. Air emissions from the operation shall be, at a minimum, in compliance with
2 the permit and control provisions of the Colorado Air Quality Control
3 Program, Title 25, Section 7, C.R.S.

4 8.4.2.3. Oil and gas operations are prohibited from causing airborne emissions that
5 are known to cause negative health impacts.

6 8.4.2.4. No oil and gas operation shall cause a reduction in solar radiation which
7 results in an actual or potential decrease in current or future capacity for solar
8 energy generated output in the San Luis Valley.

9 8.4.2.5. **Odors and Dust.** Oil and gas facilities and equipment shall be operated in
10 such a manner that odors and dust do not constitute a nuisance or hazard to
11 public health, safety, welfare, and the environment. (See Exhibit A)

12 **Odors.** At a minimum, compliance with COGCC Rules section 805.b.(1) shall
13 be met.

14 **Fugitive dust.** Operators shall employ practices for control of fugitive dust.
15 Such practices shall include but are not limited to the use of speed restrictions,
16 regular road maintenance, and restriction of construction activity during high-
17 wind days. Additional management practices such as road surfacing, wind
18 breaks and barriers, or automation of wells to reduce truck traffic may also be
19 implemented.

20 Any oil and gas operator engaged in clearing or leveling of land or owner or
21 operator of land that has been cleared that is greater than five (5) acres in
22 attainment areas or one (1) acre in non-attainment areas from which fugitive
23 dust will be emitted shall be required to use all available and practical methods
24 which are technologically feasible and economically reasonable to minimize
25 such fugitive dust emissions.

26 8.4.2.6. **Greenhouse Gas Reduction:** The operator shall make every reasonable
27 effort to minimize methane emissions by using all feasible “green completion”
28 techniques, pursuant to COGCC Rules Section 805(3) and the installation of
29 “low bleed” pneumatic instrumentation. (See Exhibit A)

30 8.4.2.7. **Emission Control Equipment:** The operator shall comply with existing
31 EPA rules and any future regulations validly adopted by an authority. To the
32 maximum extent possible, all fossil fuel powered engines used on site shall
33 employ the latest emission-reduction technologies, e.g. high pressure direct
34 injection (HPDI) of fuel and exhaust gas recirculation (EGR).

35 8.4.2.8. **Electric Motors for Artificial Lift -** With respect to wells requiring long-
36 term artificial lift, the operator shall assess the feasibility of utilizing electric
37 motors for all artificial lift installations. If the well pad is within 1320 feet of
38 distribution voltage and the ability to do so is not cost prohibitive due to the
39 demands of property owners from whom easements are required, topography or
40 other physical features (e.g., the presence of a river), electric motors shall be
41 used. If distribution voltage is not currently within 1320 feet of the proposed
42 well pad, the operator shall contact and provide the surface owner an
43 opportunity to extend distribution voltage to within 1320 feet of the proposed
44 well pad. It is understood that gas powered artificial lift equipment may be used
45 prior to the time that power is brought to the site. The operator shall request
46 that the power lines be placed underground except in areas where the

1 topography or subsurface conditions render it infeasible or in situations in
2 which the landowner requests overhead lines. (See Exhibit A)

3 **8.4.3. Wildlife and Species of Concern.**

4 8.4.3.1. The Oil and Gas Operation shall not cause significant degradation of
5 wildlife, including any federal, state or Colorado Natural Heritage Program-
6 identified species of concern, or to their habitat.

7 8.4.3.2. At a minimum, the operation shall comply with the CDOW's recommended
8 Standard Operating Practices (SOPs) for oil and gas operations in Colorado.

9 8.4.3.3. When planning facilities, the applicant shall consult and reference the
10 current wildlife occurrence data, including the CDOW's Natural Diversity
11 Information Source database (NDIS) and the Colorado Natural Heritage
12 Program database to identify species of concern that may occur in the vicinity
13 of the proposed development.

14 8.4.3.4. Occurring species must be surveyed, mapped and reported using CDOW
15 protocols and existing CDOW occurrence data , including those on the
16 defined list of species for which limited data exists and/or where occurrences
17 may move from one year to the next. Surveys will be conducted within 1/2
18 mile of proposed facilities on lands legally accessible to the operator. A
19 current list of species for which seasonally appropriate surveys must be
20 performed will be provided to the applicant by the Land Use Department. All
21 data from wildlife surveys performed shall be forwarded to CDOW and
22 CNHP on completion.

23 8.4.3.5. The following measures shall be included in the site specific wildlife
24 mitigation procedures required under this Section, as appropriate:

25 **a. Timing Limitation Areas.** Timing Limitation Areas are imposed
26 where wildlife is susceptible to disturbance from oil and gas development
27 activities. In this context, No Development Activity means the seasonal
28 deferral of ground disturbance, construction, drilling and completion,
29 non-emergency workovers and pipeline installation activity. It does not
30 include production, maintenance, emergency operations, reclamation
31 activities or habitat improvements. Avoidance of these areas during the
32 CDOW prescribed seasonal periods is the presumptive standard for oil
33 and gas development in Colorado.

34 **b. Restricted Surface Occupancy (RSO) Areas.** Restricted surface
35 occupancy areas are highly sensitive wildlife habitats that are limited in
36 size and where avoidance of anthropogenic structures and disturbances is
37 the most effective method of protecting wildlife. The RSO areas listed by
38 the CDOW should be avoided to the maximum extent possible when
39 planning and conducting oil and gas development operations. Avoidance
40 of these areas is the presumptive standard for oil and gas development in
41 Colorado. In addition to the restrictions for specific species, RSO areas
42 include within 1000 feet of the ordinary high water mark of any natural
43 perennial, intermittent or ephemeral stream or river, lake bed, ephemeral
44 pool, playa lake or wetland.

- 1 c. Confine vehicular access to established roads except under emergency
2 circumstances. Transportation plans will guide and manage the
3 development of any new road networks.
- 4 d. Install locked gates at the parcel perimeter where the operation is
5 accessed from the closest public road.
- 6 e. Work at or near stream crossings should be conducted at periods of
7 little or no flow, to ensure minimal siltation and erosion. Place all pipes
8 below channel scour depths in streams and rivers to avoid partial
9 diversion or channel discharges.
- 10 f. Excess materials shall not be deposited at stream and river crossings.
- 11 g. Fueling and lubrication of construction equipment shall be done off-site
12 and in designated containment areas in a manner that does not impact
13 aquatic environments. (See Exhibit A)
- 14 h. Facilities, roads, fencing and lighting shall be sited to minimize the
15 impact and disturbance on wildlife habitat and wildlife corridors as
16 identified or mapped by the Colorado Division of Wildlife, including
17 raptor proofing any potential perching structures.
- 18 i. Ensure exclusion of wildlife from any permitted pits through pit fences,
19 netting or other effective methods.
- 20 j. Treat any pit containing water with Bti (*Bacillus thuringiensis v.*
21 *israelensis*), commonly known as Mosquito Dunks, or take other effective
22 approaches to control mosquito larvae that may spread West Nile Virus
23 to wildlife.
- 24 k. Maintain a condensed TDS (total dissolved solids) and SAR (sodium
25 absorption ratio) monitoring log in areas where produced water is
26 permitted for surface discharge. Records should be made easily accessible
27 for review and provided to agencies upon request.
- 28 l. Disinfect heavy equipment, hand tools, boots and any other equipment
29 used previously in another river, lake, pond, or wetland, with one of the
30 following practices: (See Exhibit A)
- 31 1. Remove all mud and debris from equipment and the equipment kept
32 dry for 10 days, or
- 33 2. Remove all mud and debris from equipment and spray/soak
34 equipment with a 1:1 solution of Formula 409 Household Cleaner (or
35 equivalent) and water or a 1:15 solution of Sparquat 256 Institutional
36 Cleaner (or equivalent) and water, keeping the equipment moist for at
37 least 10 minutes and discard rinse water in an approved manner, or
- 38 3. Remove all mud and debris from equipment and spray/soak
39 equipment with water greater than 130 degrees F for at least 10
40 minutes.
- 41 4. Using the methods described above, sanitize water suction hoses
42 and water transportation tanks withdrawing from or discharging into
43 surface waters (other than contained pits) and discard rinse water in
44 an approved disposal facility. The disinfection practice should be
45 repeated after completing work or before moving to the next water
46 body.

- m. Install wildlife crossovers and escape ramps at maximum 1/4 mile intervals and at well defined game trails during pipeline construction.
- n. Utilize bear-proof dumpsters and trash receptacles at all facilities

8.4.3.6. Multiple Site Plan. In lieu of a site specific mitigation review for each facility, the applicant may submit to the Land Use Department a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under this Section.

8.4.3.7. Nonmitigable Impacts. Impacts from oil and gas facilities that threaten endangered species (as defined by the Colorado Division of Wildlife) shall be considered nonmitigable and grounds for either denial of the permit or request for relocation of the site.

8.4.4. Geologic Hazard Areas; Floodplains. The applicant shall demonstrate that a Major Facility is not located within a geologic hazard area as determined by the State of Colorado Geological Survey. Major facilities shall comply with the adopted county floodplain ordinance when they are located, wholly or in part, in a one-hundred (100) year floodplain area.

8.4.5. Waste Management and Disposal: (See Exhibit A)

8.4.5.1. When a minor or major 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.

8.4.5.2. No burning of trash shall occur on the site.

8.4.5.3. Bear-proof dumpsters and trash receptacles shall be utilized at all facilities

8.4.5.4. All human waste shall be fully contained and disposed of off the site at a appropriately licensed facility in accordance with all County regulations.

8.4.5.5. Operators shall ensure that all E & P (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.

8.4.5.6. **Secondary containment.** Secondary containment shall be constructed or installed around all tanks containing crude oil, condensate or produced water, with greater than 10,000 milligrams per liter (mg/l) total dissolved solids (TDS) and shall be sufficient to contain the contents of the largest single tank in the project area plus sufficient freeboard to contain precipitation. Secondary containment structures shall be sufficiently impervious to contain discharged material.

8.4.5.7. A permit for a centralized, non-commercial E & P waste disposal facility will be considered only if the applicant can demonstrate to the satisfaction of the County that no degradation to the quality of groundwater and surface water resources can be guaranteed.

8.4.5.8. E & P waste management activities shall be conducted, and facilities constructed and operated, to protect the waters of the county from significant environmental impacts from E & P waste.

1 8.4.5.9. A written management plan for waste minimization through beneficial
2 reuse and recycling of E & P waste is required. The plan shall describe the
3 proposed use of the waste, method of waste treatment, product quality
4 assurance and shall include a copy of any certification or authorization that
5 may be required by other laws, rules or regulations.

6
7
8 **8.4.6. Produced Water Disposition:**

9 **Finding:** The County finds that the characteristics of produced water can vary
10 from a nearly drinking water quality suitable for livestock and irrigation to a
11 highly-saline, high TDS, radioactive liquid laced with metals, hydrocarbons and
12 chemicals. Therefore appropriate disposition of produced water is wholly
13 dependent on its quality.
14

15 8.4.6.1. Due to the scope and depth of groundwater resources, only closed loop
16 (pitless) drilling systems shall be permitted by Saguache County, unless a
17 special exception is granted under Section 10.1 of this Article. In addition,
18 closed containment of stored fluids shall be utilized to the maximum extent
19 feasible.

20 8.4.6.2. Except during drilling, completion and well servicing operations, the
21 operator shall use reasonable efforts to transport produced water by
22 pipeline. The final disposition of produced water from any oil and gas
23 operation will be by the most environmentally beneficial method based upon
24 its relevant characteristics. The water will be tested by a State and/or U.S.
25 EPA-approved analytical laboratory for contaminants, including but not
26 limited to salts, metals, hydrocarbons, chemical residues, total dissolved
27 solids and radioactive materials and the disposal method determined in
28 consultation with the COGCC and the Colorado Department of Public
29 Health and Environment, in accordance with relevant regulatory agency
30 requirements and industry best management practices. The Land Use
31 Department shall receive a copy of the test results, which will be public
32 information.

33 **8.4.6.3. Pipelines and Flowlines.** Pipelines and flowlines should be constructed
34 and maintained in conformance with applicable COGCC pipeline regulations
35 and industry best management practices.

36 **8.4.7. Pits.**

37 8.4.7.1. **Limitation.** To prevent contamination of ground water and soils
38 and/or to conserve water, use of pits shall be minimized. Pits will be
39 permitted as a Special Exception pursuant to Section of this Article, only
40 when the operator can demonstrate that no feasible alternative exists to the
41 use of a pit, and that the groundwater, surface water, soil and wildlife
42 resources will be fully protected. Unlined pits shall not be allowed under
43 any circumstances.

44 8.4.7.2. Any permitted pits shall comply, at a minimum, with all requirements
45 under COGCC Series 900 Rules regarding pits.

1 8.4.7.3. Any permitted pits shall be located and constructed to ensure no
2 contamination of surface water bodies in the event of a leak or overflow

3 8.4.7.4. Any permitted pits shall be fully lined with an impermeable liner a
4 minimum of 40 mils thick, shall be resistant to deterioration by ultraviolet
5 light, weathering, chemicals, punctures and tearing, and designed for the
6 life of the well. The foundation for the liner shall be constructed with soil
7 having a minimum thickness of twelve (12) inches after compaction
8 covering the entire bottom and interior sides of the pit, and shall be
9 constructed so that the hydraulic conductivity shall not exceed 1.0×10^{-7}
10 cm/sec after testing and compaction to prevent punctures from soils or
11 other materials beneath the liner. The synthetic or fabricated liner shall
12 cover the bottom and interior sides of the pit with the edges secured with
13 at least a twelve (12) inch deep anchor trench around the pit perimeter. The
14 pit lining system shall be designed, constructed, and installed following
15 good engineering practices.

16 8.4.7.5. All substances intended for placement in the pit must first be tested for
17 radioactivity, and be cleaned of residual oil, grease and toxic substances.
18 No radioactive or other hazardous materials may be placed in pits.

19 8.4.7.6. Fencing of reserve pits is required to prevent access by persons, wildlife
20 or livestock. Netting or alternative method of covering pits acceptable to
21 the CDOW shall be required in order to prevent access and mortality of
22 birds and other animals.

23 8.4.7.7. Sediments remaining in lined pits after evaporation shall be treated and
24 disposed of according to their properties, pursuant to the County Landfill
25 Code, as hazardous materials if warranted.

26 8.4.7.8. Pit liners shall be removed from the site and disposed of in accordance
27 with all local, state and federal regulations as soon as practicable after the
28 pit is no longer in use.

29 8.4.7.9. After removal of the liner, soil beneath the low point of the pit must be
30 sampled and tested to verify no leakage of the managed fluids.

31 8.4.8. Fracing/Cavitation:

32 **Finding:** The majority of Saguache County sits atop 2 aquifers that contain vast
33 quantities of high quality water that sustains all aspects of the life of the San Luis
34 Valley. Dependence on these water resources extends far beyond the boundaries of
35 the County. In addition, a major portion of the County serves as a significant
36 recharge area for these aquifers, and parts have been acknowledged and reserved as
37 a buffer zone to protect the water systems that support the unique and fragile
38 ecosystems of the Great Sand Dunes National Park and Preserve. The County
39 shares the compelling responsibility to protect these essential and irreplaceable
40 “waters of the State”. Therefore the County finds that the standard industry practice
41 of injecting highly toxic substances under high pressure into the earth for the
42 purpose of fracturing geologic formations poses an unacceptable risk of polluting
43 these invaluable groundwater resources.
44

1 8.4.8.1. Only non-toxic substances may be used in the hydraulic fracturing
2 operation. The use of diesel fuel and known carcinogens and endocrine
3 disruptors in fracturing fluid is expressly prohibited.

4 8.4.8.2. The permit holder shall provide a list, including Material Safety Data
5 Sheets, of all chemicals, additives and organics used on site to the
6 Saguache County Office of Emergency Management. This information
7 will be held in strictest confidence and shared with other relevant local
8 emergency response personnel only on a “need to know” basis.

9 8.5. Surface Disturbance Standards

10 Purpose: The purpose of this section is to minimize negative impacts to surface
11 activities and surface conditions.

12 **8.5.1. Agricultural Resources:** Subject to COGCC spacing requirements for wells,
13 minor and major facilities shall be located so as to reasonably minimize surface
14 use necessary for the operation of the facility and to avoid the unreasonable loss
15 of agricultural land. This standard may be waived if verified written consent is
16 obtained from the surface owner.

17 **8.5.2. Recreational Resources** - The Oil and Gas Operation shall not cause a
18 significant degradation in the quality or quantity of recreational activities in the
19 County such as hiking, hunting, fishing or related activities.

20 **8.5.3. Cultural and Historic Resources** – The Oil and Gas Operation shall not cause
21 significant degradation of cultural, historic, or scientific resources or significant
22 disturbance to archeological sites.

23 All requirements under the following Acts shall be met: the National Historic
24 Preservation Act, including Section 106; the Native American Grave Protection
25 and Repatriation Act; and the American Indian Religious Freedom Act.

26 **8.5.4. Economic Resources and Activities** – The Oil and Gas Operation shall not
27 have a significant negative impact on other economic resources and activities in
28 the County.

29 **8.5.5. Energy Resources** – The Oil and Gas Operation shall not cause any significant
30 decrease in the County’s ability to generate energy from renewable sources.

31 **8.5.6. Roads and Access:**

32
33 8.5.6.1. **Ingress and Egress.** Ingress and egress points to public roads shall be
34 located, maintained and improved to assure adequate capacity for efficient movement
35 of existing and projected traffic volumes and to minimize traffic hazards.

36 8.5.6.2. **Improvements.** Installation of major facilities which are accessible by non-
37 maintained roads included in the county road system, which the County Road &
38 Bridge Supervisor determines are inadequate to safely accommodate the additional
39 traffic associated with the operation of the facility, shall be permitted only if such
40 roads are improved and maintained by the operator to a level which the County
41 Road & Bridge Supervisor determines is necessary to allow such traffic to use such
42 roads in accordance with applicable state and county standards.

43 8.5.6.3. **Use of Existing Roads.** With the exception of such circumstances and
44 other operational requirements or limitations imposed by existing contractual

1 agreements or government regulations (e.g. CDOT access permits), with the
2 installation of each well the operator shall use existing roads, easements, and
3 pipeline routes.

4 **8.5.6.4. Use of Subdivision Roads.** In those instances where an Operator accesses a
5 Facility via a road or roads within a County-approved subdivision and a governing
6 entity exists (e.g. homeowners' association) with legal authority to bind the entity
7 and its members, and with the authority to grant access rights over such roads
8 and/or negotiate agreements with respect to their use, the operator will negotiate a
9 fair and reasonable road maintenance or road improvement agreement with such
10 entity for the purpose of paying or making in-kind contributions for its pro rata
11 share of the cost of maintaining or improving the affected road(s). Such agreement
12 or memorandum shall be recorded with the Clerk and Recorder.

13 **8.5.6.5. Access Roads.** Access Roads serving Facilities, including existing and/or
14 proposed roads that connect a Facility to a county road or state highway shall be
15 reviewed in accordance with this Section and Section III of the Saguache County
16 Land Development Code and shall be subject to all applicable impact fees. All access
17 and oversize or overweight vehicle permits must be obtained from Saguache County
18 Road & Bridge Department prior to beginning construction of a facility or use of a
19 County road. All proposed transportation routes to the site shall be reviewed and
20 approved to minimize traffic hazards and adverse impacts on County roadways.
21 Existing roads shall be used to minimize land disturbance unless traffic safety, visual
22 or noise concerns, or other adverse surface impacts are determined to require new or
23 additional roads, or unless the applicant demonstrates to the County's satisfaction
24 that it has been unable to obtain authorization to use an existing road.

25 **8.5.6.6. Private Access Roads.** For those Access Roads located between the parcel
26 on which a Facility is proposed and the county road or state highway serving such a
27 Facility, the applicant shall provide written documentation as part of the application
28 demonstrating that it has the legal right to use such road(s) for the purpose of
29 accessing the Facility and the applicant shall demonstrate that such road(s) can
30 provide adequate physical access to the proposed Facility, in accordance with
31 applicable Land Development Code standards.

32 **8.5.6.7. Maintenance Agreement.** If the projected use of the public roads resulting
33 from the Oil and Gas Operation will result in a need for an increase in roadway
34 maintenance or snow removal on County roads, the County shall require the
35 Operator to:

- 36 a. reimburse the County for any short term costs; and
- 37 b. provide a bond or other financial assurance in an amount acceptable to the
38 County to cover any costs of repairing longer term impacts to roads due to the
39 operation that have not been offset by overweight vehicle fees and impact fees..

40 **8.5.6.8. State Highway Access.** If access is directly off of a State Highway, the
41 applicant must have an approved State Highway Access Permit for the proposed
42 facility.

43 **8.5.6.9. Use of Equipment.** The operator shall:

44 Remove or require the removal of tire chains from its heavy equipment before
45 entering onto a County road;

46 Ensure that all new roads and well pads are graveled with a minimum of four
47 inches (4") of Class 6 Aggregate Base Course as defined by the Colorado

1 Department of Transportation Standard Specifications for Road and Bridge
2 construction over a stabilized base, both of which shall be maintained
3 throughout permanent operations of the well pad; and

4 Remove and restore the condition of the road as promptly as is reasonable under the
5 circumstances if mud and/or debris are tracked onto the County road by the
6 operator's equipment.

7 **8.5.6.10. Hazardous Materials** –Full disclosure, including Material Safety Data
8 Sheets, of all hazardous materials that will be transported on any public or private
9 roadway within the County for the oil and gas operation must be provided to the
10 Saguache County Office of Emergency Management. This information will be held
11 in strictest confidence and shared with other emergency response personnel only on
12 a “need-to-know” basis.

13
14 **8.5.7. Weed Control.**

15 The Applicant shall be responsible for ongoing weed control for all permitted
16 Facilities and the access roads under applicant's control leading to such Facilities.
17 The appropriate weed control methods and species to be controlled shall be
18 determined through review and recommendation of the Natural Resource
19 Conservation Service (NRCS), the CSU Extension Service and the Saguache
20 County Weed Manager or designee, in accordance with Colorado Noxious Weed
21 Act and any applicable Resolution of the Board of County Commissioners for the
22 management and eradication of noxious weeds in Saguache County.

23 **8.5.8. Reclamation.** Interim and final reclamation shall be governed by the approved
24 reclamation plan for the facility.

25 8.5.8.1. The reclamation plan shall provide for a reasonable reclamation schedule
26 pursuant to COGCC rules and considering the specific surface use and
27 surrounding land uses. COGCC rules regarding reclamation shall be
28 considered the minimum standard.

29 8.5.8.2. Interim reclamation should take place on an ongoing basis throughout
30 the duration of the project (e.g. as wells are completed, portions of well pads
31 can be reclaimed; ground surface can be re-vegetated after pipelines or power
32 lines are buried).

33 **8.5.8.3. Re-vegetation Plan.** Where facilities reduce or destroy existing
34 vegetation, the applicant in consultation with the NRCS and the Center
35 Conservation District shall develop a re-vegetation plan for the site.

36 a. The plan shall specify species, planting schedule, planting method, quantity of
37 seed or plant material to be used, and other related components. The applicant
38 may, in consultation with the NRCS, develop a standard re-vegetation format
39 for all sites within the county, for submittal with oil and gas operations permit
40 applications. Generally, measures more stringent than those recommended by
41 the NRCS and the Center Conservation District shall not be required. Re-
42 contouring and re-vegetation of the surface to pre-disturbance conditions
43 equivalent to adjacent undisturbed areas will generally be required.

44 b. The County may also approve a plan for an alternative post-disturbance
45 reclamation, provided the surface owner and the applicant agree, and the

1 plan is in harmony with the surrounding land uses and the Saguache
2 County Land Development Code regulations and shall be done in
3 accordance with industry best management practices.

4 c. In addition, each operator is encouraged to consult with the responsible
5 official or governing body of an owner's association or common interest
6 community in which the facility may be located, with respect to any weed
7 control, reclamation or mitigation plan currently in effect.

8 **8.5.8.4. Road Design and Construction.** Roads should be designed and
9 constructed to allow for successful interim and eventual final reclamation. Re-
10 vegetation of roads, ditches and cut and fill slopes will help stabilize exposed
11 soils and reduce sediment loss, reduce the growth of noxious weeds, reduce
12 maintenance costs, maintain scenic quality and forage, and protect habitat. To
13 ensure successful growth of plants and forbs, topsoil must be salvaged where
14 available during road construction and re-spread to the greatest degree practical
15 on cut slopes, fill slopes, and borrow ditches prior to seeding. To ensure
16 stability of freshly topsoiled slopes during re-vegetation, the application of
17 mulch or other sediment control may be appropriate.

18
19 **8.5.8.5. Primitive Roads.** The appropriateness of primitive roads or routes is
20 site/use specific and is based on factors such as anticipated dry or frozen soil
21 conditions, seasonal weather conditions, flat terrain, low anticipated traffic, or
22 operator's access needs. Operators should not flat-blade roads. Drainage must
23 be maintained to avoid erosion or the creation of a muddy, braided road.
24 Resource damage must be repaired as soon as possible and the operator will
25 consult with the County and private surface owner(s) to determine if all or a
26 portion of the road needs to be upgraded to an all-weather access road.

27 **8.5.8.6. Protection and Monitoring** - Newly reclaimed areas should be
28 adequately fenced for two years or until interim reclamation vegetation is
29 established. Interim and final reclamation progress of all disturbed areas shall be
30 monitored with a standardized evaluation and monitoring protocol to include the
31 establishment of photo points and vegetative cover measurements approved by the
32 NRCS and the Center Conservation District.

33
34 8.5.8.7. Previously approved and established reclamation or mitigation projects or
35 sites shall not be developed or otherwise impacted without replacement in-kind.
36

37 38 **XXI.9. Public Health, Safety & Welfare Protections**

39 **9.1. Emergency Preparedness and Response Plan Required.** The applicant for an oil and
40 gas operations permit is required to provide an emergency preparedness and response plan
41 that fulfills all the requirements of the plan adopted by the County. This plan must be
42 reviewed by the Saguache County Office of Emergency Management, which will make its
43 recommendations to the relevant Planning Commission(s). The plan shall be filed with the
44 County and updated on an annual basis or as conditions change (e.g. turnover in

1 responsible field personnel, change in substances used). The emergency plan shall consist
2 of the following information, at a minimum:

3 9.1.1. Name, address and phone number, including a twenty-four (24) hour emergency
4 number of at least two (2) persons responsible for emergency field operations.

5 9.1.2. A printed map, including GPS coordinates, showing the name, location and
6 description of all minor and major facilities, including the size and type of all pipelines
7 and isolation valves (note: isolation valves shall not be operated by anyone except the
8 owner of the pipeline). The map shall be prepared digitally on the county geographic
9 information system parcel maps. The as-built facilities map that includes the
10 information regarding the location of isolation valves shall be held confidentially by
11 the county's emergency management officer or other County designee, and shall only
12 be disclosed in the event of an emergency. The Office of Emergency Management
13 shall deny the right of inspection of the as-built facilities map to the public pursuant to
14 C.R.S. §24-72-204(3)(a)(IV).

15 9.1.3. A written response plan for the potential emergencies that may be associated with
16 the operation of the facilities. This may include any or all of the following: explosions,
17 fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas
18 emissions, or hazardous material vehicle accidents or spills.

19 9.1.4. A fire prevention, response and safety plan.

20 9.1.5. Project-specific emergency preparedness plans are required for any project that
21 involves drilling or penetrating through known or likely zones of hydrogen sulfide
22 gas, as determined by the County's Office of Emergency Management. This plan shall
23 be coordinated with and approved by the County's emergency management officer
24 prior to beginning field operations.

25 **9.2. Inspections.**

26 **9.2.1. 24 hour contact** - The applicant shall provide the telephone number of a
27 contact person who may be reached 24 hours a day for purposes of being notified
28 of any proposed County inspection under this Section or in case of emergency.
29 Any permitted oil and gas operations site may be inspected by Saguache County
30 at any time, to ensure compliance with the requirements of the approved
31 development plan, provided that at least one hour's prior notice is given to the
32 contact person at the telephone number supplied by the applicant. Calling the
33 number (or leaving a message on an available answering machine or voice mail
34 service at the number) at least one hour in advance of the proposed inspection
35 shall constitute sufficient prior notice if the contact person does not answer. By
36 accepting an approved oil and gas operations permit, the applicant grants consent
37 to such inspections. The cost of any inspection deemed reasonable and necessary
38 by the County shall be borne by the applicant.

39 **9.2.2. Right to Enter** - For the purpose of implementing and enforcing this Section,
40 duly authorized County personnel may enter onto subject property upon
41 notification of the permittee, lessee or other party holding a legal interest in the
42 property. If such entry is denied, the County shall have the right to obtain an
43 order from a court of competent jurisdiction to obtain entry.

44 **9.2.3. Independent Monitoring Team** – The Board of County Commissioners may
45 authorize an independent monitoring team to ensure compliance with the

1 performance standards contained in this Article. The costs associated with
2 monitoring the operation shall be borne by the operator.

3 9.2.3.1. The team will be composed of individuals who have one or more of the
4 following areas of expertise: biological (e.g. wetlands, wildlife, agriculture),
5 archeological, or cultural resource preservation, hazardous materials
6 handling, water and/or air quality monitoring, soil conservation/erosion
7 control, E & P waste handling and disposal, oil and gas engineering, storm-
8 water management, or any other knowledge area required for adequate
9 monitoring of a specific site. In addition, each monitoring team may have a
10 community liaison member, at the recommendation of the relevant Planning
11 Commission. The composition of the monitoring team will be established
12 according to the affected resources and operational requirements of the site.

13 9.2.3.2. Any data collected by the team may be submitted to an independent
14 agency, to be agreed upon by the Operator and the County, for review and
15 analysis. Agency personnel responsible for the review and analysis of the
16 data shall be agreed to by the Board of County Commissioners.

17 9.2.3.3. The Independent Monitoring Team shall have the same right of access to
18 the facility site as other duly authorized County personnel. The team as a
19 whole shall determine the appropriate level of monitoring of a site.

20 9.2.3.4. Except in cases of emergency, the Land Use Department and all members
21 of the monitoring team shall be notified of any site inspection undertaken by
22 any member of the team.

23 **9.3. Financial Assurance**

24 **Finding:**

25
26 Saguache County has determined that oil and gas development and production activities
27 inherently include a realistic potential for serious and long term damage to the health of the
28 citizens, environment water source and wildlife of Saguache County. This potential for
29 damage is unlike that associated with any other permitted activity in the County.

30 Oil and gas operations pose a unique and specific potential for accidents, unforeseen events
31 and the potentially significant damage that may result from them. Therefore the Board of
32 County Commissioners, pursuant to C.R.S. Sec. 30-29-123, exercises its authority as the
33 local jurisdiction governing land use development, to augment COGCC-required financial
34 assurances in order to ensure fulfillment of the State's mandate to protect the public's health,
35 the environment, wildlife and water from adverse impacts of oil and gas exploration and
36 development activities, as well as the Board's fiscal responsibility for the County.

37 **9.3.1. Bonding.** To ensure compliance with the mitigation and other performance
38 requirements of this Section and the specific conditions for approval for all facilities,
39 the applicant, to become a permitted Operator, shall provide such security as set
40 forth in this Section,;

41 **9.3.1.1. Performance Bonds.**

- 42
43 a. A performance bond in the amount of at least \$10,000; and
44 b. an additional, site specific performance bond which shall be 100% of the
45 estimated actual cost of plugging and abandoning wells, removal of surface

1 facilities and restoration of disturbed surface areas. The amount of such
2 bonds will be based upon cost estimates provided by the Operator subject to
3 review and approval by the County and subject to increase or decrease based
4 upon revised cost estimates required to be provided by Operator on an
5 annual basis, dating from initial approval of the application, but in no case
6 shall be less than the current COGCC-required per well amount.

- 7 c. As a condition of approval, the required performance bond(s) shall be in place
8 before any activity permitted by the approval commences. The performance
9 bond shall remain in place until all obligations contemplated by the bond
10 have been fulfilled to the satisfaction of the County and, in the case of
11 plugged and abandoned wells, for 5 years thereafter.
- 12 d. The form of the performance bond shall consist of cash, certificates of deposit,
13 an irrevocable letter of credit or equivalent financial security acceptable to
14 the County.
- 15 e. Bonds provided to the Colorado Oil and Gas Conservation Commission may
16 be applied against bonding requirements of this Section provided they are for
17 the purposes specified above and they are in a form approved by the County.
- 18 f. Upon notification by Operator that obligations contemplated by the bond
19 have been fulfilled or that work contemplated by the bond will not be
20 necessary, the County shall have 90 days to accept or reject Operator's
21 request to reduce or retire the bonding requirement.

22
23 | **9.3.1.2. Road Mitigation Bond.** In addition to the performance security described
24 above, if the Minor or Major Facility will utilize County roads to access the
25 facility, a road mitigation bond may be required to ensure adequate repair and
26 restoration of County roads from any damages due to facility-related use, as
27 stipulated in Section 8.5.6.7. Any road mitigation bond requirement will be
28 determined on an application-by-application basis depending upon roads
29 utilized, miles traveled, type of Facility to be operated, weight of vehicles and
30 the traffic generated thereby.

31 For a Major or Minor Facility, the road mitigation bond shall be determined by
32 the Board of County Commissioners, in consultation with the County Road and
33 Bridge Supervisor and/or, if deemed necessary, a licensed civil engineer, as part
34 of the approval of the Facility.

35
36 **9.3.1.3. Emergency Response Bond.**

- 37 a. Operators will also be required to post bonds sufficient to cover the estimated
38 cost of emergency response to hazardous material spills, fires and accidents
39 that may reasonably be expected to have a significant chance of occurrence.
40 The amount of such bonds will be determined on a case-by-case basis by the
41 designated County authority taking into consideration the nature and scope
42 of risks imposed by the operations.
- 43
44 b. In the event that the County determines that neither the Operator or its
45 Subcontractors nor the County is capable of providing adequate emergency
46 response, the Operator will be required to provide a contract with a party
47 capable of providing the unmet response need, subject to the approval of the
48 County, in addition to a bond to cover emergency response costs that the
49 County is able to provide. The county may revise the amount of the required

1 bond or the requirement for an emergency response contract at any time
2 based upon new information by giving 30 days notice. If Operator or
3 Subcontractor fails to comply with any new requirement at the end of the
4 notice period, operations shall be suspended until such time as the new
5 requirement is met.

6 **9.3.1.4. Transfer of Interest.** An Operator shall not be allowed to transfer its interest
7 in, nor be replaced as Operator of permitted oil and gas facilities unless and until bonding
8 requirements for the transferee or new operator have been set by the County and met
9 prior to the date of transfer or replacement.

10
11 **9.3.2. Indemnification and Liability Insurance.** The Operator shall provide or cause to be
12 provided the insurance described below for each well for which an Oil/Gas Drilling Permit is
13 issued, such insurance to continue until the well is abandoned and the site restored.

14
15 **9.3.2.1. Indemnification and Express Negligence Provisions.** Each permit for an
16 Oil and Gas operation issued by the County shall include the following language:
17 “Operator does hereby expressly release and discharge all claims, demands, actions,
18 judgments, and executions which it ever had, or now has or may have, or its
19 successors or assigns may have, or claim to have, against Saguache County, and/or its
20 departments, its agents, officers, servants, successors, assigns, sponsors, volunteers,
21 or employees, created by, or arising out of personal injuries, known or unknown, and
22 injuries to property, real or personal, or in any way incidental to or in connection
23 with the performance of the work performed by the Operator under an Oil and Gas
24 Operations Permit issued by the County, or caused by or arising out of, that sequence
25 of events which occur from the Operator’s actions under the Oil and Gas Operations
26 Permit or work performed by the Operator. The Operator shall fully defend, protect,
27 indemnify, and hold harmless Saguache County and/or its departments, agents,
28 officers, servants, successors, assigns, sponsors, or volunteers, or employees from and
29 against each and every claim, demand, or cause of action and any and all liability,
30 damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses
31 incurred in defense of Saguache County and/or its departments, its agents, officers,
32 servants, successors, assigns, sponsors, volunteers, or employees, including, without
33 limitation, personal injuries and death in connection therewith which may be made or
34 asserted by Operator, its agents, assigns, or any third parties on account of, arising
35 out of, or in any way incidental to or in connection with the performance of the work
36 performed by the Operator under an Oil and Gas Operations Permit and the Operator
37 agrees to indemnify and hold harmless Saguache County and/or its departments, its
38 agents, officers, servants, successors, assigns, sponsors, volunteers, or employees from
39 any liabilities or damages suffered as a result of claims, demands, costs, or judgments
40 against the County and/or, its departments, its agents, officers, servants, successors,
41 assigns, sponsors, volunteers, or employees, created by, or arising out of the acts or
42 omissions of Saguache County occurring on the Drill Site or Operation Site or in the
43 course and scope of inspecting and permitting the oil/gas wells including, but not
44 limited to, claims and damages arising in whole or in part from the sole negligence of
45 Saguache County occurring on the drill site or operation site or in the course and
46 scope of inspecting and permitting the oil/gas wells. It is understood and agreed that
47 the indemnity provided for in this section is an indemnity extended by the operator to
48 indemnify and protect Saguache county and/or its departments, agents, officers,
49 servants, successors, assigns, sponsors, volunteers, or employees from the

1 consequences of the negligence of Saguache County, its departments, agents, officers,
2 servants, successors, assigns, sponsors, volunteers, or employees, whether that
3 negligence is the sole or contributing cause of the resultant injury, death, and/or
4 damage. Liability for the sole negligence of the county in the course and scope of its
5 duty to inspect and permit the oil/gas well is limited to the maximum amount of
6 recovery under the tort claims act.”
7

8 **9.3.2.2. Liability Insurance.** Operators shall be required to carry insurance against
9 personal injury, property damage, environmental damage and general liability in
10 amounts to be determined by the County in reasonable relationship to the risks
11 presented by the scope of operations to be permitted. This amount shall be subject to
12 annual review and revision by the County and shall be reviewed and may be revised at
13 any time following an incident involving substantial damage. All drilling, oil service,
14 waste disposal or other Subcontractors employed by the Operator shall be subject to
15 insurance requirements bearing a reasonable relationship to the nature and scope of
16 work to be done for the operator as evidenced by the contract with Subcontractor which
17 shall be submitted to the County at least 30 days prior to commencement of any work.
18 The Operator shall be required to provide prior notice to the County of at least 30 days
19 of any new subcontractor or increase in the scope of work of an existing subcontractor.
20 No work shall commence until the County requirement for insurance has been
21 determined and evidence of insurance has been submitted to the County Land Use
22 Department from an insurer licensed to operate in the State of Colorado. Required
23 insurance coverage shall be provided by insurers with an A. M. Best rating of at least A
24 (VIII) or by a self-insurance program approved by the Colorado Insurance Commission
25 and re-approved on an annual basis. Insurance certificates shall require at least 30 days’
26 notice to the County prior to termination of coverage for any reason and shall include
27 the County as a named insured. The amount of any deductibles and the existence of any
28 exclusions is subject to approval by the County as reasonably within the financial
29 responsibility of the Operator or Subcontractor. Insurance and self-insurance programs
30 shall be reviewed annually and insurance requirements may be revised at any time based
31 on changed circumstances with 30 days notice. If new insurance requirements are not
32 met within the 30 days notice period, the affected operations of Operators or Sub-
33 contractors shall be terminated until such time as the new insurance requirement is met.
34

35 **9.3.2.3. Minimum insurance guidelines.** (Subject to application on a case-by-case
36 determination and annual revision or revision at any time with 30 days notice based a
37 changed scope of activities or new information regarding hazards). Nothing in this
38 section is intended to limit the liability of the operator to the listed amounts, in the
39 event that damages exceed them. The County reserves the right to pursue every
40 means available to recover actual costs associated with damages of any kind related to
41 the oil and gas operation from any and all responsible and/or interested parties.

42 a. **General Liability** – Coverage should be a minimum Combined Single Limit of
43 \$1,000,000 per person per occurrence for bodily injury and property damage with
44 total coverage per occurrence equal to \$1,000,000 times the number of people who
45 may be at risk at any one time, as determined by the County based on Operator or
46 Subcontractors scope of operations. The policy should carry a maximum
47 deductible of \$25,000.

48 b. **Well control.** \$5,000,000 per occurrence. In addition, a well control service
49 contract with a well control service provider approved by the COGCC must be

1 submitted. A combined well control service/well control insurance contract is
2 preferred.

3 c. **Environmental liability.** Not less than \$1,000,000 per occurrence per well
4 with a deductible of no greater than twenty five thousand dollars (\$25,000)
5 per occurrence. Environmental Impairment (or Seepage and Pollution) shall
6 be either included in the coverage or written as separate coverage applicable
7 to bodily injury and property damage, including loss of use of that damaged
8 property or of property that has not been physically injured or destroyed;
9 cleanup costs; and defense, including costs and expenses incurred in the
10 investigation, defense or settlement of claims; all in connection with a loss
11 arising from the insured site. . Such coverage shall not exclude damage to the
12 lease site. Coverage shall apply to sudden and non-sudden pollution
13 conditions resulting from the escape or release of smoke, vapors, fumes, acids,
14 alkalis, toxic chemicals, liquids or gases, waste material or other irritants,
15 contaminants or pollutants.

16 d. **Excess (or Umbrella) Liability Insurance** – for coverage above the limits of or
17 not included in other coverage’s, a minimum of \$10,000,000 per occurrence.

18 **9.3.2.4. Certificates and Policies of Insurance.** Certificates of insurance must be
19 provided to the County Land Use Department evidencing all coverage and
20 endorsements required by this section with the Oil and Gas Drilling Permit
21 Application, and the acceptance of a certificate without the required limits and/or
22 coverage shall not be deemed a waiver of these requirements. Copies of original
23 policies confirming coverage must be provided prior to the issuance of a Permit.

24 **9.3.2.5. Failure to Maintain Insurance Cause for Revocation of Permit.** Substantive
25 violations (that is, a failure at any time for any reason) to have in force required
26 insurance coverage shall result in revocation of the permit to operate and all permitted
27 operations shall cease consistent with safety considerations until a valid insurance
28 certificate has been supplied to the County Land Use Department. In addition, as a
29 condition to reinstate the permit, the Operator or Subcontractor shall be subject to
30 payment of a per diem fine to be set by the County Commissioners according to the
31 scale and scope of the operation, for each day of operation without required insurance
32 coverage in force, and a showing that they have a plan in place to insure that future
33 violations will not occur.

34 **9.3.2.6. Operators and Subcontractors Dually Responsible.** For clarity, the
35 performance of any work on Operator’s premises by a Subcontractor who has not met
36 fully met these requirements in advance shall be deemed a substantive violation by the
37 Operator and may also be deemed a substantive violation by the Subcontractor or
38 grounds for refusal to approve operation in the County by Subcontractor.

39 **9.3.2.7. Responsibility of Parent Companies and Non-operating Economic Interests.**
40 Any Operator or Subcontractor who is a subsidiary of another company shall provide
41 a guarantee of its obligations from its parent company. Any non-operating entity
42 which has a financial interest of any kind in Operator’s activities may be required by
43 the County to demonstrate financial responsibility appropriate to the nature and
44 extent of its interests as determined by the County which may include but is not
45 limited to liability insurance coverage. Oil and gas operations permit applicants are
46 required to disclose in their application the existence and nature of any non-operating
47 economic interests and any new such interests that are to be created at least 60 days

1 before the effective date. The County may impose insurance or other financial
2 responsibility requirements on the non-operating interest holder as a condition of the
3 continuing validity of Operator’s permit.

4
5 **XXI.10. Exceptions/Limitations/Amendments/Penalties**

6 **10.1. Special Exception Requests:**

7 10.1.1. The applicant may request special exceptions to provisions of this Article. All
8 applications where a special exception is requested will be processed as a major
9 facility. Requests for special exceptions for proposed facilities may include, but not
10 be limited to, one or more of the following factors:

- 11 10.1.1.1. Topographic characteristics of the site;
- 12 10.1.1.2. Duration of use of the facility;
- 13 10.1.1.3. Proximity of the facility to occupied structures;
- 14 10.1.1.4. Ownership status of adjacent and/or affected land;
- 15 10.1.1.5. Construction of adequate infrastructure to serve the project; or
- 16 10.1.1.6. Planned replacement and/or upgrading of facility equipment.

17
18 10.1.2. If the Board of County Commissioners finds, based upon competent evidence in
19 the record, that compliance with certain portions of this Article is impossible, a
20 special exception may be granted for a period of time not to exceed six (6) months.
21 Upon completion of the six (6) month period, the application shall receive
22 additional review by the County. The Board of County Commissioners, upon
23 showing of good cause by the applicant, may:

- 24 10.1.2.1. Further extend the special exception;
- 25 10.1.2.2. Require that the facility be brought into compliance with the performance
26 standards; or
- 27 10.1.2.3. Revoke the special exception approval.

28
29 **10.2. Operational Conflicts Special Exception:** Special exceptions to this Section may be
30 granted where the requirements of the section actually conflict in operation with the
31 requirements of the Oil and Gas Conservation Act (“Act”) or implementing regulations.
32 All applications where a special exception due to operational conflicts is requested shall be
33 processed as a major facility and heard in a noticed public hearing by the Board of County
34 Commissioners. The applicant shall have the burden of pleading and proving both an
35 actual, material, irreconcilable operational conflict between the requirements of this
36 Section and those of the Act or the Colorado Oil and Gas Conservation Commission
37 (“COGCC”) in the context of a specific application, and that compliance with the COGCC
38 Act alone adequately fulfills the County’s responsibilities to protect and promote the
39 health, safety, and convenience, order, prosperity and general welfare of the present and
40 future residents of the county. For purposes of this section, an operational conflict exists
41 where the County condition of approval or regulation actually conflicts in operation with
42 the state statutory or regulatory scheme, and such conflict would unreasonably materially
43 impede or destroy the state’s interest in the development, production, and utilization of oil
44 and gas resources in the state, and the protection of the public health, safety and welfare.
45 An operational conflict may occur where the County regulation prohibits an activity,
46 which the COGCC, or its valid regulations, has clearly authorized, or authorizes an
47 activity, which the COGCC, or its valid regulations, has clearly prohibited. Additional
48 County requirements in areas regulated by the COGCC, which also fall within County

1 land use powers and which are necessary to protect the public health, safety and welfare
2 under the facts of the specific application presented, and which do not impose
3 unreasonable burdens on the applicant, shall be presumed not to present an operational
4 conflict. If the Board of County Commissioners finds, based upon competent evidence in
5 the record, that compliance with the requirements of this Article shall result in
6 operational conflicts with the state statutory and regulatory scheme, a special exception to
7 this Article may be granted, in whole or in part, but only to the extent necessary to
8 protect the State's demonstrated compelling interest or to alleviate that burden on the
9 applicant that has been found to be unreasonable. The Board of County Commissioners
10 may condition the approval of a special exception as necessary to protect the public health,
11 safety and welfare by mitigating any adverse impacts arising from the grant of approval.

12 **10.3. Limitations.**

13 **10.3.1. General.** Issuance of a minor or major oil and gas facility permit shall authorize only
14 the well(s) and/or related facilities for which it is issued.

15 **10.3.2. No Authority to Reenter Abandoned Well.** An Oil/Gas Drilling Permit shall not
16 constitute authority for the re-entering and drilling of an abandoned well. Re-entry and
17 drilling of an abandoned well shall require a new Oil/Gas Operations Permit. Any shut in or
18 temporarily abandoned well approved by the COGCC Director pursuant to COGCC Rules
19 section 319.b. shall not be considered an abandoned well for the purposes of this section.

20 **10.3.3. Permit Duration.** Oil and gas operations shall be commenced within one (1) year of
21 the date of approval. Failure to commence the permitted activity within one (1) year shall
22 cause the permit to expire. A new permit may be approved subject to the submission and full
23 review of a new application.

24 **10.3.4. Validity.** The permit shall be valid for as long as the applicant maintains the
25 conditions of approval. If the Colorado Oil and Gas Conservation Commission does not
26 approve the project, then the County's permit will be terminated.

27 **10.3.5. Violations.** If the conditions of approval of the permit are not maintained, the
28 applicant shall be considered in violation of these regulations and the permit subject to the
29 penalty and revocation provisions of this Code.

30 **10.4. Amendments.**

31 10.4.1. Where a minor or major facility has been approved and the applicant desires to modify
32 the subject facility by changes to equipment, site layout, approved operating plan, etc., an
33 amendment to the original application shall be required if the level of impact will be
34 increased as a result of the modification. The activity described in the amendment to a
35 minor or major facility will be granted administrative approval if it complies with the
36 standards herein. (In cases where the amendment would consist of the addition of a major
37 facility, review shall be required as for a new major facility.

38 10.4.2. The Land Use Department may approve minor amendments to an approved oil and gas
39 facility. Authorized minor amendments include those that do not alter the basic intent
40 and character of the approved permit, are consistent with the performance standards
41 herein, are deemed necessary in light of technical and engineering considerations first
42 discovered during actual construction, and could not have been reasonably anticipated
43 during the initial review process.

1 10.4.3. Minor amendments must comply with all relevant Saguache County regulations. Minor
2 amendments may include, but are not limited to, variations in the location of the well pad
3 which do not decrease the approved setback to residential or commercial structures,
4 minor changes to equipment which do not increase the cumulative horsepower rating to
5 greater than fifty (50) bhp, deviations to the location of access roads which are wholly
6 contained on site and are approved by the owner of the surface rights, and modifications
7 to the visual mitigation plan which do not adversely impact adjoining property owners or
8 the general public.

9 10.4.4. Modifications which the applicant determines in good faith are required in order for the
10 facility to continue operating and must be done immediately in order to maintain the
11 existing level of production, may be done on an emergency basis, without prior notice to
12 or approval by the Land Use Department, provided that such modifications do not include
13 the addition of equipment or operation of the facility which would exceed those defined in
14 Section 6.2.11. The applicant shall provide the Land Use Department with notification of
15 emergency modifications by filing a written amendment to the application, specifying the
16 modifications made, within two (2) working days of their completion.
17
18

19 **10.5. Penalties and Enforcement:**

20 **10.5.1. Civil Action:** In case any building or structure is or is proposed to be erected,
21 constructed, reconstructed, altered or used, or any land is or is proposed to be used, in
22 violation of any provision of this Section; or an Applicant fails to comply with any other
23 provisions of this Section or the Saguache County Land Use Code or fails to comply
24 with any conditions placed upon any approval of a Facility, the County Attorney, or
25 where the Board of County Commissioners deems it appropriate, the district attorney, in
26 addition to the other remedies provided by law, ordinance or resolution, may institute
27 an injunction, mandamus, abatement or other appropriate action or proceeding to
28 prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction,
29 alteration or use. In the event that enforcement action is required to be taken under the
30 provisions of this Section, Saguache County shall be entitled to collect its reasonable
31 attorneys fees and costs incurred in any such action from the Operator

32 **10.5.2. False or Inaccurate Information:** The Board of County Commissioners may revoke
33 approval of a facility if it is determined at a public meeting, held on at least ten days
34 notice to the applicant, that the applicant provided information and/or documentation
35 upon which approval was based, which the applicant, its agents, servants and employees
36 knew, or reasonably should have known, was false, misleading, deceptive or inaccurate.
37 The applicant and the Land Use Department shall be provided with an opportunity to
38 be heard at the public meeting prior to the Board of County Commissioners' rendering
39 its decision.

40 41 **XXI.11. CONDUCT OF PUBLIC HEARING.** A public hearing shall be conducted in 42 accordance with the following process: 43

44 **11.1. Rights Of All Persons.** Any person may appear at a public hearing and submit
45 evidence, including oral testimony, either individually or as a representative of an
46 organization. Comment may also be submitted in written form before or during the
47 hearing, or within a period of time after the hearing has closed as designated by the
48 review body chairperson.

1 **11.2. Order Of Proceedings.** The order of the proceedings shall be as follows:

2 **11.2.1. Applicant’s Presentation.** At its option, the applicant may make an oral or a
3 written presentation that informs persons at the hearing of the nature, location,
4 and scope of the proposed Operation. This presentation shall not be made by
5 County staff or consultants, and may be waived by the Chairperson if there are
6 no members of the public at the hearing, and the applicant has previously
7 explained the proposed Operation to the review body conducting the hearing.

8 **11.2.2. Questions by Review Body.** The review body may ask questions of the Land
9 Use Department, or the applicant, or anyone else who is present.

10 **11.2.3. Public Comments.** Public comments shall be heard. Written comments that
11 have been received at least 5 business days prior to the date of the hearing shall
12 be reported by the Land Use Department and acknowledged to be part of the
13 hearing record.

14 **11.2.4. Ex Parte Communications.** Members of decision-making bodies shall not
15 engage in *ex parte* communication about applications under review or reasonably
16 anticipated to come under review. If an *ex parte* communication is attempted by
17 telephone, in person, by telefax or other means outside of a regularly scheduled
18 meeting, the member of the decision-making body involved shall first attempt to
19 stop the party from the prohibited behavior, then document the communication
20 and notify the Land Use Administrator by telephone or in written form. The
21 Land Use Administrator shall then enter that documentation into the public file.
22 The Land Use Administrator shall report that documentation at the next
23 meeting or hearing on the subject application. No *ex parte* communication shall
24 be considered by a decision-making body, or any of its members, in making a
25 decision on an Oil and Gas Permit matter.

26 **11.2.5. Applicant Response.** The applicant may respond to any comments made by
27 the public, the Land Use Department, or the review body.

28 **11.2.6. Land Use Department Response.** The Land Use Department may respond to
29 any statement made by the applicant, the public, or the review body.

30 **11.3. Time Limits for Testimony.** The chairperson conducting the public hearing shall
31 set reasonable time limits for testimony or presentation of evidence. If any testimony
32 or evidence is so limited, the person offering that testimony or evidence shall have an
33 opportunity to enter it into the record in writing at the public hearing.

34 **11.4. Continuance of Public Hearing.** At the conclusion of the hearing, the body
35 conducting it may continue the public hearing to a fixed date and time. An applicant
36 shall have the right to request, and be granted on a showing of good cause, one
37 continuance of each required hearing. All subsequent continuances shall be granted at
38 the discretion of the body conducting the public hearing and upon a finding that good
39 cause has been shown for the continuance.

40 **11.5. Closure of Public Hearing and Acceptance of Written Testimony after**
41 **Closure.** If the hearing is not continued, it shall be closed. At the close of the hearing,
42 the chairperson of the body conducting the hearing may leave the record open for a
43 defined period of time during which only written comment will continue to be
44 accepted. If no such time period is defined, no further written comment shall be
45 accepted after the hearing is closed, except that any public comments received in

1 writing prior to the hearing, but after the report prepared by the Land Use
2 Department pursuant to Section 11.2.3. shall be included in the record.

3 **11.5.1. No *Ex Parte* Comments Accepted.** The chairperson shall announce that
4 there shall be no *ex parte* comments accepted by members of the decision-making
5 body.

6 **11.5.2. All Written Comments Received become Part of Record.** All written
7 comments, along with supporting data and references, received within the
8 specified comment period shall be made a part of the record and shall be available
9 for public inspection at the Planning Department when the hearing was
10 conducted by the Planning Commission. When the hearing was conducted by the
11 Board, copies of all such comments shall be available at the Administration Office.
12 All timely written submittals shall be made a part of the record of the proceeding.

13 **11.5.3. Record of Public Hearing.** The body conducting the public hearing shall
14 record the public hearing by any appropriate means, including audiotape or
15 videotape, and written minutes. The written and taped record of oral proceedings,
16 including testimony and statements of personal opinions, the minutes of the
17 hearing and other meetings of the review body, all applications, exhibits, and
18 papers submitted in any proceeding before the decision-making, administrative, or
19 review body, the Land Use Department's report, and the decisions of the review
20 and decision-making bodies, shall constitute the record. Those materials, on
21 presentation to the County, shall become the public property of the County and
22 shall not be removed from County possession without proper written
23 authorization from the custodian of the record.

24 **11.5.4. Materials Are Part Of Public Record.** Said materials shall be public information,
25 available to the public at the Land Use Administration office during regular business
26 hours. The Department, as official custodian of those records, may make such rules
27 with reference to the inspection of such records as are reasonably necessary for the
28 protection of such records and the prevention of unnecessary interference with the
29 regular discharge of the duties of the Land Use Department.