



**SANDOVAL COUNTY PLANNING AND ZONING COMMISSION
JANUARY 28, 2016 PUBLIC HEARING**

To: Sandoval County Planning and Zoning Commission

From: Sandoval County Planning and Zoning Division Staff

Date: January 28, 2016

SUBJECT: ZNCH-15-003 Request by SandRidge Exploration and Production LLC, Linda McDonald agent, for approval of a Zone Map Amendment from CD-RRE (Rio Rancho Estates Community District) to SU (Special Use) for an Oil Exploration and Production Facility for approximately 2 acres located within Rio Rancho Estates and west of the Rio Rancho municipal limits, Unit 1, Block 30, Lots 1, 2, and 3, Rio Rancho Estates Subdivision.

This request is continued from the December 10, 2015 Planning and Zoning Commission public hearing, where the Commission focused their review on the Exploration aspect of the proposed Oil and Gas Facility. The January 28, 2016 public hearing is intended to facilitate the Commission's review of the Production aspect of the proposed use. This report, issued for the December 10, 2015 public hearing, has been revised to include information on the Production aspect of the proposed use.

FACTS:

This request involves approximately 2 acres in Unit 1, Block 30, Lots 1, 2, and 3, Rio Rancho Estates subdivision, located approximately 5.7 miles west of the municipal limits of the city of Rio Rancho, and north of the intersection of Northern Boulevard and Encino Road. The named Rio Rancho Estates Lots and Blocks comprising the subject site are currently owned by Outer Rim Investments, Inc., a subsidiary of AMREP Southwest Company. Outer Rim Investments, Inc. has authorized SandRidge Exploration and Production LLC to apply for this zone change request as part of a lease agreement between AMREP and SandRidge. The proposed Oil Exploration and Production Facility is designed for a site of approximately two (2) acres, to contain one (1) drilling facility, and storage facilities for oil and water. The site is not proposed as a refinement facility. Any oil produced by the proposed facility will be stored on site until moved from the site by truck. The site is located approximately 1.05 miles northwest of the PNM Solar Energy Facility, and approximately 2.25 miles from the PNM Electrical Switching Station.

The Encino Road corridor has a history of utility and energy facility development. In the 1930's, the Southern Gas Company extended a regional natural gas line through this area along the east side of Encino Road. The regional natural gas line is connected to a PNM natural gas compression facility located at the intersection of Encino Road and Idalia Road in Unit 9 of Rio Rancho Estates subdivision which was approved for Special Use (SU) zoning by the Board of County Commissioners in 2007 (ZNCH-07-003). The PNM Electrical Switching Station was approved for Special Use (SU) zoning by the Board of County Commissioners in 1996, and was later expanded to incorporate additional acreage for facility expansion and for buffer area in 2009 (ZNCH-09-001). The Planning and Zoning Commission also approved a request for a Conditional Use Permit in 2000 for a small telecommunications facility (Pathnet Company) immediately to the north of the PNM switching station which connects a regional data fiber optic line from the Four-Corners Region into the Albuquerque metropolitan area (CU-00-003). The fiber optic line runs along the west side of Encino Road, and is underground on the west side of Encino road on the subject site.

In 2001, the Board of County Commissioners established the Rio Rancho Estates Community District, a residential district, covering the entire Rio Rancho Estates subdivision area, not including the SU-zoned utility sites, to establish specific urban development standards and limits on the number of domestic water well connections.

In February 2014, the Board of County Commissioners approved a request for SU (Special Use) zoning for a PNM Solar Energy Facility (ZNCH-14-001) which is located approximately 1.05 miles south of the subject site on Encino Road.

In September 2014, the Board of County Commissioners adopted the Rio Rancho Estates Area Plan (RREAP) by Resolution 9-18-14.10C. The RREAP establishes land use policy for all privately-owned lands within the County portion of Rio Rancho Estates Subdivision, including Unit 1.

Sand Ridge has received an approved Oil Exploration permit from the New Mexico Energy, Minerals and Natural Resources/Oil Conservation Division (NM OCD) was approved on November 10, 2015, and has an expiration date of November 10, 2017. In the event that the applicant received approval of this zone change request by the Board of County Commissioners, the applicant will be required to receive approval for an Oil Production permit from NM OCD.

REVIEW OF REQUEST:

The Sandoval County Planning & Zoning Commission must consider the appropriateness of the requested Special Use (SU) zoning for the subject site. Staff will present information contained in the Sandoval County Comprehensive Plan, the Sandoval County Comprehensive Zoning Ordinance, the Rio Rancho Estates Area Plan, as well as information from other applicable regulations and policies, to the Planning and Zoning Commission. The Planning and Zoning Commission will vote on a staff recommendation on this case. Requests for Special Use (SU) zoning are reviewed and voted on by the Planning and Zoning Commission as a recommendation to the Board of County Commissioners, which may grant final approval of this request.

The applicant has submitted material for review of this request that includes narrative information, photos, and a land use site plan.

The applicant has also submitted additional information regarding the Production aspect of the facility as requested by staff.

REVIEW OF REQUEST - PLANS, POLICIES, AND REGULATIONS:

Sandoval County Comprehensive Plan:

The following policies in the Sandoval County Comprehensive Plan are applicable to this request:

Section I: Land Use and Natural, Historic, and Cultural Resources.

B. POLICY:

*“Sandoval County shall retain a prevailing rural residential character while promoting an orderly development of business and industry **in appropriate locations.**” (emphasis added) (p. 7).*

STRATEGIES:

3. *“Development decisions shall be based on impact on surrounding land uses, particularly in residential and agricultural areas, air and water quality considerations, effect on public health and safety, and the availability of public services and adequate infrastructure” (p. 7).*

The preceding history of utility and energy development in the area serves as the basis for compliance with the Sandoval County Comprehensive Plan. This area has been selected as appropriate for utility and energy facility development based on case history and review. Utility and energy developments in this area (electricity, natural gas distribution) have not adversely impact residential or agricultural areas, and also have not adversely impact natural resources.

The proposed design and operation of the Oil Exploration and Production Facility will be reviewed specifically for the potential for impact on the surrounding area and the area’s natural resources.

Rio Rancho Estates Area Plan:

The Rio Rancho Estates Area Plan (RREAP) is a policy plan for the County’s jurisdiction of the Rio Rancho Estates subdivision area. With an area of over 43,000 acres, the RREAP is a policy guide for the area’s future development. Policies in the RREAP address issues including preservation of existing neighborhoods, future residential and non-residential development, and water conservation.

The subject site is identified in Section 12, Plan Concept, as a Water Conservation Area/Open Space Area for the following purposes (see attached map, area is solid green):

“The Water Conservation Area/Open Space Area is proposed as a public open space reserve for water conservation...Light industrial/assembly low-water uses on private land are encouraged

adjacent to arterial roadways, provided that these uses receive their water from sources outside the Estates area “(RREAP, p. 40).

The proposed Oil and Gas Exploration and Production Facility will utilize water purchased from the City or Rio Rancho, and the water will be moved to the site by truck and loaded into water storage tanks for facility use. The facility is designed to not utilize ground water in any aspect of its operation. All waste products from the drilling operation will be moved from the site by truck and disposed at the TNT Environmental Disposal site in Lindrith, NM, north of La Jara.

While the proposed Oil and Gas Exploration and Production Facility is not a light industry/assembly use, the location of the proposed use is in an area of electrical and natural gas facility developments which do not utilize any ground water for their operations. As the proposed use will also not utilize ground water for any aspect of its operation, the proposed use has this similarity to existing energy facilities which supports the water conservation element for new industrial-type development as recommended in the RREAP.

Sandoval County Comprehensive Zoning Ordinance:

Section 10, Special Use District, Comprehensive Zoning Ordinance, establishes that the Special Use district “...*accommodates developments that require special consideration because of their magnitude, unusual nature, ...questionable impact on surrounding property...*” The proposed Oil Exploration and Production Facility would be the only oil facility in the Plan Area, and would also be situated in an area where other utility and energy facilities, under Special Use zoning, are located. The proposed Oil Exploration and Production Facility is designed for oil exploration, production and temporary oil storage.

Under the Special Use District, the Board of County Commissioners “...*may not grant a Zone Map Amendment for establishment of a Special Use District unless satisfactory provisions have been made:*” (The applicant has submitted narrative responses to these criteria and are entered below):

“1. *To assure that compatibility of property uses shall be maintained in the general area;*”

The applicant’s response is the following: “The amendment of the zoning ordinance will be compatible with the surrounding area and will not impact current land use in the general area. The land will be used for exploration and production of hydrocarbons and, if successful, will consist of low profile equipment necessary for the production of hydrocarbons. Initial stages of the project will require increased volume of activity in the immediate area for the first 90 days, and will be minimal thereafter.”

Staff's comments:

The site of the proposed Oil Exploration and Production Facility is currently zoned Rio Rancho Estates Community District (CD-RRE), a single-family residential district. All of the land within 500 feet of the perimeter of the subject site is under this zone and is vacant, with the exception of one storage building. The surrounding area includes electrical (PNM Regional Switching Station, PNM Solar Energy Facility) and natural gas (New Mexico Gas Company regional natural gas distribution line and compression station). As such, the proposed use is located within an existing energy industrial area. As the proposed use will also not utilize ground water for any aspect of its operation, the proposed use has this similarity to existing energy facilities which supports the water conservation element for new industrial-type development as recommended in the RREAP.

“2. To preserve the integrity and character of the area in which the Special Use District will be located, and the utility and value of property in the Special Use District and in adjacent zone districts;”

The applicant's response is the following: “SandRidge ensures the preservation of the integrity and character of the area in which the Special Use District will be located. The proposed Project will be located between two large-scale industrial uses, as indicated on Map 1. The proposed Project will have a minimal foot print on the property; approximately 2 acres. Additionally, SandRidge will conduct business in a manner that is environmentally friendly.”

Staff's comments:

The proposed Oil Exploration and Production Facility is in the vicinity of other utility and energy developments. Environmental issues will be addressed in later sections of this report.

“3. To assure that the Special Use District will not become detrimental to the public health, safety, or general welfare of the County.”

The applicant's response is the following: “In reference to the Sandoval County Comprehensive Zoning Ordinance document, the proposed Project is permitted as a Special Use District (Section 10 (D) (13), page 34). If successful, the Proposed Project will benefit the public and general welfare of the County by contributing to the economic development in this area.”

SandRidge has also submitted the following Production information: “The full capacity of production for the exploratory well is not expected to exceed 500 barrels of oil per day (BOPD); two million standard cubic feet of gas per day flared onsite temporarily and 1000 barrels of water per day (BWPD). The above mentioned is a maximum delivery case for the vertical test well only. Production will most likely be less than what is referenced above.”

Staff's Comments:

The permit for Oil Exploration issued by the New Mexico Energy, Minerals and Natural Resources/Oil Conservation Division (OCD) was approved on November 10, 2015, and has an expiration date of November 10, 2017. The applicant has a 2-year time period within which to perform Exploratory procedures for oil and gas under the OCD permit. The applicant has indicated that natural gas discovered in the well will be flared (ignited into flame) for a period of time. The applicant has submitted a Site Safety Plan and H2S Safety Plan for the subject site.

The applicant has also indicated that the process of hydraulic fracking may be used in the Exploratory and/or Production phases of the oil drilling operation. The County has noted in the industry literature that seismic activity has been connected most often to the operation of waste disposal injection wells, and less often to the operation of an oil drilling facility. The County has also noted that there is concern with the chemical content of material used in the hydraulic fracking process and the potential for the chemical components to contaminate ground water resources. In the County's research with the New Mexico Environment Department (NMED), the County has learned that in the last ten (10) years, there have been a total of eleven (11) incidents related to the oil industry in the State: 1 was "unknown"; 5 were from pipelines; 4 were from pits; 1 was from a tank; and 1 was from "oil", which may relate to an oil well. While the operation of any industrial-type uses carry degrees of danger and risk, incidents within the oil industry in the State of New Mexico have not been numerous.

4. *To assure that the Special Use District will not conflict with the Sandoval County Comprehensive Plan or any other applicable land use plans adopted by the County.*"

Staff's Comments:

The applicant's previous comments establish the compatibility of the proposed Oil Exploration and Production Facility with policies in the Sandoval County Comprehensive Plan and the Rio Rancho Estates Area Plan.

Section 19, Amendments, Subsection F, Guidelines, of the Comprehensive Zoning Ordinance states that the Board of County Commissioners "...shall not approve a Zone Map Amendment unless satisfactory provision has been made concerning the following, where applicable:"

1. *"Accessibility to property and proposed structures thereon, with particular reference to pedestrian safety, traffic control, and emergency access in case of fire, flood, or catastrophe;"*

The site plan for the proposed Oil Exploration and Production Facility indicates access to the subject site from 24th Street to Encino Road, a County maintained roadway. With the exception of one storage building in the vicinity, there are no adjoining developments to the subject site and all traffic will move to and from the site on public streets.

The applicant provided road routing information in the initial application submittal which illustrates a route for delivery of water to the site, and movement of oil and waste materials from the site through Encino Road, King Boulevard, Rainbow Road, Prospect Boulevard, Unser Boulevard, and U.S. 550 (see enclosed route map). The applicant has also provided additional Production-related information regarding traffic movement:

"Oil will be delivered via truck to oil transportation centers. SandRidge anticipates three to four (3-4) oil trucks per day will be necessary to transport oil production, and eight to nine (8-9) water trucks per day will be necessary to transport produced water".

The above noted and illustrated service route is approved by the County for the Exploration phase of the operation only. Staff recommends that the applicant establish a Road

Maintenance Agreement with the County and the City of Rio Rancho as a Condition of Approval for this request, regarding any needed maintenance and operating support to be provided to the County for the applicant's use of these public roads.

The site plan indicates fencing surrounding the oil drilling operations only. The applicant shall be required to provide a six (6) foot tall metal mesh fence to surround the entire subject site in addition to the fencing indicated for the operations.

The County Fire Chief has the following comments regarding the Production information submitted by SandRidge:

- a. An on-site water supply for fire protection is required.
- b. For the event of an oil well fire, the County will have to put an evacuation plan into place for the residences surrounding the oil well site. The evacuation would keep people out of the smoke. We would want to know the detonation or deflagration potential of an explosion at the site for evacuation plan purposes.
- c. Sandoval County currently compensates the City of Rio Rancho \$100,000 per fiscal year to cover the Westside of Rio Rancho. Sandoval County does not have fire stations in the area of the proposed oil well. The City of Rio Rancho would likely require additional compensation for covering the oil well area.
- d. Oil well fires require Class "B" foam. The City of Rio Rancho would most likely need to purchase large quantities of Class "B" foam in order to adequately protect the oil well site.
- e. If the oil well site is approved the applicant will need to submit their final plans through a County Fire Marshal review process.

Staff recommends that the County and City of Rio Rancho establish an Emergency Services Plan agreement as a Condition of Approval for this request to address the County Fire Chief's comments. This plan will include coordination of locking and emergency access procedures with the County Fire Chief.

In the applicant's submitted Production information, the applicant proposes the use of razor wire to be placed at the top of the site fencing for site security purposes. The applicant shall be required to place of any type of razor wire at the interior base of the site fencing.

2. *"Off-street parking and loading areas where required, with particular attention to the refuse and service areas;"*

The proposed Oil Exploration and Production Facility will not require permanent parking spaces. Trucks for construction and oil transport will be in and out of the site on a regular basis. Refuse will be contained and transported off the site on a regular basis. Drilling fluids will be disposed of by transporting this material to the TNT Environmental Disposal and Landfill facility in Lindrieth NM, approximately 100 miles from the subject site.

Lighting is indicated on the site plan at the entrance to the facility and to the east of the entrance. The fixtures shall stand a maximum of sixteen (16) feet and shall be of a full cut-off box design to minimize light glare onto adjoining properties and public right-of-way.

3. *“Water and liquid waste facilities, with reference to soil limitations, locations, and public health;”*

There is no permanent water use or liquid waste disposal proposed. Water and liquid waste needs for personnel during construction and operation will be provided by portable drinking water facilities and portable liquid waste stations.

4. *“The economic, noise, glare, or odor effects of the conditional amendment on adjoining properties;”*

Staff has recommended that the applicant establish Road Maintenance Agreements, and Emergency Services Plan Agreements, with the County and the City of Rio Rancho regarding road maintenance and operating support and use of emergency facilities by the applicant. This is needed in order to insure that there will be no negative economic impacts to the County and City of Rio Rancho in terms of lost public revenue for potential road maintenance and emergency services issues caused by the applicant’s activities on the subject site.

Other economic factors, whether a positive or negative impact on the County’s economy, cannot be determined at this time.

Anticipated noise impacts from the proposed use are addressed by the applicant within the information provided for the Production aspect of the use. The information submitted adequately addresses the expected noise impacts.

Glare and odor effects cannot be determined at this time. The New Mexico Environment Department (NMED), Air Quality Division, will require the applicant to secure an Air Quality Permit for emissions from the machinery used for Oil Production purposes. NMED does not issue permits related to the release of gases or gas-related odors for oil and gas operations.

5. *“The general compatibility of the proposed amendment with actual or prospective permissive zoning use of adjacent properties;”*

The site of the proposed Oil Exploration and Production Facility is currently zoned Rio Rancho Estates Community District (CD-RRE), a single-family residential district. All of the land within 500 feet of the perimeter of the subject site is under this zone and is vacant, with the exception of one storage building. This proposed Oil and Gas Exploratory and Production Facility is viewed as compatible with surrounding utility and energy facilities. However, the proposed use also carries properties which may pose limits to future residential use of the surrounding area, including regular truck traffic, operation-related noise, and the potential for release of gases and gas-related odors, as noted in this report.

6. *“The overall health and safety of the community”.*

Issues pertaining to the overall health and safety of the community are addressed in terms of operational aspects of the proposed Oil and Gas Exploratory and Production Facility.

The County has established that the proposed use is compatible with the energy-related facilities in the area, and that the proposed use does not utilize ground water for its operations. The issue of protection of ground water resources is addressed by the applicant and the State OCD.

SandRidge has applied for and had been granted approval for an Exploratory Permit for the proposed Oil Exploration and Production Facility at the subject site from the State of New Mexico Energy, Minerals and Natural Resources, Oil Conservation Division (see packet information). The drilling will go through the Entrada ground water formation in the area. The condition of approval for this permit is the following:

“Once the well is spud, to prevent ground water contamination through whole or partial conduits from the surface, the operator shall drill without interruption through the fresh water zone or zones and shall immediately set in cement the water protection string.”

This means that the condition of approval for this permit is to surround the drilling shaft with concrete to provide an additional layer of protection of the ground water resource from intrusion by oil. The submitted site plans and construction details for the Oil Exploration and Production Facility indicate the shaft design required by the Oil Conservation Division.

Hydrology and geologic information submitted to NM OCD for review and approval of the Exploratory Permit by NM OCD confirms that the two City of Rio Rancho municipal wells are at depths of 1,475 feet (RG 26259) and 1,922 feet (RG 51091). The approved Exploratory Permit has established an oil drilling depth of 10,500 feet. This establishes that the oil drilling depth will be far below the depths of the existing Rio Rancho wells.

The County’s portion of Rio Rancho Estates Subdivision is included in the water well field for the City of Rio Rancho as established by the New Mexico Office of the State Engineer (OSE) under permit RG-6745. This application has been sent to the City of Rio Rancho for their comments. The City of Rio Rancho has sent a series of recommendations related to monitoring of the proposed use for potential impacts on their municipal water infrastructure and on the surrounding area, as noted in the recommended Conditions of Approval for this request.

The subject site is within the planning area and flood control jurisdiction of the Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA). This application was sent to SSSCAFCA for their comments. SSSCAFCA has confirmed that by identification of U.S. Environmental Protection Agency (EPA) regulations on oil drilling operations, the applicant is not required to submit a Storm Water Pollution Protection Plan (SWPPP) due to the subject site’s smaller acreage. The applicant will be required to submit a Grading and Drainage Plan for the subject site to be reviewed and approved by the County Engineer.

The applicant will also be required to submit a Site Remediation Plan to be reviewed and approved by the County Engineer.

In order to establish more comprehensive elements of this application to address the overall health and safety of the community, additional safety elements will be required in the form of financial securities, and environmental insurance policies.

7. *“Conformance to the Sandoval County Comprehensive Plan and other applicable land use plans adopted by the County;*

The history of utility and energy development in the area serves as the basis for compliance with the Sandoval County Comprehensive Plan policies regarding appropriate locations for energy-related industries (Section I: Land Use and Natural, Historic, and Cultural Resources, Policy B, Strategy 3).

The site of the proposed Oil Exploration and Production Facility is located within the Water Conservation Area/Open Space Area as established in the Rio Rancho Estates Area Plan (RREAP). As a proposed energy development that does not require use of ground water for its operations, the proposed use is consistent with policy for new industrial-type development in the area (Section 12, Plan Concept, p. 40).

8. *“The applicant has had a pre-application public meeting where he has invited property owners, occupants, and County staff affected by the proposed amendment when the amendment involves:*

(A) Creation of a Special Use (S-P) District.”

The Planning and Zoning Division received a request for the applicant for a waiver of this item on the grounds that there is no existing community that is near or surrounds the subject site. The Planning Director reviewed this request and concluded that based on the lack of adjacent community, this item is not applicable to the request for Special Use (SU) zoning.

Staff Review:

This application for an Oil and Gas Exploration and Production Facility has demonstrated general compatibility with policies in the Sandoval County Comprehensive Plan and the Rio Rancho Estates Area Plan, regarding the appropriate location of this facility among existing energy related facilities, and the aspect of the proposed use of not utilizing ground water for its operations.

In review of the requirements of Section 19, Amendments, Sandoval County Comprehensive Zoning Ordinance, staff finds that the applicant has not adequately addressed these requirements. In light of the deficiencies of this application, Staff recommends **DENIAL** of this request.

Many of the deficiencies in this application could be addressed with the applicant’s submittal of the following:

- (1) A Route/Road Maintenance Agreement that is approved by the County and the City of Rio Rancho. The Route/Road Maintenance Agreement shall be prepared for review and consideration by the County Manager and City of Rio Rancho Manager prior to commencement of oil production at the subject site.
- (2) An Emergency Services Plan that is approved by the County and the City of Rio Rancho. The Draft Emergency Services Plan, which shall include gate locking and emergency access procedures, shall be prepared for review and consideration by the County and City of Rio Rancho Fire Chiefs at the time of the review of this Zone Map Amendment request by the Board of County Commissioners. The applicant shall be liable for all financial costs to the County and the City of Rio Rancho for these services.
- (3) A Grading and Drainage Plan to be reviewed and approved by the County Engineer prior to commencement of any oil drilling activities on the subject site. The applicant is liable for all financial costs related to County Engineer review services. The Grading and Drainage Plan shall demonstrate that the applicant shall not deposit, drain or divert into or upon any public highway, street, alley, drainage ditch, arroyo, storm drain, sewer, gutter, creek, stream, river, lake or lagoon, any oil or liquid containing any hydrocarbons, or any drilling mud, sand, water or saltwater, or in any manner permit, by any means, any of such substances to escape from any property owned, leased or controlled by such person. All such material shall be properly disposed of at a NM OCD-licensed facility.
- (4) A Site Remediation Plan that is approved by the County Engineer. The applicant shall be liable for all financial costs related to County Engineer review services.
- (5) Financial Assurances to the County. Acceptable financial assurances may include:
 - (a). A bond in the principal sum of such amount as may be determined by the Board, but not less than Fifty Thousand Dollars (\$50,000), in an amount representing the actual cost to remediate the site of the Oil and Gas Facility after abandonment less the amount of any agreement entered into by and between the applicant and a surface owner pursuant to the Surface Owners' Protection Act. A bond shall be executed by a reliable insurance company authorized to do business in the State of New Mexico, as surety, and the Applicant as principal, running to the County for the benefit of the County and all persons concerned, under the condition that the Operator shall comply with the terms and conditions of this Section 9 in the drilling and operation of the well;
 - (b). An irrevocable letter of credit issued by a federally-insured financial institution located within the State of New Mexico, backed by cash on deposit at the institution representing the full value of the amount of the letter of credit. The amount shall be set as may be determined by the Board, but in no event shall be for a sum less than Fifty Thousand Dollars (\$50,000). A letter of credit shall be for a term of not less than five (5) years, and shall be automatically renewed on like terms unless the issuer notifies the County in writing of non-renewal at least thirty (30) days prior to the end of the five (5) year period. The County shall release the financial assurance deposited pursuant to this Section upon written request of the Operator if the well has been plugged and abandoned and the location restored and/or remediated consistent with the Site Remediation Plan approved by the County Engineer, or if a Change

of Operator of the well site has been approved by the State of New Mexico and a new Financial Assurance has been secured by the County.

- (6) In addition to the above required Financial Assurance, a policy or policies of commercial general liability insurance, including contractual liability, covering bodily injuries and property damage that names the applicant as the insured and the County as an additional insured, issued by an insurance company licensed to do business in the State of New Mexico. The insurance policy must be in a form acceptable to the County and shall further provide a limit of liability of not less than Ten Million Dollars (\$ 10,000,000) per occurrence. Said policy or policies shall provide that they may not be cancelled without written notice to the County of at least thirty (30) days prior to the effective date of such cancellation.
- (7) A pollution insurance policy or policies that provide standard pollution liability insurance with a coverage of not less than \$ 10,000,000 per occurrence, issued by an insurance company authorized to do business in the State, and that names the applicant as insured. Such insurance policy shall be maintained in full force and effect from the date of approval of this Zone Map Amendment request by the Board of County Commissioners and continuing in force until the well is plugged and abandoned in accordance with the applicable State statutes, NM OCD regulations, and the Site Remediation Plan as approved by the County Engineer. A separate policy is not required if pollution coverage is included as a part of the comprehensive general liability insurance policy required by Section 11.4(b). The insurance policy or policies shall provide that they may not be cancelled without written notice to the County at least thirty (30) days prior to the effective date of such cancellation. The applicant, offering a plan of self- insurance, may provide a certificate of insurance as required by this section issued pursuant to such plan provided that such plan has been approved by the Public Regulation Commission of the State of New Mexico and the County Manager.
- (8) Except as otherwise mandated by the NM OCD, evidence that tanks used for the storage of condensate, crude oil, or other liquid hydrocarbons produced by and/or used in conjunction with any Oil or Gas Facility conform to the American Petroleum Institute (A.P.I.) standards for such tanks. Statement of acknowledgement establishing that the applicant shall include a secondary containment system including lining with an impervious material in order to protect against leaks and spills on the subject site. Each storage tank shall be equipped with a level-control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
- (9) Provision of a fluid containment system using a series of enclosed above ground tanks. Only Closed Loop Systems that meet or exceed the requirements of NMAC, 15.1-21, shall be used during the drilling or completion of the well. Statement of acknowledgement of prohibition of open pits and reserve pits within the subject site.
- (10) Statement of acknowledgement establishing that the applicant shall not dispose of saltwater, produces saltwater or water containing salts or other minerals, drilling mud, or other wastes, on the surface or the subsurface of the subject site. These materials shall be disposed of by transport to a NM OCD-licensed disposal site.

- (11) Statement of acknowledgement establishing that applicant shall not conduct flaring of gases on the subject site except as necessary during drilling and workover operations. In the event that the applicant is approved for an Oil Production Permit from the Oil Exploration and Production Facility at the subject site from the State of New Mexico Energy, Minerals and Natural Resources Oil Conservation Division, flaring of gas of the subject site during oil production is prohibited.
- (12) Statement of acknowledgement establishing that applicant shall provide lighting fixtures on the subject site at a height not to exceed sixteen (16) feet and shall be of a full cut-off box design to minimize light glare onto adjoining properties and public right-of-way. Additionally, the applicant shall comply with the requirements of the Night Sky Protection Act, NMSA 1978, Sections 74-12-1 et seq (1999) (as amended).
- (13) Statement of acknowledgement establishing that the applicant shall provide a six (6) foot tall metal mesh fence to surround the entire subject site. Any razor wire associated with the fencing shall be placed on the ground surface on the interior side of the fencing.
- (14) Statement of acknowledgement establishing that the applicant shall provide a cement bond log to the City of Rio Rancho for their review, to demonstrate the integrity of the cement casing for the oil drilling shaft (to address Overall Health and Safety).
- (15) Statement of acknowledgement establishing that the applicant shall provide a hydrogen sulfide contingency plan to the City of Rio Rancho for their review and approval, in accordance with the American Petroleum Institute's RP-49 "Recommended Practices for Drilling and Well Servicing Operations Involving Wells Containing Hydrogen Sulfide" (to address Overall Health and Safety).
- (16) Statement of acknowledgement establishing that the applicant shall use tracers to determine the extent of the hydraulic fracturing fractures to ensure there is no communication with fresh water zones. The data from the tracers shall be submitted to the City of Rio Rancho for their review (to address Overall Health and Safety).

STAFF RECOMMENDATION

In the matter of **ZNCH-15-003**, Staff recommends that the Planning and Zoning Commission recommend this request for **DENIAL**, based on the following **FINDINGS**:

FINDINGS:

- (1) **ZNCH-15-003** Request by SandRidge Exploration and Production LLC, Linda McDonald agent, for approval of a Zone Map Amendment from CD-RRE (Rio Rancho Estates Community District) to SU (Special Use) for an Oil Exploration and Production Facility for approximately 2 acres located within Rio Rancho Estates and west of the Rio Rancho municipal limits, Unit 1, Block 30, Lots 1, 2, and 3, Rio Rancho Estates Subdivision.
- (2) Staff's initial review of the application concluded that the applicant had provided sufficient information for a review by the Planning and Zoning Commission for the Exploration aspect of the proposed Oil and Gas Exploration and Production Facility. Information on the Production aspect of the proposed Oil and Gas Exploration and Production Facility was found to be insufficient for public review. Despite the applicant being informed of this finding, the applicant requested review of their application for both the Exploration and Production aspects of the proposed Oil and Gas Exploration and Production Facility.
- (3) The Exploration information submitted by the applicant was reviewed by the Planning and Zoning Commission at a public hearing on December 10, 2015. Staff submitted a recommendation of Approval for the Exploration information. At the December 10, 2015 Planning and Zoning Commission, the Commission voted to continue the review to January 28, 2016 to review the Production aspect of the proposed Oil and Gas Exploration and Production Facility.
- (4) The applicant provided information to staff on the Production aspect of the proposed Oil and Gas Exploration and Production Facility on December 28, 2015.
- (5) The applicant's December 28, 2015 submittal of Production information for the proposed Oil and Gas Exploration and Production Facility does not adequately address the criteria for review for a Zone Map Amendment as established in Section 19, Amendments, Subsection F, Guidelines (1-7). The lack of adequate information regarding this request serves as grounds for Staff's recommendation of DENIAL of this request.

Service Contract agreement between NMTECH and the County of Sandoval vague when it comes to the Oil and gas Ordinances being written.

On July 27 NM Tech and the County of Sandoval hammered out and signed an agreement regarding policy development and review of oil and gas drilling and production application, field inspection and presentation to public bodies. Nm Tech agreed to do this for an undisclosed amount of money. Yes, folks, the 4 year agreement has no agreed upon fees for their services rendered in the contract.

Did Sandoval County just give Cart Blanc checks to NM Tech? Just how is public policy NM TECH's forte, escapes me, for they will have no authority to enforce any regulation and gives the oil and gas industry first stab at drafting the Sandoval county oil and gas ordinance. There have been numerous studies of the hydrology in Sandoval, Bernalillo and Valencia Counties which are most likely the most studied areas in country on water quantity and quality. Why do we need more studies that may be true or not. I have seen Garbage in garbage out science reports. Many people do not consider NMTech exactly a independent third party.

Item #3 under Scope of Work leaves out the implications of the 2016 Integrated Plan by TECO/Nm Gas and PNM. This is currently being heard in NMPRC hearing starting with commenting periods (Aug15), testimony (Oct12) and their deadlines. (See our Facebook Posting on this to confirm date times and schedule of hearings) The 2016 integrated Plan is about expanding pipelines and processing plants through out the State and to run a gas line to Mexico that will port the gas overseas. Most likely this is plan is gearing up to export LNG. The TECO Plan is harping on the 2011 Freeze where 1000s of people suffered through -15 below severe cold for a week and had no heat due to frozen pipelines, wellheads and loss of transport.

In 2012 The PNM/NM Gas wanted to put a processing plant for fracking operations in Rio Rancho. At the time it was thought to be too expensive however maps show that processing plants and new pipelines in the new 2016 plan that include the entire state.

It comes down to the fact that the Scope of the Work and the costs of the work are vague or undetermined. County Planning has not included the scope or context of the 2016 Integration Plan and how that will proliferate gas production in Sandoval County and through out the state where in some areas where transport has been non-existent.

There are many people that support upgrading "existing" drilled wells, pipelines and processing plants in order to stop methane releases. Current releases are considered a crime against humanity in the

amounts of methane and GHGs that are emitted into the atmosphere daily in Sandoval and the 4 corners. The State of NM and its citizens are responsible to stop these releases. However, the Neoliberal politics that strangleholds NM that keeps people in poverty, without jobs in a stagnate economy that may soon crash, will not hire inspectors to this job and protect us.

Many see this plan as win for NM but it is going to have exactly the opposite affect. The only money Sandoval County should be counting on from the oil and gas industry are fees from implementing a Fee and dividend system that gives cash rebates to households with income levels under \$80,000 a year.

Regarding liability on the contract, NM Tech is also subject to the immunities and limitations under the NM Tort claims Act NMSA 1978 Sec 41-1- through 41-4-27 regardless of jurisdiction and conflicts of law and choice of law principles. So if they screw up, it may be just too bad for residents to sue under a property taking in Rio Rancho and Rio Rancho Estates and would set a precedence for elsewhere around the state.

**PROFESSIONAL SERVICES AGREEMENT
FOR ON DEMAND GEOLOGICAL/HYDROLOGICAL SERVICES
BETWEEN
SANDOVAL COUNTY AND
NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY**

THIS AGREEMENT is made and entered into by and between SANDOVAL COUNTY, a political subdivision in the State of New Mexico, hereinafter referred to as (the "COUNTY"), and NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY, a public university organized under the laws of New Mexico, hereinafter referred to as (the "CONTRACTOR").

WHEREAS, the COUNTY needs Geology and Mineral Resources Services regarding policy development, review of oil and gas drilling and production applications, field inspections, reports, and presentations to public bodies; and

WHEREAS, the COUNTY desires to engage CONTRACTOR to render certain services in connection therewith, and the CONTRACTOR is willing to provide such services; and

WHEREAS, the Sandoval County Board of County Commissioners has approved this contract;

NOW, THEREFORE, in consideration of the premises and mutual obligations herein, the parties do mutually agree as follows:

1. Scope of Work

A. The COUNTY requires on-demand Geological/Mineral Resources Services and advising services to include the following:

1. Provide geologic and mineral resource analyses of areas in which oil and gas wells are drilled or proposed to be drilled.
2. Provide geological information that contribute toward the development of public policy by the County.
3. Review the geologic setting of proposed wells, producing wells, and transportation systems regarding oil and gas applications within the County.

4. Provide reports and maps regarding oil and gas resources as required by the County, including locations and depths of wells drilled, well status (producing, plugged, etc.), and volume of oil or gas produced.
5. Provide assistance to County in understanding and managing water resource issues, particularly focusing on water quantity and quality.
6. Provide assistance to the County in assessing, documenting, and understanding mineral resources within the county as part of county-wide inventory.
7. Make presentations to various public bodies as required by the County.
8. Services will be performed within the COUNTY Jurisdiction.

2. Compensation.

- A. COUNTY shall pay the CONTRACTOR in full for services satisfactorily performed as set forth in Task Order/Work Order agreements. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the County. Invoices will be provided monthly for work performed on a cost reimbursement basis with overhead applied at the CONTRACTOR's Federally negotiated rate. CONTRACTOR's payment terms are NET30. Invoices will be received by the COUNTY in the month following expenditure of funds. Expenditures made in the final month of the COUNTY's fiscal year will by necessity be invoiced in the month that follows.
- B. CONTRACTOR must submit a monthly expenditure detail accounting for all services performed. If the COUNTY finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the CONTRACTOR that payment is requested, it shall provide the CONTRACTOR a letter of exception explaining the defect or objection to the services, and outlining steps the CONTRACTOR may take to provide remedial action. Upon certification by the COUNTY that the services have been received and accepted, payment shall be tendered to the CONTRACTOR within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

3. **Term of Agreement.**

This Agreement shall become effective on the date of execution by all parties and shall continue for a four (4) year period unless terminated by either party pursuant to the termination provisions contained herein (See Paragraph 4). This agreement shall not exceed a four (4) year term.

4. **Termination.**

A. **Termination for Cause:** If, through any cause, either party fails to fulfill its obligations under this Agreement in a timely and proper manner, or if either party violates any of the covenants, agreements or stipulations of any part of this Agreement, either party shall have the right to terminate the Agreement. The COUNTY reserves the right to recover any excess costs incurred by deduction from an unpaid balance due to the CONTRACTOR, or by any other legal method. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the CONTRACTOR if the CONTRACTOR becomes unable to perform the services contracted for, as determined by the COUNTY. Termination for Cause shall be accomplished by providing written Notice of Termination to the other party. The Notice of Termination shall include the effective date of termination. Written notice shall be given to the parties at the addresses listed in Paragraph 23 of this Agreement.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. **Termination for Lack of Appropriations:** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Sandoval County Board of County Commissioners, or Governing Body, for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Sandoval County Board of County Commissioners, or the Governing Body, this Agreement shall terminate immediately upon written notice being given by the COUNTY to the CONTRACTOR. The COUNTY'S decision as to whether sufficient appropriations are available shall be accepted by the CONTRACTOR and shall be final.

C. Termination for Convenience of COUNTY: The COUNTY may terminate this Agreement at any time by providing at least thirty (30) calendar days' notice in writing to the CONTRACTOR. If the Agreement is terminated by the COUNTY as provided herein, the CONTRACTOR will be paid for expenses incurred up to the date of termination, less payments previously made.

D. Termination by CONTRACTOR: The CONTRACTOR may terminate this Agreement at any time by providing at least thirty (30) calendar days' notice in writing to the COUNTY.

E. Termination Management: Immediately upon receipt by either the COUNTY or the CONTRACTOR of notice of termination of this Agreement, the CONTRACTOR shall 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the COUNTY, 2) comply with all reasonable directives issued by the COUNTY in the notice of termination as to the performance of work under this Agreement, and 3) take such action as the COUNTY shall direct for the protection, preservation, retention or transfer of all property titled to the COUNTY and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the CONTRACTOR with contract funds shall become property of the COUNTY upon termination and shall be submitted to the COUNTY as soon as practicable.

5. Status of CONTRACTOR.

The CONTRACTOR and its agents and employees are independent contractors performing professional services for the COUNTY and are not employees of the COUNTY. The CONTRACTOR and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the COUNTY as a result of this Agreement. The COUNTY shall not provide any liability coverage to the CONTRACTOR. The CONTRACTOR acknowledges that all sums received hereunder are reportable by the CONTRACTOR for tax purposes, including without limitation, self-employment and business income tax. The CONTRACTOR agrees not to purport to bind the

COUNTY unless the CONTRACTOR has express written authority to do so, and then only within the strict limits of that authority.

Assignment.

The CONTRACTOR shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the COUNTY.

6. **Subcontracting.**

The CONTRACTOR shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the COUNTY.

7. **Release of Claims.**

Subject to the limitations of Paragraph 20, final payment of the amounts due under this Agreement shall operate as a release of the COUNTY, its elected officials, and employees, from all claims and obligations whatsoever arising from or under this Agreement.

8. **Confidentiality.**

Any confidential information provided to or developed by the either Party in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization for any purpose other than in the performance of the agreement without the prior written approval of the other Party. The obligations of the confidentiality set forth in this paragraph shall survive termination or expiration of this agreement for a period of five (5) years unless otherwise agreed by the Parties.

9. **Product of Service -Copyright.**

A. Definitions

1. "Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would

enable the software to be reproduced, recreated, or recompiled.

2. "CONTRACTOR" means the entity or person who is contracting with COUNTY under this sub-award.

3. "Data" means recorded information regardless of form or the medium on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing or management information.

4. "Invention" means any invention or discovery, which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

5. "Subject invention" means any invention of the sub-recipient conceived or first actually reduced to practice in the performance of work under this contract.

6. "Technical data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing or management information.

7. "Unlimited rights" means rights to use, modify, reproduce, perform, display, release, or disclose data or a work in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

8. "Works" means computer data bases, computer software, or computer software documentation: literary, musical, choreographic or dramatic compositions: pantomimes; pictorial, graphic or sculptural compositions; motion pictures and other audiovisual compositions; sound recordings in any medium; or, items of similar nature.

B. Data

1. Grant of unlimited rights. COUNTY shall have unlimited rights in data that are

- a. Data pertaining to an item, component, or process which has been or will be developed exclusively with COUNTY funds;
 - b. Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;
 - c. Created exclusively with COUNTY funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;
 - d. Data that describes the required overall physical, functional, and performance characteristics of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items;
 - e. Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);
 - f. Corrections or changes to data furnished to the CONTRACTOR by COUNTY;
 - g. Otherwise publicly available or have been released or disclosed by the CONTRACTOR without restrictions of further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the data to another party or the sale or transfer of some or all of a business entity or its assets to another party; or
 - h. Data in which COUNTY has obtained unlimited rights under another COUNTY contractor as a result of negotiations.
2. Mixed funding. Rights in data created with funds from both COUNTY and the CONTRACTOR and not otherwise within the scope of paragraph B1 above, shall be allocated by means of good faith negotiations between the Parties.
 3. Mix of funding and expertise. Rights in data created with funds solely from the CONTRACTOR but where the expertise of employees of COUNTY is used in the creation of data shall be allocated by means of

good faith negotiations between the Parties.

C. Patents

1. Rights to subject inventions.
 - a. The CONTRACTOR agrees to assign to COUNTY the entire right, title, and interest throughout the world in and to each subject invention covered by Section B 1. a-h, inclusive.
 - b. The CONTRACTOR agrees to assign to COUNTY that portion of the entire right, title and interest throughout the world which is agreed to between the parties as to any data created by mixed funding or by mix of funding and COUNTY expertise.
2. Invention disclosure. The CONTRACTOR shall disclose each subject invention to COUNTY within six months after the CONTRACTOR becomes aware that a subject invention has been made.

D. Copyrights

1. Applicability. This section applies to data and works first created, generated, or produced and required to be delivered under this contract.
2. License rights.
 - a. COUNTY shall have unlimited rights in data and works first produced, created, or generated and required to be delivered under this contract.
 - b. When data or a work is first produced, created, or generated under this contract, and such data or work is required to be delivered under this contract, the CONTRACTOR shall assign copyright in those data or works to COUNTY.
 - c. The CONTRACTOR grants to COUNTY a royalty-free, world-wide, non-exclusive, irrevocable license to reproduce, prepare derivative works from, distribute, perform, or display, and to have or authorize others to do so, the CONTRACTOR's copyrighted data and works not first produced, created, or generated under this contract that have been incorporated into the works deliverable under this contract.

11. Record Ownership.

It shall be clearly understood and agreed between the parties that the COUNTY is and shall be the owner of all invoices, backup documentation, and technical reporting submitted by CONTRACTOR pertaining to this Agreement. CONTRACTOR will retain ownership of its own records and source documents and agrees to retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement for a minimum of three years from the date of the CONTRACTOR's submission of the final expenditure report.

The retention period will be extended if litigation, claim or audit commences prior to the expiration of the three-year period, in which case the records must be kept until all litigation, claims, or audit findings involving the records are resolved.

CONTRACTOR agrees to comply with the requirements of 2 CFR 200, FAR 52.215-2 or other applicable regulations that ensure proper expenditure of funds. Upon COUNTY's request a copy of the CONTRACTOR's most recently released financial statement and independent audit shall be provided, including "Findings and Recommendations", along with the executed copy of this instrument.

In the absence of such an audit, COUNTY may employ other means (such as performance reviews) to ensure the CONTRACTOR's compliance with applicable laws and regulations. If COUNTY's review of the CONTRACTOR's audit report detects instances of noncompliance with Federal laws and regulations, COUNTY will notify the CONTRACTOR that appropriate corrective action must be taken within six months. Failure to make progress toward such corrective action may result in the suspension or termination of this agreement, as well as the return of expenses reimbursed to that point in the subcontract period.

The CONTRACTOR agrees that COUNTY and/or the Federal Government or any of their duly authorized representatives shall have access to and the right to inspect or audit any directly pertinent books, documents, papers and records of the CONTRACTOR involving transactions related to this agreement and/or to ensure compliance with the terms and conditions of this Article.

12. **Conflict of Interest; Governmental Conduct Act.**

The CONTRACTOR warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The CONTRACTOR certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

13. **Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

14. **Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. **Penalties for Violation of Law.**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

16. **Equal Opportunity Compliance.**

The CONTRACTOR agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the CONTRACTOR assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious

medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If CONTRACTOR is found not to be in compliance with these requirements during the life of this Agreement, CONTRACTOR agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico and Sandoval County shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, CONTRACTOR acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The CONTRACTOR agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the CONTRACTOR fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the COUNTY.

19. Records and Financial Audit.

The CONTRACTOR shall maintain detailed time and expenditure records for hourly personnel and after-the-fact certification of faculty or salaried staff effort that indicate the cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the COUNTY, the Department of Finance and Administration and the State Auditor. The COUNTY shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the COUNTY to recover excessive or illegal payments.

20. Liability.

Each party will be solely responsible for its liability for bodily injury, including death, or damage to property under the common law or statutory law of New Mexico, and for only its own attorney fees and costs arising from the act or failure to act of such party or of its regents, directors, members, shareholders, officers, agents and employees pursuant to this Agreement; provided however, the foregoing obligation is a statement of responsibility pursuant to common and statutory law only and does not constitute an agreement to indemnify. The liability and responsibility of New Mexico Institute of Mining and Technology shall be subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4- through 41-4-27, and of any amendments thereto, and shall be construed and applied in accordance with the laws of the State of New Mexico, irrespective of the conflict of law and choice of law principles of New Mexico or any other jurisdiction.

21. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

22. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

23. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the COUNTY: Phillip Rios, County Manager
Sandoval County
P.O. Box 40, Bernalillo, N.M. 87004
Office phone: (505) 867-7533
prios@sandovalcountynm.gov

To the CONTRACTOR: Richard Cervantes, Vice President
Administration and Finance
New Mexico Institute of Mining & Technology
801 Leroy Place
Socorro, New Mexico 87801
Phone (575) 835-5606
Richard.cervantes@nmt.edu

24. Authority.

If either Party is other than a natural person, the individual(s) signing this Agreement on behalf that Party represents and warrants that he or she has the power and authority to bind the entity, and that no further action, resolution, or approval is necessary to enter into a binding contract.

IN WITNESS WHEREOF, this agreement shall become fully executed upon the date of the final signature below.



Richard Cervantes, Vice President Administration & Finance
New Mexico Institute of Mining & Technology

Date: 7/13/16

Phillip Rios
Phillip Rios, County Manager
Sandoval County

Date: 7/27/16

Cassandra Herrera for C.H. 7/26/16
Cassandra Herrera, Finance Director/ Chief Procurement Officer
Sandoval County

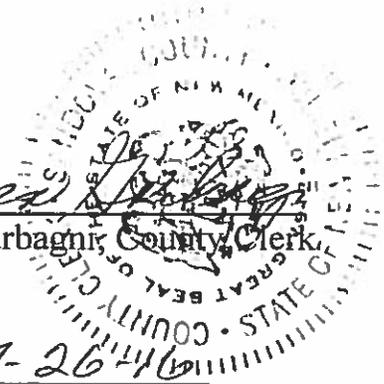
Date: 7/26/16

APPROVED AS TO FORM:

Natalia Downey
Natalia Downey, County Attorney
Sandoval County

Date: 7.26.2016

Eileen Garbagnini
Eileen Garbagnini, County Clerk
Sandoval County



Date: 7-26-16

Oil & Gas Resource Assessment of Sandoval County and Relationship of Potential Resources to Ground Water

SUMMARY

This project, submitted to the Sandoval County Planning and Zoning Division for funding, will develop an assessment of the potential for oil and natural gas resources throughout Sandoval County. The entire county will be assessed including areas historically productive of oil and gas in the northwestern part of the county and nonproductive areas in the remainder of the county. Key geologic parameters relevant to oil and natural gas potential will be mapped across the county. Mapping of potentially productive strata will enable assessment of depth to potentially productive reservoirs across the county. Pertinent aspects of aquifers, including the distribution of aquifers prevalent in the county and depth to the base of the aquifer interval, will also be mapped in a reconnaissance manner. This, in conjunction with projected depth to potentially productive oil and gas reservoirs, will allow for assessment of the effect of oil and natural gas production on aquifers. Also evaluated in this regard will be the effect of modern drilling and well completion technologies on oil and natural gas production and potential effects of modern drilling and production technologies on aquifers. The project will last approximately 9½ months. The contract shall cost Sandoval County \$62,009.07.

SCOPE OF WORK

Professional Services. The New Mexico Bureau of Geology and Mineral Resources, a Division of New Mexico Institute of Mining and Technology, will provide the Sandoval County Planning and Zoning Division with an assessment of the potential for oil and gas resources throughout Sandoval County, New Mexico.

1. Areas to be analyzed and assessed. Areas the assessment will cover all of Sandoval County including the historically productive northwestern parts of the county as well as nonproductive parts of the county. Nonproductive parts of the county have recently drawn interest for exploratory oil and natural gas drilling. Exploratory drilling may result in the discovery of viable, producible resources and therefore lead to future oil and natural gas production.
2. Geologic information to be included in the project. Key geologic parameters will be mapped across the county. Parameters to be evaluated include identification of stratigraphic units (“formations”) that have oil and gas potential, lithology and type of reservoirs, hydrocarbon shows encountered by previous exploratory drilling, petroleum source rock parameters and distribution, areas of current and historical production, and areas that have the potential for future oil and natural gas production, which will be mapped by stratigraphic unit. Mapping of potentially productive strata will allow

assessment of depth to potentially productive reservoirs across the county. Pertinent aspects of aquifers will also be mapped in a reconnaissance manner, including the distribution of aquifers prevalent in the county and the depth to the base of the aquifer interval. This, in conjunction with projected depth to potentially productive oil and gas reservoirs, will allow for assessment of the effect of oil and natural gas production on aquifers. Also evaluated in this regard will be the effect of modern drilling technologies on both oil and natural gas production and on aquifers.

3. ***Products.*** The final project report will include a thorough written report as well as maps and other figures that illustrate the variation in geologic parameters relevant to oil and natural gas potential and to project-relevant aspects of aquifers. The maps will have coverage across Sandoval County. An appendix will contain data used in the analysis so that independent verification of maps and analyses will be possible. Key maps and relevant data will be presented as a basic GIS project. To facilitate transparency, the final project report will be published online as an open-file report of the New Mexico Bureau of Geology and Mineral Resources, although issuance of the open-file report may post-date the project termination date for logistical reasons.
4. ***Time frame.*** The proposed start date of the project is July 1, 2017. The proposed termination date is May 11, 2018 or 9½ months after the start date if the start date occurs after July 1, 2017.

Delivery of work product. The contractor shall provide the deliverables listed below to the Sandoval County Planning and Zoning Division by the termination date.

- a. Project report discussing the oil and natural gas potential of Sandoval County as well as other geologic information described above and the assessment of effects of oil and natural gas production on aquifers.
- b. Maps and other figures that illustrate the variation in geologic parameters relevant to oil and natural gas potential.
- c. Maps and other figures that illustrate relevant aspects of aquifer geology in the county.
- d. An appendix of data used in the report, in one or more databases.
- e. A GIS project that has themes of data relevant to oil and gas resource assessment as well as project-relevant aquifer assessment.

COMPENSATION

The Sandoval County Planning and Zoning Commission shall pay the contractor \$62,009.07 for the services and products described above. A budget for the project costs is described below.

Budget

Direct Costs

Salaries and benefits

Broadhead, Petroleum geologist (740.75 hours, 40%)	\$ 17,537.17
Mansell, GIS Specialist (80 hours, 4%)	2,088.92
<u>Aquifer hydrogeologist (160 hours, 9%)</u>	<u>4,615.38</u>
<i>Subtotal salaries</i>	<i>\$ 24,241.47</i>
Fringe benefits @ 59.4%	\$ 14,399.43

Travel

Travel to Roswell to obtain geologic/geophysical Data from Jim Manatt of Thrust Energy, Inc.	
Per diem, 1 day @ \$135.00/day	\$ 135.00
Mileage, 330 miles @ \$0.54/mi	<u>178.20</u>
<i>Subtotal travel</i>	<i>\$ 313.20</i>

Other direct costs

Supplies, well log and map duplication, etc.	\$ 1,000.00
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Total Direct Costs **\$ 39,954.41**

Indirect Costs:

Indirect costs @ 55.2%	<u>\$ 22,054.66</u>
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TOTAL COSTS **\$ 62,009.07**

Approved by:



Michael Springfield

Sandoval County Planning & Zoning Division Director

7/17/17

Date



Cleve McDaniel

Vice President for Administration and Finance

New Mexico Institute of Mining and Technology

7/12/17

Date