

Comments about the Oil & Gas Ordinances under review by the Sandoval County Commission

Sandoval County Oil and Gas Ordinance Citizens' Study Group

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It is critical that county residents and leadership take a close look at the Citizens Working Group Ordinance Team Ordinance draft supporting this ordinance. This is the most important decision we will make for decades to come!

Water is life!

The Citizens Working Group (CWG) Ordinance Team ordinance mission is to preserve and protect the county's aquifers, groundwater, surface water, public health, safety and welfare, Tribal and other historic, cultural, religious and archaeological artifacts and sites, and wildlife while at the same time providing for the responsible and economically viable extraction of oil and gas.

This ordinance is also technically and legally competent, Tribally culturally sensitive, defensible, and enforceable.

THREE ORDINANCE DRAFTS

There are currently two Citizen Working Group (CWG) Ordinance drafts that were submitted to the Sandoval County Planning and Zoning (P&Z) Commission; the *Science Team* draft and the *Ordinance Team* draft.

The *Baseline Ordinance* (AKA *Block Ordinance*) is a third, industry-friendly draft that is being promoted by the P&Z Staff. Because the Baseline Ordinance is essentially a slightly rehabilitated version of the Stoddard Ordinance that was rejected by the County Commission we will not consider it further.

WATER PROTECTION

The single most important issue in the Oil and Gas Ordinances is how they propose to protect the fragile and precious water supply in the Rio Grande Basin.

The Ordinance Team draft ordinance proposes a "Site-Specific" approach. A Site-Specific approach is more protective of all water resources throughout the County including the Rio Grande Basin.

Site-Specific permitting requires a hydrological/geological subsurface analysis of each well site. The differences between the San Juan Basin, which the threat to ground water is not likely, and the rest of the county are taken into consideration. State regulatory agencies such as the Oil Conservation Division (OCD) and the Environment Department do *not* look at the subsurface site specific characteristics when permitting oil and gas drilling anywhere in the state. It is left up to Sandoval County do require such an analysis.

Our technical consultants claim this would be much more effective than a fracking ban.

In contrast, the CWG Science Team draft ordinance simply bans fracking in the Rio Grande Basin. A Fracking ban is risky. A fracking ban will most certainly trigger a lawsuit from the industry. You might think this would do the job, but there are two major problems. First, independent legal consultants – including the UNM Law Clinic – have analyzed the ban and conclude that it is not legal. Second, although the Science Team draft bans horizontal fracking, it actually allows vertical drilling in the Rio Grande Basin. The problem is that even vertical drilling frequently causes surface spills that could actually contaminate ground water, including the Rio Grande.

Aside from a subsurface site specific analysis, the Ordinance Team ordinance requires baseline testing of a sampling of private and public wells within ½ mile of the well site and baseline testing of surface water.

A fracking ban must be undertaken by a higher authority such as the State of NM, or possibly a regional coalition of the four counties of the middle Rio Grande, i.e. Bernalillo, Valencia, Tarrant, and Sandoval,

including Edgewood. This effort is certainly on the horizon through regional governing bodies such as the Mid Region Council of Governments (MRCOG).

PUBLIC HEARINGS A MUST !

Of great concern to many of us, including Bernalillo Mayor Jack Torres is the lack of public hearings in the NW sectors of the county under the provisions of the Science Team and Baseline drafts. The absence of a public hearing requirement is an important legal issue that was addressed by the UNM Law Clinic. It is as important to address the concerns of many residents of the NW sector of the county who prefer to be consulted about drilling in the vicinity of their homes, ranches, etc. as it is to address community concerns in all other parts of the county. The San Juan Basin ground water may be “naturally” more protected by geology, but noise, roads, emergency services, waste management and setbacks are among the issues of concern to many residents in the San Juan Basin, Cuba and Navajo Tri-Chapter areas of the county.

How can the county justify foregoing a public hearing when permitting a heavy industry with the kinds of potential risks to the health, safety and welfare of residents that oil and gas development poses to communities?

Unfortunately, the Science Team draft would not require public hearings before issuing an oil and gas permit in the NW area of the county, nor does the industry-friendly Baseline draft. Alternatively, the Ordinance Team draft is the only draft that would require public hearings across the county, a permitting process requirement afforded to every community and to every citizen. Mayor Torres stated at the P&Z meeting in September, public hearings are an absolute; assure “*an open public process and ability for the community to comment*” and, “*the duty of every elected official*”.

The Ordinance Team draft would allow public hearings in the local area near the proposed well site. So potentially impacted communities do not have to travel to Bernalillo. The Ordinance Team’s outreach efforts with the Cuba and surrounding area residents indicate a clear preference for public hearings.

TRIBAL CONSULTATION AND COLLABORATION

The Ordinance Team draft is the only ordinance which seriously provides for Tribal consultation and collaboration to protect Tribal historic, cultural, religious and archaeological artifacts and sites as well as water issues.

RIGHT TO REVOKE A PERMIT

The Ordinance Team ordinance is the only draft that provides for County jurisdiction to suspend or revoke a permit if there is found to be harm to public health, welfare and safety, to the environment or to Cultural Properties. Such a provision does not preempt the State's authority.

The Ordinance Team draft also provides a real incentive for operators to act responsibly by including criteria to distinguish responsible from irresponsible operations, requires regular post-permit observation to discourage obscuring of misbehavior and has sufficiently large penalties to make violations really be felt.

2021 MANDATED REVIEW

The Ordinance Team ordinance is the only draft that provides for an ordinance review by March of 2021 where the P&Z Director is required to report to the P&Z Commission the experiences and challenges of the oil and gas ordinance and whether the Commission should consider any additions or modifications to discuss and recommend to the County Commissioners. It is critical to be able to evaluate the effectiveness of the ordinance the Commission finally approves.

ORDINANCE ACCESS

To access all of the ordinances which the county commission is considering, see the following web site:
<https://sites.google.com/view/cwg-ordinance-team>

This also includes an updated oil, gas, water study by NM Tech and the CWG Ordinance Team ordinance and its legal reviews which the county has not posted with the commission meeting agenda.