

ORDINANCE No. 02-05

An ordinance of the County of Otero, New Mexico, enacting an addition to the Otero County (Interim) Comprehensive Land Use Plan that contains specific stipulations and requirements for oil and gas production and exploration on lands within the political boundaries of Otero County, New Mexico, for the purpose of protecting the fresh water aquifers and watersheds from pollution, for the use and enjoyment of the citizens of Otero County and their municipalities.

Whereas, the County of Otero is charged with the health and well being of the citizens of the county (NMSA 1978, §4-37-1 et seq.); and

Whereas, the increasing population and shortages of water due to drought and the scarcity of fresh water production for the County citizens' use has demonstrated a need for the protection of potable water sources within the County; and

Whereas, there is a bonafide need to protect the watersheds and fresh water aquifers for the citizens of the County of Otero against, pollution from fluid minerals exploration and production and incidental damages to watersheds that could occur with these associated activities; and

Whereas, the U. S. Department of the Interior-Bureau of Land Management, Oil Conservation Division, New Mexico Environmental Department and other federal and state agencies which have jurisdiction over these matter the County of Otero enforce the stipulations set forth in Ordinance #02-05.

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners of Otero County as follows:

Section 1. Adoption by reference and incorporation of Oil Conservation Division Rules and Regulations.

The Board of County Commissioners hereby adopts by reference and incorporates by reference herein the rules and regulations adopted by the Oil Conservation Division of the New Mexico Energy Minerals and Natural Resources Department contained at 19 NMAC Chapter 15 Parts 1, through 9, inclusive.

Section 2. Supplemental, additional requirements applicable specifically to Otero County,

New Mexico.

The Board of County Commissioners hereby adopts the following supplemental additional requirements with respect to oil and gas development occurring within Otero County New Mexico.

- A. An accident report is required for each leak or spill subject to this chapter in which there is a release of gas, solids or liquid resulting in any of the following:
- (a) Explosion or fire not intentionally set by the operator
 - (b) Release of five (5) gallons or more of liquid, except that no report is required for a release of less than five (5) barrels resulting from a maintenance activity if the release is:
 - (i) Not otherwise reportable under this Chapter;
 - (ii) Confined to company property or right of way; and
 - (iii) Collected on site and immediately cleaned up in accordance with known best management practices.
 - (c) Death of any person
 - (d) Personal injury necessitating hospitalization;
 - (e) Estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of surface owner, or any combination of the aforementioned, exceeding \$5,000. Calculations of property damage for any category of property (water, land, etc.) must give due consideration for cumulative loss of value during the life of the property in question.
- B. An operator shall provide all of the following minimum information, to the extent known, when reporting any leak or spill.
- (a) The name of the individual reporting the leak or spill.
 - (b) The name of the operator who has sustained the leak or spill.

- (c) The date and time of the spill or leak.
- (d) The date and time the leak or spill was discovered.
- (e) The date and time cleanup or remediation was commenced.
- (f) The location of the leak or spill, including all of the following information:
 - (i) facility, well name or lease name
 - (ii) quarter quarter quarter section
 - (iii) Section number, township and range
- (g) Full disclosure of all material leaked or spilled, including all applicable MSDS information
- (h) The volume of the leak or spill
- (i) The volume of the leak or spill which is recovered including records from the operator who recovered the spilled or leaked material
- (j) The remediation or cleanup measures taken and full disclosure made of disposal methods and location the contamination is transported to for disposal.
- (k) The cause of the leak or spill
- (l) distance from the leak or spill to the nearest city well, domestic well, or fresh water impoundment.

C. Any operator conducting operations within the confines of the County of Otero shall file with the County Administrator (County Manager or designee) Material Safety Data Sheets (MSDS) for any and all substances used, produced, transported and otherwise present in operations conducted within the confines of the County of Otero.

D. In addition to those well records and service company records required by OCD rules 102, 107, 109, 1101, 1103 and 1105 shall provide the County with the following additional information:

- (a) records concerning fracturing;

(b) temperature surveys;

(c) bond logs; and

(d) Caliper surveys.

E. Any pipeline installed within the near proximity to domestic or municipal water wells, or facilities, or fresh water impoundment, which pipeline will be used to transport oil, gas, produced water, brine water or any other liquid associated with the exploration or production of oil, gas, and other minerals shall be constructed to pass at least five hundred (500) feet from any aforementioned facilities in the County of Otero.

F. An operator shall clean up and dispose of in a manner consistent with this chapter and all applicable state and federal laws and regulations, losses of oil, gas, brine or other production water from wells, flow lines, and associated surface facilities, irrespective of the size or volume of the loss.

G. The Board of County Commissioners may enforce the provisions of this Ordinance in accordance with law, by the imposition of a fine in the amount of three hundred (\$300.00) dollars which may be imposed for each day an alleged violation remains unremedied. Additionally the County may enforce the provisions of this ordinance by bringing appropriate legal proceedings in the Magistrate or District Courts of Otero County.

H. If any part or application of this Chapter -- is held invalid, the remainder or its application to other situations or persons shall not be affected.

PASSED, APPROVED and ADOPTED on this the _____ day of _____, 2005.

BOARD OF COUNTY COMMISSIONERS

Clarissa McGinn, Chair Person

Doug Moore, Vice Chairman

Michael Nivison, Member

ATTEST:

Robyn Silva, County Clerk

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Daniel A. Bryant, County Attorney