

TO: Gem County Commissioners, Planning & Zoning Commissioners, Planning & Zoning Department, and Prosecuting Attorney

FROM: Concerned Citizens of Gem County Idaho

Attached is a draft copy of a proposed Gas and Oil Well Development ordinance for Gem County. This has been prepared by Gem County citizens concerned with ensuring local input into future gas and oil extraction in our area. Although this proposed extraction of resources has the potential to boost our economy, there are obviously significant extra-industry costs and possible dangers entailed in drilling, piping, water and road use that accompany such development.

While extraction industries are to some extent regulated by state and federal agencies, there may be other issues not addressed by these regulations. We believe that these concerns should be addressed now, before drilling actually begins. Local control over how industrial operations in our area should be the primary concern of our elected and appointed officials. Local control will ensure that the health and safety of local residents will be protected, the beauty of our land will not be compromised, and that local residents will receive maximum economic benefits available. We also believe that, because of the aforementioned reasons, any draft ordinance presented to you by industry officials should have minor place in your deliberations; and that such industry-developed ordinances receive thorough unbiased review.

Please understand that we do not seek to oppose gas extraction in this county. In fact, some of us are considering the offer of leases on our own properties. We are concerned that all is done to maximize gains and prevent damage to our shared resources.

The proposed draft is a work-in-progress document that includes existing language from Federal, State and local regulations in areas currently affected by the gas and oil industry. We will present an updated version at the Zoning meeting on the 13th. Some sections such as pipe/gathering lines, water and impact fees will need to be further clarified, and the vagueness of words such as "insufficient", "adverse effect" and "impact area" will need definitive clarification. However, this represents the things we see a need to be addressed.

We encourage you to take the time to peruse the cited reference links for background and for additional language to be considered in the final ordinance.

We thank you for having begun the open discussion of these issues. We urge you to schedule now the special meeting/s or hearing/s you plan for public input, beginning as soon as possible in 2014.

Thank you for your early attention to this letter and the attached document.

INTRODUCTION TO THE DRAFT:

The main purpose of the citizens-prepared Draft Gas & Oil Well Development Ordinance is to be **protective** while allowing **doable** (safe as well as achievable, for the County and landowners as well as their neighbors *and* for industry) **economic development**.

Some of the safeguards required to protect health, welfare, and rights in Gem County relate to:

- **Property values**
- **Shared water resources and the dam**
- **The air we all breathe**
- **The soil we rely on**
- **Our largely rural and quiet living space**
- **Gem County's valuable facilities, including its roadways, public areas, and its scenic and recreational draws to citizens and visitors alike**

If these are ensured, *then* economic development is responsible and not adversarial to its host area, and industry gains from this as well.

Some of the needs for achieving these protections, addressed within this document (and not in the Idaho Association of Counties "model" draft ordinance, nor much in the Washington County ordinance), include:

- **Full disclosure** of all facets of any new development, from all likely changes impinging on nearby residents to any chemicals used in G&O activities to impacts on City/County traffic, infrastructure, and budget.
- **Setbacks** that protect residents from nuisances that would seriously diminish enjoyment of and health in their living spaces.
- Regulations that **prevent our air and water from being polluted**, including restrictions on drilling in the vicinity of the river and its floodplain and of seismically-charted areas including that of the dam.
- **Baseline testing** of air and waters so that any damage discovered "after the fact" may be linked (or shown not to be linked) to G&O activities and needed remediation be undertaken quickly and appropriately.
- Regulations that **protect agriculture, sensitive habitats and species, and private property rights**.
- **Payment for adverse financial impacts** from the G&O industry to Gem County and its citizens *by* the G&O industry.

Thanks to any and all interested in preserving Gem County's valued, and overall rural, way of life.

- - DRAFT 1/13/2014 - -
GAS AND OIL WELL DEVELOPMENT ORDINANCE
GEM COUNTY, IDAHO
COUNTY CODE

[BLACK = outline elements and established Washington County code used as basis]

[GREEN = additions to Washington County code; most are compiled from ordinances that have passed serious scrutiny and legal review, including in areas that are already experiencing gas development]

[RED = areas in need of clarification]

Title 15?: GAS AND OIL WELL DEVELOPMENT

Chapters: *(with previews of some chapters' contents)*

-1: PURPOSE:

A County ordinance for gas and oil well development is required because the State of Idaho has chosen not to address many issues created by oil and gas industry's operations, as exemplified by numerous Western states in which ongoing oil and/or gas industry activities have produced significant and often adverse environmental effects. In addition, the oil and gas industry has been made exempt from Federal oversight of several environmental laws involving clean water, land and air, so that the County must protect its interests via LOCAL LAND USE PLANNING.

-1-2: LOCAL LAWS IN COMPLIANCE WITH STATE AND FEDERAL REGULATIONS:

-2: DEFINITIONS:

-3: EXPLORATION:

It is the Gem County Commissioners' responsibility to protect and conserve the county's valuable recreational settings and the attractiveness of its facilities, parks, designated scenic pathways, and preserves. Applicants will therefore be denied permission to develop oil or gas facilities that would impinge either visually or practically upon Gem County citizens' and visitors' enjoyment of the county's current or proposed public places and spaces, whether owned by the County, by cities within it, or by other agencies. Additionally, safe access for aviators to the County's airfield must be assured. Given those parameters, and any that might exist due to sensitive topographical/ecological areas, the County has established a gas and oil exploration permitting process as below.

-3-1: ADMINISTRATIVE GAS AND OIL EXPLORATION PERMIT REQUIRED:

-4: DEVELOPMENT:

Prior to any oil and/or gas development and/or extraction, the applicant shall pay to the County a fifty percent (50%) cost share for a USGS-approved groundwater baseline testing program, including but not limited to planned individual drill sites and/or mapped countywide areas of multiple proposed drilling sites.

- 4-1: PROHIBITION OF HORIZONTAL HYDRAULIC FRACTURING:
- 4-2: ADMINISTRATIVE GAS AND OIL WELL DEVELOPMENT PERMIT REQUIRED:
- 4-3: PROFESSIONAL/TECHNICAL ASSISTANCE ACCOUNT:
- 4-4: ROAD USE AND ROAD MAINTENANCE AGREEMENT REQUIRED:
- 4-5: OPERATOR'S AGENT:
- 4-6: INSURANCE AND INDEMNIFICATION:
- 4-7: SECURITY:
- 4-8: PERIODIC REPORTS:
- 4-9: ON SITE OPERATION REQUIREMENTS:
- 4-10: WELL COMPLETION:
- 4-11: WELL ABANDONMENT/RECLAMATION:
- 4-12: WORK OVER OR REWORKING OF WELL; NOTICE:
- 4-13: SUPPLEMENTAL DRILLING:
- 4-14: CLEANUP:
- 4-15: REMEDIES OF THE COUNTY:
- 4-16: ENFORCEMENT; RIGHT OF ENTRY:
- 4-17: PENALTIES:
- 4-18: PUBLIC INFORMATION:

-5: PRODUCTION:

[Specific matters related to gas and oil well production will be addressed at a later date, as an amendment to this chapter.]

-6: GATHERING LINES/PIPELINES:

[Pipelines and gathering lines are an integral part of gas/oil production. This ordinance should include but not be limited to the following: administrative permit, restriction of location to public road easement(s), road agreement, impact analysis.]

-7: NATURAL GAS OR OIL PROCESSING FACILITIES:

[Some matters that would fall under this section: compressing, liquid treatment facilities, dehydrator, traffic, screening]

-8: INJECTION WELLS:

[All injection wells are subject to special use permit. No injection well may be installed within one (1) mile of any domestic well without adjoining property owner(s)' written permission.]

-9: JOBS:

The operator must advertise in the local newspaper(s) for any newly hired workers, contractors, tier contractors and of construction bids. Additionally the operator must advertise the same opportunity with the Idaho Department of Labor's local Emmett office.

-10: LAND USE CLAUSE:

The Gem County Board of County Commissioners has approved this chapter in accordance with the Gem County land use plan, and the Local Land Use Planning Act (LLUPA), for the purposes set forth in that act, and finds it is necessary for the development on land to protect the quantity and quality of groundwater, as well as pooled and canal-conveyed water, in the county, and for the health, safety, and general welfare of the people of Gem County. The Board of County Commissioners finds that this chapter

does not conflict with any rules of the Idaho Gas and Oil Conservation Commission, and is within the powers delegated to it by the LLUPA.

-11: DISCLOSURE:

Disclosure of the chemicals used in drilling, the waste generated and its management, and the details of how and where drilling was completed, is essential...

-12: IMPACT FEES:

The burden of establishing and enforcing a needed gas and oil ordinance to protect all interests of the County will impact all Gem County employees and citizens and will possibly require additional staff from every department. Idaho statute provides the ability to allow each County to assess impact fees in order to protect the public health and safety of its citizens. Therefore an established hourly rate for each department will be paid by the applicant for each permit related to gas/oil exploration and extraction within Gem County...

-13: ADDITIONAL CONSIDERATIONS:

-1: PURPOSE:

A County ordinance for gas and oil well development is required because the State of Idaho has chosen not to address many issues created by oil and gas industry's operations, as exemplified by numerous Western states in which ongoing oil and/or gas industry activities have produced significant and often adverse environmental effects. In addition, the oil and gas industry has been made exempt from Federal oversight of several environmental laws involving clean water, land and air, so that the County must protect its interests via LOCAL LAND USE PLANNING.

[NOTE: See "Loopholes for Polluters: The Oil and Gas Industry's Exemptions to Major Environmental Laws" –

http://www.earthworksaction.org/files/publications/FS_OilGasExemptions.pdf]

By the addition of Title ___ (GAS AND OIL WELL DEVELOPMENT ORDINANCE), the purposes of this local law are to:

A. Establish safeguards and local regulation for operations related to the exploration, development, production, storage and transportation of oil and gas and other substances produced in association with gas and oil well industry development and production within Gem County;

B. Promote the purposes of planning and land use regulation by, among other things, preserving and protecting the roads, facilities, fire, police and other response services within Gem County;

- C.** Promote the health, safety and welfare of the public and the County's present and future inhabitants by protecting them from adverse public nuisance and/or land use impacts and effects that could result from the gas and oil development within Gem County;
- D.** Protect and preserve the character of Gem County and its historic, recreation and tourism sites, fish and wildlife, agriculture, surface and groundwater, air quality, scenic and other natural resources, by shielding them from adverse public nuisance and/or land use impacts and effects that could result from the gas and oil development within Gem County;
- E.** Prevent increased traffic congestion, excessive noise and disturbances, diminished property values, and adverse public nuisance and/or land use impacts and effects that could result from the gas and oil development within Gem County;
- F.** Promote well-regulated exploration, development, production and transportation of gas and/or oil resources and land use activities that necessitate reasonable regulation to ensure that all property owners and users are able to peaceably and safely enjoy their property and its benefits and revenues.
- G.** Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use a reasonable portion of the surface estate to extract and develop subsurface mineral interests, subject to compliance with the provisions of this section, and any other applicable statutory and regulatory requirements. The intent of the County regulations contained within this section is NOT to preclude the mineral owner or lessee from compliance with applicable state and federal rules and regulations. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and have land use impacts associated with the development of the mineral estate minimized or mitigated through compliance with this section. If established that a proposed oil and gas well facility cannot be operated in a manner consistent with this section, County approval for such a facility may be denied.
- H.** It is the intent of this ordinance to provide protection for ALL property owners, including Gem County, affected by gas and oil exploration and/or extraction operations by establishing the requirement, prior to commencing oil and gas operations, of a surety bond or guaranty procured by the operator to provide financial assurance for compensation to surface owners for damages due to oil and gas operations.
- I.** The absence of any Environmental Impact Statement for gas and oil extraction within the State of Idaho and Gem County requires LOCAL LAND USE PLANNING to promote the health, safety and general welfare of the people of Gem County by local control.
- J.** The absence of any groundwater protection plan for gas and oil extraction within the State of Idaho and Gem County requires LOCAL LAND USE PLANNING to promote the health, safety and general welfare of the people of Gem County by local control.

K. The absence of any baseline groundwater data related to contaminants associated with gas and oil exploration or extraction within the State of Idaho and Gem County requires LOCAL LAND USE PLANNING to promote the health, safety and general welfare of the people of Gem County by local control.

~~L. The exploration, development, production and transportation of gas and/or oil are land use activities that necessitate reasonable regulation to ensure that all property owners and users are able to peaceably enjoy their property, safely, and its benefits and revenues. It is the purpose of this title to establish safeguards and local regulation for operations related to the exploration, development, production, storage and transportation of oil and gas and other substances produced in association with gas and oil well industry development and production within Gem County to protect public health, public safety, public order; to prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property; and to protect the quality of all public and private water sources and the natural environment.~~

-1-1: COMPLIANCE WITH STATE AND FEDERAL REGULATIONS:

Oil and gas permittees are subject to compliance with all pertinent and applicable State and Federal regulations. This Ordinance is supplementary to, does not replace, enhances and is consistent with the following Federal and State statutes/regulations:

A. Constitution of the State of Idaho, Article I, Declaration of Rights: gives all men certain inalienable rights to protect property, pursue happiness, and secure safety.

[NOTE: See <http://www.sos.idaho.gov/elect/STCON/articl01.htm>]

B. Idaho Statute Title 67, State Government and State Affairs, Chapter 65 – Local Land Use Planning 67-6502. Purpose: *“to promote the health, safety and general welfare of the people of the state of Idaho as follows:*

(a) To protect property rights ...

(c) To ensure that the economy of the state and localities is protected. ...

(d) To ensure that the important environmental features of the state and localities are protected. ...

(k) To avoid undue water and air pollution.”

[NOTE: See <http://legislature.idaho.gov/idstat/Title67/T67CH65SECT67-6502.htm>]

C. Idaho Statute Title 47, Mines and Mining, Chapter 3 – Oil and Gas Wells – Geologic Information, and Prevention of Waste 47-317(10)(b): allows for gas and oil extraction to *“be subject to reasonable local ordinance provisions...which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property.”*

[NOTE: See <http://legislature.idaho.gov/idstat/Title47/T47CH3SECT47-317.htm>]

D. Idaho Statute Title 31, Counties and County Law, Chapter 8 – Powers and Duties of Board of Commissioners 31-870. Fees for County Services: *“(1) Notwithstanding any other provision of law, a board of county commissioners may impose and collect fees for those services provided by the County which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered. Taxing districts other than counties may impose fees for services as provided in section 63-1311, Idaho Code.”*

[NOTE: See <http://legislature.idaho.gov/idstat/Title31/T31CH8SECT31-870.htm>]

E. Idaho Statute Title 39, Health and Safety, Chapter 1 – Environmental Quality – Health 39-126: counties are *“authorized and encouraged to implement ground water quality protection policies within their respective jurisdictions...”*

[NOTE: See <http://legislature.idaho.gov/idstat/Title39/T39CH1SECT39-126.htm>]

F. Idaho Statute Title 39, Health and Safety, Chapter 1 – Environmental Quality – Health 39-102, State Policy on Environmental Protection: *“1. It is hereby recognized by the legislature that the protection of the environment and the promotion of personal health are vital concerns and are therefore of great importance to the future welfare of this state. It is therefore declared to be the policy of the state to provide for the protection of the environment and the promotion of personal health and to thereby protect and promote the health, safety and general welfare of the people of this state.*

2. The goal of the legislature in enacting the ground water quality protection act of 1989 shall be to maintain the existing high quality of the state's ground water and to satisfy existing and projected future beneficial uses including drinking water supplies. All ground water shall be protected as a valuable public resource against unreasonable contamination or deterioration. The quality of degraded ground water shall be restored where feasible and appropriate to support identified beneficial uses.

3. In enacting this law, the legislature intends to prevent contamination of ground water from point and nonpoint sources of contamination such as Oil, grease and toxic chemicals runoff and energy production, to the maximum extent practical. In attaining the goals enumerated in subsections 1 and 2 of this section, the legislature wishes to enumerate the following ground water quality protection goals:

a. It is the policy of the state to prevent contamination of ground water from any source to the maximum extent practical.

b. The discovery of any contamination that poses a threat to existing or projected future beneficial uses of ground water shall require appropriate actions to prevent further contamination. These actions may consist of investigation and evaluation or enforcement actions if necessary to stop further contamination or clean up existing contamination as required under the environmental protection and health act.

c. All persons in the state should conduct their activities so as to prevent the nonregulated release of contaminants into ground water.”

[NOTE: See <http://legislature.idaho.gov/idstat/Title39/T39CH1SECT39-102.htm>]

G. The Office of the Governor Executive Department, State of Idaho Executive Order No. 2013-01: *“Now, therefore, I, C.L. ‘Butch Otter’, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho, do hereby order the following:*

1. The continuation of the Idaho Strategic Energy Alliance as an effort between the State of Idaho and interested stakeholders to...maintain the integrity of the state’s natural resources.”

[NOTE: See <http://adminrules.idaho.gov/rules/current/EXOOrders/2013-01.pdf>]

H. Idaho Administrative Code IDAPA 58, Department of Environmental Quality 58.01.02 – Water Quality Standards: *“These rules designate uses which are to be protected in and of the waters of the state and establish standards of water quality protective of those uses. Restrictions are placed on the discharge of wastewaters and on human activities which may adversely affect public health and water quality in the waters of the state. In addition, unique and outstanding waters of the state are recognized.”*

[NOTE: See <http://adminrules.idaho.gov/rules/2011/58/0102.pdf>]

I. Idaho Administrative Code IDAPA 58, Department of Environmental Quality 58.01.11 – Ground Water Quality Rule: *“This rule establishes minimum requirements for protection of ground water quality through standards and an aquifer categorization process. ... The requirements of this rule shall serve as a basis for the administration of programs which address ground water quality.”*

[NOTE: See <http://adminrules.idaho.gov/rules/current/58/0111.pdf>]

J. Idaho Statute Title 18, Crimes and Punishments, Chapter 59 – Public Nuisances 18-5901. Public Nuisance Defined: *“Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, stream, canal or basin, or any public park, square, street, or highway, is a public nuisance.”*

[NOTE: See <http://legislature.idaho.gov/idstat/Title18/T18CH59SECT18-5901.htm>]

K. Idaho Statute Title 18, Crimes and Punishment, Chapter 39 – Roads and Bridges 18-3905. Transportation of Hazardous Waste: *“(2) Any person who transports hazardous waste or any generator of hazardous waste or other person who causes hazardous*

waste to be transported on highways or roads of this state in a manner which will endanger the health, welfare or safety of the citizens of the state of Idaho, or who transports or causes hazardous waste to be transported on highways or roads of this state in a manner which is not in compliance with the laws of the state of Idaho...

[NOTE: See

<http://www.legislature.idaho.gov/idstat/Title18/T18CH39SECT18-3905.htm>]

L. Idaho Administrative Code IDAPA 58, Department of Environmental Quality 58.01.10 – Rules Regulating the Disposal of Radioactive Materials

[NOTE: See <http://adminrules.idaho.gov/rules/2012/58/0110.pdf>]

M. Idaho Statute Title 39, Health and Safety, Chapter 44 – Hazardous Waste Management 39-4403: “(8) ‘Hazardous waste’ means a waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illnesses; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties but do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to national pollution discharge elimination system permits under the federal water pollution control act, as amended, 33 U.S.C., section 1251 et seq., or source, special nuclear, or byproduct material as defined by the atomic energy act of 1954, as amended, 42 U.S.C., section 2011 et seq.”

[NOTE: See <http://legislature.idaho.gov/idstat/Title39/T39CH44SECT39-4403.htm>]

N. Emergency Planning & Community Right-to-Know Act, 42 U.S.C. §11001 et seq. (1986): “This law is designed to help local communities protect public health, safety, and the environment from chemical hazards.”

[NOTE: See <http://www2.epa.gov/laws-regulations/summary-emergency-planning-community-right-know-act>]

O. Idaho Statute Title 48, Monopolies and Trade Practices, Chapter 6 – Idaho Consumer Protection 48-601: “The purpose of this act is to protect both consumers and businesses against unfair or deceptive acts and practices in the conduct of trade or commerce...”, including as relates to mineral right leases and split estate leases involved in gas and oil development.

[NOTE: See

<http://www.legislature.idaho.gov/idstat/Title48/T48CH6SECT48-601.htm>]

P. Idaho Administrative Code IDAPA 58, Department of Environmental Quality
58.01.01 – Rules for the Control of Air Pollution in Idaho

[NOTE: See <http://adminrules.idaho.gov/rules/2011/58/0101.pdf>]

Q. U.S. Department of Transportation Pipeline and Hazardous Materials Safety
Administration – Federal Regulations.

[NOTE: See <http://www.phmsa.dot.gov/regulations>]

R. Residual Waste / Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM): Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) consist of materials, usually industrial wastes or by-products enriched with radioactive elements found in the environment, such as uranium, thorium and potassium and any of their decay products, such as radium and radon. These natural radioactive elements are present in very low concentrations in earth's crust and are brought to the surface through human activities such as oil and gas exploration or mining and through natural processes like leakage of radon gas to the atmosphere or through dissolution in ground water.

[NOTE: Currently State & Federal laws exempt oil & gas production from compliance with “Hazardous Waste” regulations. The Gem County ordinance will require definitive regulations regarding Transport, Disposal, Storage and Sale of Residual Waste – see “Naturally Occurring Radioactive Materials (NORM) in Produced Water and Oil-Field Equipment – An Issue for the Energy Industry” – <http://pubs.usgs.gov/fs/fs-0142-99/fs-0142-99.pdf>]

S. Idaho Administrative Code IDAPA 20, Department of Lands 20.07.02 – Conservation of Crude Oil & Natural Gas in the State of Idaho

[NOTE: See <http://adminrules.idaho.gov/rules/current/20/0702.pdf>]

[NOTE: Idaho Regulations provided by IDAPA 20.07.02 **DO NOT consider, and fail to protect, the public health, safety, nuisance, and diminution of property value for the citizens of Gem County.** Notable items are, but are not limited to, the following: Application, Confidentiality, Active Well, Common Source of Supply, Completion, Drilling Logs, Geophysical or Seismic Operations, Hydraulic Fracturing or Fracing, Inactive Well, Intermediate Casing, Mechanical Integrity Test, Pollution, Volatile Organic Compound(s), Waste as Applied to Gas, Well Report, Well Treatment, Master Drilling/Treatment Plan(s), Fresh Water Protections for Well Treatments, Volatile Organic Compounds and Petroleum Distillates (the use of...), Well Integrity, Pressure Monitoring, Bonding, Surface Owner Protection(s), and General Drilling Rules.]

T. EPA’s Integrated Risk Information System (IRIS): “IRIS is a human health assessment program that evaluates information on health effects that may result from

exposure to environmental contaminants. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities. The IRIS database contains information on more than 550 chemical substances containing information on human health effects that may result from exposure to various substances in the environment."

[NOTE: This is a searchable collection of documents describing substances with cancerous and noncancerous health effects – See <http://www.epa.gov/iris/intro.htm>]

-2: DEFINITIONS:

All technical industry words or phrases related to the development of gas and oil wells not specifically defined shall have the meaning customarily attributable thereto by prudent operators in said industry. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ABANDONMENT: The plugging of a well and the restoration of the drill site as required by this chapter.

ADMINISTRATIVE GAS AND OIL WELL DEVELOPMENT PERMIT: An administrative gas and oil well development permit is required for each planned pad site. This administrative permit is not transferable from one pad site to another.

ADMINISTRATIVE REVIEW: A regulatory review, decision and/or action performed by the administrator of the Gem County planning and zoning department, which is subject to the appeals process defined in this title.

ADMINISTRATOR: The Gem County planning and zoning administrator.

AIR POLLUTION: The presence in the outdoor atmosphere of any contaminant or combination thereof in such quantity of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property; or to interfere unreasonably with the enjoyment of life or property.

[NOTE: See Idaho Statutes 39-103(2) – <http://legislature.idaho.gov/idstat/Title39/T39CH1SECT39-103.htm> and IDAPA 58, Department of Environmental Quality 58.01.01 – Rules for the Control of Air Pollution in Idaho <http://adminrules.idaho.gov/rules/2011/58/0101.pdf>]

AMBIENT NOISE LEVEL: The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at that location, constituting the normal or existing level of environmental noise at a given location.

AREAS OF CITY IMPACT: "City area of impact" is defined as that unincorporated land mass which lies contiguous to the city, having its closest boundary to the city, the city limits of said city, as they now exist or as they may be altered by future annexation of land to the city, and having its outermost boundary an imaginary line positioned approximately one (1) mile from the current city limits.

BLOWOUT PREVENTER: A mechanical, hydraulic, pneumatic, or combination of such devices secured to the top of the well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe or other tubular goods which completely close the top of the casing and are designed to prevent blowouts.

BOND, PERFORMANCE: A performance bond is a surety bond issued by an insurance company or a bank to guarantee satisfactory development, completion and possible closure of a project. A performance bond assures that the well developer will adhere and perform to the requirements of the contractual and/or land use agreement. If there is a failure to perform according to specifications and requirements, the bond is forfeited by the well developer. The County shall require that a performance bond be obtained by the well developer and/or operator as a condition of issuance of a well permit.

BOND, SURETY SURFACE DAMAGE: The term "surety bond or other guaranty" means a surety bond, a first priority security interest in a deposit of the proceeds of a collected cashier's check, a first priority security interest in a certificate of deposit or an irrevocable letter of credit, all in an amount and including other terms, conditions and requirements determined by the County and/or surface owner.

[NOTE: See <http://legisweb.state.wy.us/2002/Introduced/sf0040.pdf>]

CLOSED LOOP SYSTEM: A mechanical and chemical system which will allow the operator to conduct drilling and fracturing without utilizing a reserve pit.

COMPRESSION FACILITY: Those facilities that compress natural gas after production related activities occur.

DAYTIME: The period from seven o'clock (7:00) A.M. to seven o'clock (7:00) P.M.

DEHYDRATION FACILITY: Raw natural gas is collected from a group of wells and is processed at a facility for the removal of liquid water and natural gas condensate. The raw gas is then pressurized and piped from the dehydration facility.

DERRICK: Any portable framework, tower, mast and/or structure that is required or used in connection with drilling or reworking a well for the production of oil and/or gas.

DEVELOPMENT, GAS AND OIL WELL: Gas and oil well development occurs after

exploration has located an economically recoverable field, and involves the construction of one or more wells from the beginning to either abandonment if no hydrocarbons are found, or to well completion if hydrocarbons are found in sufficient quantities.

DRILLING: Digging or boring a new well for the purpose of developing or producing gas and/or oil or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid into the earth.

EXPLORATION, GAS AND OIL: Exploration for oil and gas means geologic or geophysical activities, including, but not limited to, surveying and seismic exploration, related to the search for oil, gas, or other subsurface hydrocarbons.

EXPLORATION PERMIT, GAS AND OIL: Filing for and acquiring a gas and oil exploration permit is the first stage of gas and oil well exploration in Gem County. An exploration permit does not allow for any type of drilling. The operator must acquire an administrative gas and oil well development permit prior to drilling.

FILLING: Any addition of rock, dirt, soil, or other earthen material in conjunction with or anticipation of drilling activities or construction of a pipeline, including, but not limited to, disposal of excavated materials.

~~**FRAC, FRACTURE OR FRACTURING:** The process of fracture stimulation of a rock formation, including, but not limited to, the process of pumping sand laden fluids and chemicals down a well to stimulate a rock formation. [See HYDRAULIC FRACTURING OR FRAC(K)ING, below]~~

FRESH WATER: All surface waters and those ground waters that are used, or may be used in the future, for drinking water, agriculture, aquaculture, or industrial purposes other than oil and gas development. The possibility of future use is based on hydrogeologic conditions, water quality, future land use activities, and social/economic considerations.

GATHERING LINES: A pipeline that transports gas from the point of production to a transmission line or main pipeline.

[NOTE: See <http://www.phmsa.dot.gov/regulations>]

HYDRAULIC FRACTURING, OR FRAC(K)ING: A method of stimulating or increasing the recovery of hydrocarbons by perforating the production casing and injecting fluids or gels into the potential target reservoir at pressures greater than the existing fracture gradient in the target reservoir.

HAZARDOUS MATERIALS MANAGEMENT PLAN: The hazardous materials management plan and hazardous materials inventory statements required by the fire code.

HAZARDOUS WASTE: See -1-1-M above.

IDLED PIPELINE: A pipeline that has been inactive for at least two (2) years, regardless of whether there may be specific plans to reactivate the pipeline.

INACTIVE PIPELINE: A pipeline that has temporarily been taken out of service for a period of at least six (6) months for hazardous materials or hazardous liquids, or for a period of at least one (1) year for natural gas, with the expectation that the pipeline may be reactivated within two (2) years, even though there may be no specific plans to reactivate the pipeline.

INJECTION WELL: Any feature that is operated to allow injection of fluids other than those used in gas or oil well stimulation; a bored or dug shaft or improved sinkhole whose depth is greater than the largest surface dimension.

[NOTE: See <http://adminrules.idaho.gov/rules/current/37/0303.pdf>]

MONITORING WELL: A well designed and installed to obtain representative groundwater quality samples and hydrogeologic information.

NEW WELL: A new well bore or new hole established at the ground surface and shall not include the reworking of an existing well that has not been abandoned unless the reworking involves drilling to a deeper total depth.

OPERATOR: The person of record, that is responsible for and actually in charge and control of drilling, maintaining, operating, pumping or controlling any well including, without limitation, a unit operator. If the "operator", as defined herein, for any well is not the lessee of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event there is no oil and gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall also be deemed an operator.

PAD SITE: The area around a well that serves as a foundation for the drilling rig. In Gem County, pad sites are limited to five (5) acres.

PERMITTEE: Any person authorized to act under a permit or a certificate issued by the county. The permittee is any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or

federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

[NOTE: See Idaho Statutes 39-7203(5) - <http://www.legislature.idaho.gov/idstat/Title39/T39CH72SECT39-7203.htm>]

PIPELINE PERMIT: A permit applied for and issued or denied pursuant to this chapter authorizing the movement of gas, oil, water or other products through a pipeline.

PIPELINES: All parts of those physical facilities through which gas, hazardous liquids or chemicals move in transportation, including but not limited to pipe, valves and other appurtenance attached to pipe, whether or not laid in public or private easement or public or private right-of-way within the county, including but not limited to gathering lines, production lines and transmission lines.

PRODUCTION, GAS AND OIL: Production is the process of extracting the hydrocarbons and separating the mixture of liquid hydrocarbons, gas, water, and solids, removing the constituents that are nonsalable, and selling the liquid hydrocarbons and gas. Production sites often handle crude oil from more than one well. Oil is nearly always processed at a refinery; natural gas may be processed to remove impurities either in the field or at a natural gas processing plant.

REGULATED PIPELINE: Those pipelines within the county, under federal and state rules and regulation are not exempt from county regulations and ordinances regarding construction standards, safety standards or reporting requirements.

RESIDUAL WASTE: Any solid, liquid or gas produced by the gas and/or oil industry. It includes but is not limited to all waste as noted in The Resource Conservation and Recovery Act (RCRA, the nation's primary law governing the disposal of solid and hazardous waste).

[NOTE: RCRA, a federal agency managed by EPA, is charged with protecting human health and the environment from the potential hazards of waste disposal. Additionally, the EPA is tasked with ensuring that wastes are managed in an environmentally sound manner. This agency established the basic "cradle to grave" approach to hazardous waste management that exists today. In October of 2012, Idaho DEQ was approved as a state-delegated agency for this federal law. The federal law states that "State RCRA programs must be at least as stringent as the federal requirements, but states can adopt more stringent requirements as well." It is incumbent upon Gem County to establish language in its gas & oil ordinance to ensure the citizens are protected from the production, transport, disposal and/or sale of all residual waste. See <http://www.epa.gov/osw/laws-regs/state/stats/safrn/safrs/id100112.pdf>]

ROAD MAINTENANCE AGREEMENT: A written agreement obliging the operator to repair damage, excluding ordinary wear and tear, if any, to county and private [and city?] roadways, including, but not limited to, bridges, road alignments, culverts and

surfaces, caused by the operator or its employees, agents, contractors, subcontractors or representatives in the development and production of any well authorized by the county.

TANK BATTERY: Point of collection (tanks) and disbursement (tank, lease automated custody transfer unit) of oil or gas from producing well(s).

WATER POLLUTION: Such alteration of the thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge or release of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

*[NOTE: See Idaho Statutes 39-3602(35) -
<http://legislature.idaho.gov/idstat/Title39/T39CH36SECT39-3602.htm>]*

WATERS: All accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, flow through or border upon this state except for private waters as defined in section 42-212, Idaho Code.

*[NOTE: See Idaho Statutes 39-103(18) -
<http://www.legislature.idaho.gov/idstat/Title39/T39CH1SECT39-103.htm>]*

WATER RIGHT: The legal right to divert and beneficially use the public waters of the state of Idaho where such right is evidenced by a decree, a permit or a license issued by the department, a beneficial or constitutional use right evidenced by an adjudication claim or claim based on section 42-243, Idaho Code, or a right based on federal law.

*[NOTE: See Idaho Statutes 42-5201(16) -
<http://www.legislature.idaho.gov/idstat/Title42/T42CH52SECT42-5201.htm>]*

WELL: A hole or bore to any horizon, formation, or strata for the purpose of producing gas and/or oil.

WELL ABANDONMENT/RECLAMATION: The temporary or permanent cessation of production from a well or, if the well has not been completed, the cessation of further drilling operations; and the appropriate renovative actions needed to make the well bore safe (plugged) and the area around it restored to its natural state.

WELL COMPLETION: The process of installing equipment in a drilled well bore to allow a safe and controlled flow of gas or oil from the well.

WORK OVER OPERATIONS: Work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.

[NOTE: For additional oil and gas terms/definitions, see U.S. Department of Labor, Occupational Safety & Health Administration -

https://www.osha.gov/SLTC/etools/oilandgas/glossary_of_terms/glossary_of_terms_c.html]

[NOTE: Presumably these definitions will be checked against their actual occurrence in the code.]

-3: EXPLORATION:

It is the Gem County Commissioners' responsibility to protect and conserve the county's valuable recreational settings and the attractiveness of its facilities, parks, designated scenic pathways, and preserves. Applicants will therefore be denied permission to develop oil or gas facilities that would impinge either visually or practically upon Gem County citizens' and visitors' enjoyment of the county's current or proposed public places and spaces, whether owned by the County, by cities within it, or by other agencies. Additionally, safe access for aviators to the County's airfield must be assured. Given those parameters, and any that might exist due to sensitive topographical/ecological areas, the County has established a gas and oil exploration permitting process as below.

Some of the factors noted below will need to be addressed in a revised ordinance once a drill zone is determined by the applicant. The County reserves the right to deny a permit to any gas or oil exploration and/or extraction applicant for the following reasons, including but not limited to:

[NOTE: Ambiguities such as "adverse" or "insufficient" in the following section need to be defined and/or linked to defining places in the document]

A. Exceeding National Ambient Air Quality Standards (NAAQS) and/or Hazardous/ Toxic Air pollutant(s) impacts to public health and safety, including but not limited to methane, benzene, toluene, ethylbenzene and xylene (BTEX).

B. Insufficient submittal by the applicant of an air quality monitoring plan; **define** ("see...")

C. Insufficient submittal by the applicant of a groundwater protection plan; **define**

D. Adverse socioeconomic impacts; **define**

E. Adverse visual, noise or community character impacts; **define**

F. Adverse transportation impacts; **define**

- G. Adverse impacts to surface and groundwater, watershed, recharge zones, public and private drinking water; **define**
- H. Inadequate protective buffer around public drinking water stratum(s) and/or watersheds; **define**
- I. Inadequate documentation of the usable drinking water stratum(s) and/or watersheds within two (2) miles of a proposed extraction site; **define**
- J. Failure to provide an adequate site-specific environmental review for five (5) miles within an area of any public drinking water aquifer; **define**
- K. Applicant's permit is requested for extraction operations within two thousand five hundred (2,500) feet of any public drinking water supply;
- L. The entire proposed length of the wellbore is less than one thousand (1,000) feet below the base of a known fresh water supply;
- M. Any proposed well pad is within the boundaries of a principal aquifer, or outside of but within two thousand five hundred (2,500) feet of the boundaries of a principal aquifer;
- N. Any proposed well pad is within one thousand five hundred (1,500) feet of a perennial or intermittent stream, storm drain, lake or pond;
- O. Failure to consider impacts on ecosystems, wildlife, and fish.

-3-1: ADMINISTRATIVE GAS AND OIL EXPLORATION PERMIT REQUIRED:

The exploration of gas and/or oil within the County shall only be permitted by administrative gas and oil well exploration permit in accordance with Idaho Code 67-6512(b) (notification requirements). A separate administrative gas and oil well exploration permit shall be required for surface area of 1 square mile, and shall apply to all types of exploration. All applications for an administrative gas and oil well extraction permit shall be accompanied by an application fee in the amount set in the County's fee schedule. A site plan is required with the administrative gas and oil well exploration permit and must include all information required by chapter ?? of this title. The gas and oil exploration permitting process is mutually beneficial and essential in that it allows the County the opportunity to make the operator aware of any sensitive areas around the proposed location of exploration. The administrative gas and oil well exploration permit is to include, but not be limited to, the following:

~~A. Prior to exploration for gas and/or oil, as a land use activity in Washington County, the operator shall acquire a gas and oil exploration permit from the county planning and~~

~~zoning office. This permit is at no cost to the operator. The gas and oil exploration permitting process is mutually beneficial and essential in that it allows the county the opportunity to make the operator aware of any sensitive areas around the proposed location of exploration. (Ord. 71, 12-24-2012)~~

A. *Seismic surveys:* The operator conducting the seismic survey shall complete and submit a seismic survey application to the County containing, at a minimum, all the following information:

1. Operator name, phone number, facsimile transmission number, address, and, if available, e-mail address;
2. If the operator is a corporation or other non-corporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names and addresses of the general partners;
3. Location of seismic survey proposed;
4. Date(s) and time(s) the seismic survey will be conducted;
5. Detailed explanation of the seismic survey method to be used on site, including but not limited to any commercial and/or industrial use of radioactive materials used to analyze wells for oil or gas exploration;
6. Date and time the seismic survey will be completed;
7. Identification of all staging areas;
8. Evidence or documentation that the company and/or its contractors are in compliance with all state, federal and local laws and that they have no current or pending violations, fines, lawsuits or warnings related to gas/oil exploration and/or extraction.
9. Under no circumstances may explosive charges, including but not limited to the use of dynamite, be used to conduct a seismic survey. In addition, the seismic survey activity shall be conducted in accordance with all applicable City and County ordinances.
10. No seismic activity shall be permitted on County-owned fee property without the express consent of, and pursuant to the conditions established by, the County Commissioners.
11. No seismic activity shall be permitted within Gem County-owned rights-of-way or utility easements without first entering into a license agreement with the County, prepared by the County Public Works and/or Roads Department.
12. Proof of insurance in the form of a standard commercial general liability insurance bond is required. This coverage must include premises, operation, products, completed operations, sudden or accidental pollution, blanket contractual liability, broad form

property damage, independent contractors' protective liability, and personal injury. This coverage shall be a minimum combined single limit of one million dollars (\$1,000,000) per occurrence location for bodily injury and property damage.

13. A detailed map showing the locations of all vibration and geophone points.

14. A road repair agreement obligating the seismic operator to fund the repair of any damage caused by the operator to County infrastructure.

-4: DEVELOPMENT:

Prior to any oil and/or gas development and/or extraction, the applicant shall pay to the County a fifty percent (50%) cost share for a USGS-approved groundwater baseline testing program, including but not limited to planned individual drill sites and/or mapped countywide areas of multiple proposed drilling sites.

[NOTE: Based on USGS recommendations, knowing the area of drilling will determine what studies are needed for recommending adequate baseline groundwater testing.]

-4-1: PROHIBITION OF HORIZONTAL HYDRAULIC FRACTURING:

In the interests of fulfilling its mission of protecting public health, public safety, public order, and to prevent harm to public infrastructure or degradation of the value, use and enjoyment of private property, and to protect the quality of water sources and the natural environment, operational practices with questionable safety and public welfare outcomes will not be permitted within Gem County. While conventional vertical well drilling, and low-volume/low-pressure stimulation of reservoir rock where needed to clear well casings, will be permitted per state mandate, Gem County prohibits within its borders the practice of gas extraction by high-volume/high-pressure horizontal hydraulic fracturing ("frac(k)ing") of source and/or reservoir rock. In addition, the County expects that operators will utilize "green" well treatment solutions where such treatment is necessary. **[concern about "acidizing" with hydrofluoric acid]**

[NOTE: EPA, BLM and other federal agencies are now addressing new and revised laws related to well treatment, stimulation, fracing, and the adverse public health and safety issues thereof.]

[NOTE: A 2011 report produced for the U.S. House of Representatives Committee on Energy and Commerce, "Chemicals Used in Hydraulic Fracturing", found a large number of the 750 components of frac fluids used were of known toxicity (and some are untested). It concluded that "The absence of a minimum national baseline for disclosure of fluids injected during the hydraulic fracturing process and the exemption of most hydraulic fracturing injections from regulation under the Safe Drinking Water Act has left an informational void concerning the contents, chemical concentrations, and

volumes of fluids that go into the ground during fracturing operations and return to the surface in the form of wastewater. As a result, regulators and the public are unable effectively to assess any impact the use of these fluids may have on the environment or public health.” See

<http://democrats.energycommerce.house.gov/sites/default/files/documents/Hydraulic-Fracturing-Chemicals-2011-4-18.pdf>]

[NOTE: For outstanding examples of reports on fracturing-related problems, see the well-respected “High Country News” online (searches on “frac(k)ing” -

<http://www.hcn.org/@@search?SearchableText=fracking> - and “gas” -

<http://www.hcn.org/@@search?SearchableText=gas>

- are good places to begin exploration)]

-4-2: ADMINISTRATIVE GAS AND OIL WELL DEVELOPMENT PERMIT REQUIRED:

The development of gas and/or oil within the County shall only be permitted by administrative gas and oil well development permit in accordance with Idaho Code 67-6512(b) (notification requirements). A separate administrative gas and oil well development permit shall be required for each pad site, and shall apply to all wells permitted by such permit on that pad site. All applications for an administrative gas and oil well development permit shall be accompanied by an application fee in the amount set in the County's fee schedule. The County reserves the right to deny a permit to any gas or oil extraction applicant for the following reasons including but not limited to: See -3-A through -O. A site plan is required with the administrative gas and oil well development permit and must include all information required by chapter ?? of this title. The administrative gas and oil well development permit is to include, but not be limited to, the following:

A. Application Requirements for an Administrative Gas and Oil Well Development Permit: Each application shall contain all the following information:

1. The date of the application;
2. An accurate legal description of the property to be used for the oil and/or gas operation, the parcel number, and the production unit name, and the GPS coordinates of all planned wells on the proposed pad site;
3. If a special use permit has been approved for the proposed oil and gas operation, a list of all requirements set forth in the approved specific use permit and a written summary of how those requirements will be met;
4. A map showing the proposed transportation route(s), identifying all public and private roads/routes intended for use within the territorial limits of the County;
5. The proposed well name(s);

6. The surface owner's [and tenant's?] name(s), address and phone number; and if available, e-mail address;
7. The minerals lessee's name(s), address, phone number, and if available, e-mail address;
8. Operator's name, phone number, facsimile transmission number, address, and if available, e-mail address;
9. If the operator is a corporation or other non-corporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names and addresses of the general partners;
10. Name, phone number, address, and if available, e-mail address of the individual designated to receive notice on behalf of the operator;
11. Name of representative with supervisory authority over all oil and/or gas operation site activities and a twenty-four (24)-hour phone number;
12. Owner's name(s) and address(es) of each parcel associated with the proposed pad site;
13. A site plan of the proposed pad site depicting the height, size, bulk and location of all proposed structures and equipment, including security cameras, lighting and utilities. The site plan shall also include the location and description of all existing improvements, structures and utilities within two thousand five hundred feet (2,500') of the proposed pad site;
14. A site plan noting location(s) of all existing water and oil or gas wells, springs, ponds, or municipal water lines, within a one (1)-mile radius of the drill site, with notations including but not limited to depth of well, static water level and pump depth of well, and terrain. If no existing water wells are located within a one (1)-mile radius, the operator will be required to drill a minimum of two (2) monitoring wells for the purpose of groundwater baseline testing. The location of monitoring wells shall be reviewed by appropriate USGS personnel;
15. The name, address and twenty-four (24)-hour phone number of the person to be notified in case of an emergency;
16. A signed statement of intent to execute a road maintenance agreement with the County, and applicable property access road agreements with surface owners, as provided in this chapter;
17. A description of the water source(s) and amounts of water to be used during well fracturing, development and/or operations, with all applicable water permit(s), water right(s) and water use license(s)/decree(s);

18. A water availability report including, in addition to existing and planned use, whether the total projected water supplies available during normal, single-dry and multiple-dry water years during a fifty (50)-year projection will meet the projected water demand associated with each proposed gas or oil site. This report must be completed by a certified hydrogeologist, approved by the County, at the applicant's expense. This information will be deemed public information;

19. A groundwater protection plan must be completed by a certified hydrogeologist, approved by the County, at the applicant's expense. This information will be deemed public information;

20. Baseline groundwater data for all drinking water stratum(s) and surface water, including springs and ponds, within one (1) mile of any proposed gas/oil well site. This data will be completed by a certified hydrogeologist, approved by the County, at the applicant's expense. This information will be deemed public information;

21. A geohydrologic report describing the adverse impacts and effects of gas and oil development with respect to groundwater resources located within geological formations in sufficient proximity to a gas or oil project; identifying fractured, faulted and any other formations that would permit extraneous oil, gas, dirty or gray water, mud or other chemicals, toxic minerals or other pollutants to degrade the ground or subsurface water resources, or allow ground or subsurface water resources to be reduced, polluted and unavailable for public or private water supplies;

[NOTE: Reference 9.6.7 of Board of County Commissioners of Santa Fe County, Ordinance No. 2008-19 -

http://www.santafecountynm.gov/userfiles/SFCOrdinance2008_19.pdf]

22. A hazardous materials management plan complying with all requirements of the County;

23. An agreement that all material safety data sheets (MSDS) detailing the hazardous material and any chemicals that will be located, stored, transported and/or used at the pad site shall be provided to the administrator and fire marshal, or his representative, and shall be available to the public upon request;

24. An emergency response plan complying with all requirements of the County;

25. Evidence of insurance and security meeting minimum levels established by this chapter;

26. A description of all fuel sources to be used at the proposed drill and operation site, including but not limited to all public utilities needed during drilling and operation;

27. A waste management plan that addresses human, solid and liquid drilling production waste; all waste to be tested for contaminants associated with gas and oil drilling

operations. The waste management plan must include method(s) of disposal including but not limited to injection, surface application and/or shipping. Any and all radioactive waste transported on Gem County roads will require notification to the zoning department no less than seventy-two (72) hours prior to transport. Notification must include destination, contamination level, carrier name, license, and documentation of shipping containers approved by the Idaho Department of Transportation;

28. A fiscal impact assessment describing: the adverse affect and impact upon County revenue and costs necessitated by additional public facilities and services generated by gas and oil projects; the feasibility of financing such facility and service costs; and positive affects of proposed gas and oil projects. This assessment shall include, but not be limited to, roads and highways, bridges and canals, surface water runoff and detention facilities, solid/liquid waste disposal, fire and police protection/substations, emergency response services, operational costs for additional fire/police/emergency response personnel as well as County Public Works employees needed to maintain roads, drainage areas, and environmentally or historically sensitive areas. The report must include but is not limited to the following: calculations, estimates, sources of data;

[NOTE: Reference 9.6.9 of Board of County Commissioners of Santa Fe County, Ordinance No. 2008-19 -

http://www.santafecountynm.gov/userfiles/SFCOrdinance2008_19.pdf]

29. The approval of an administrative gas and oil well development permit will be based on numerous criteria. Primarily, the applicant must show that the proposed development will not be adverse to public health, safety and general welfare, or injurious to private property or shared water resources. The burden of proof is on the applicant, who shall note all potential drilling and other hazards that might be associated with this project;

30. A site-specific storm water pollution prevention plan (SWPPP) with scaled detail plans, complying with all federal, state, and local storm water quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements. A copy of the NOI shall be submitted to the County seven (7) business days prior to the commencement of any on-site activity;

31. A site-specific vegetation (trees, shrubs, grasses and forbs) protection plan for each gas- or oil-related site, all access roads, and pipeline infrastructure, complying with all requirements of the County;

32. A site-specific erosion control plan complying with all requirements of the Federal, State and/or County;

33. A hazardous materials and residual waste management plan complying with all requirements of the County. The hazardous materials management plan shall be filed with the Fire Chief. The hazardous materials plan shall be kept current with any additions, modifications, and amendments concerning all construction related activities

and oil and gas operations and production. The plan shall include HAZMAT and fire department response times and updated hazardous materials plans shall be submitted to the Fire Chief within two (2) business days of any additions, modifications, and/or amendments;

34. All current material safety data sheets (MSDS) detailing all the hazardous and non-hazardous materials and chemicals expected to be located, stored, transported and/or used at the drill site (including site preparation, boring, completion, and production) shall be provided to the County and Fire Chief prior to drilling. In addition, estimated quantities, volumes and concentrations of each substance must be reported on.

35. A site-specific emergency response plan complying with all requirements of the County, or, if a specific use permit has already been approved for the drill site, a copy of the emergency response plan previously approved. Said plan shall use existing guidelines established by Fire Chief, the Idaho Department of Environmental Quality, Department of Transportation and the United States Environmental Protection Agency. The emergency response plan shall be kept current with any additions, modifications, and amendments concerning all construction-related activities and oil and/or gas operations and production. Updated plans shall be submitted to the Fire Chief within two (2) business days after any additions, modifications, and amendments are made. A copy of the emergency response plan shall be kept on-site. The emergency response plan shall, at a minimum, provide for all of the following:

a. Prompt and effective response to emergencies regarding:

- (1) Leaks or releases that can impact public health, safety, welfare; and
- (2) Fire, explosions, loss of well control or blow out at the well or in the vicinity of an oil or gas well; and
- (3) Natural disasters;

b. Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency, including a detailed plan that should address contacting City and County officials responsible for implementing City and County policy regarding notification and evacuation of residents, where necessary;

c. The availability of personnel, equipment, tools, and materials as necessary at the scene of an emergency;

d. Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment;

e. Fire Department and HAZMAT response times;

f. Emergency shutdown of an oil or gas well and related site(s);

- g. The safe restoration of service and operations following an emergency or incident;
- h. A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures;
- i. An annual certification and update of the emergency response plan shall be performed in accordance with Section _____ of this ordinance;

36. A site-specific noise management plan, showing distance to noise receptors, complying with all requirements of the County. This shall be prepared by a noise control engineer or other qualified person approved by the county, for any equipment used in the drilling, completion or production of a well as required in Section _____ of this ordinance or, if a specific use permit has already been approved for the drill site, a copy of the noise management plan previously approved. The noise management plan shall address all of the following:

- a. Description of proposed facility and potential noise impacts. This analysis must include a comparison of the potential noise generation with the applicable noise standards;
- b. Establish the ambient noise level for both the daytime and nighttime hours over a minimum of forty-eight (48) hours;
- c. Identify all noise mitigation techniques that will be implemented on the site including but not limited to blankets/curtains, sound walls and mufflers for generators and motors;
- d. Best management practices used to reduce the impact of noisier operations such as pipe deliveries and use of horns for communication;
- e. Mitigation of pure tone and low tone frequency noise;
- f. Maximum noise levels anticipated at the drill site;

37. A signage plan complying with all requirements of Idaho Gas & Oil commission for both the drill site and pipelines,

38. A screening, fencing and landscape plan detailing compliance with all landscape and screening requirements required by County, including a proposed schedule detailing the timing of all landscaping, screening and fencing to be installed;

39. A landscape irrigation plan as designed by a certified irrigation designer detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation; or, if a specific use permit has already been approved for the drill or operation site, a copy of the landscape irrigation plan previously approved. All trees on site shall be irrigated by a drip system;

40. A fully executed third-party landscape maintenance agreement detailing the frequency and scope of the landscaping services to be provided;
41. A copy of the determination of the depth of usable-quality groundwater by a certified hydrogeologist, approved by the County, at the applicant's expense;
42. Evidence of insurance and security meeting the minimum levels established by this ordinance;
43. A copy of all applicable right-of-way encroachment agreements;
44. A site-specific dust mitigation plan detailing measures to be implemented to mitigate and suppress dust generated at the drill site and the private vehicle access route, including a mud shaker for vehicles exiting the site; or, if a specific use permit has already been approved for the drill site, a copy of the dust mitigation plan previously approved;
45. A description of how the proposed operations are consistent with and adhere to the Gem County Comprehensive Master Plan, as amended;
46. A site-specific detailed evacuation plan addressing the evacuation strategy for a public or private school, hospital, senior living facility, assisted living and/or nursing care facility or daycare facility if any such facility will be located within two and one-half (2 1/2) miles of the edge of the proposed drill site; and, a detailed list of all homes or habitable structures to be notified in the event of an evacuation, including, without limitation, all persons residing within two and one-half (2 1/2) miles of the edge of the proposed drill site; or, if a specific use permit has already been approved for the drill site, a copy of the evacuation plan previously approved. The plan should address the methods that the operator will employ to notify the County in a timely manner that an event requiring evacuation has occurred, as well as the methods that will be employed to maintain a current, up-to-date, notification list. The plan shall also include an evaluation of alternate access points for ingress or egress to the drill site, other than the primary drive;
47. A site-specific waste management plan that addresses human, solid and drilling production waste, or, if a specific use permit has already been approved for the drill site, a copy of the waste management plan previously approved;
48. A site-specific Leak Detection and Compliance Plan (LDCP) to ensure that all site activities and equipment are in compliance with applicable rules and regulations. The LDCP shall include methodology to assess and evaluate the impact of drilling, production, and other activities at the drill site and immediate surroundings. Specific elements shall include, but are not limited to: a leak detection monitoring program, methods and equipment for emission measurements, site inspection activities, continuous distance monitoring through SCADA (Supervisory Control and Data Acquisition system). If SCADA is not available, the applicant must provide an alternate

means to satisfy these requirements. Additionally, the applicant must include a response plan to address emergency issues if they arise, and any other information required by the Planning and Zoning and Development Services Director. Monitoring should include evaluation of potential impact to air, soil, surface water or groundwater. In addition to other reporting requirements established by this ordinance, annual reporting of the monitoring results to the County is required with all laboratory data sheets, field logs, data summary, and actions taken in the previous monitoring period. The plan must be created in accordance with County-mandated guidelines and address the manner in which periodic inspections by a third party will occur to ensure compliance with the LLUP plan goals of protecting the public health and safety;

49. A Green Completion/Reduced Emissions Completion plan that addresses equipment, techniques, practices and programs that will be implemented to recapture gas and condensate in order to reduce emissions of VOCs and methane;

50. A gas dispersion model, a risk assessment, and a blast study conducted by an unaffiliated third party with a licensed engineer. The study must include a Risk Minimization Statement (RMS) by the operator with supporting documentation by an unaffiliated licensed third party outlining the potential radius of influence and nature of impact during a potential well blowout scenario. This should consider potential explosive blast concerns to life and property and larger air quality impacts due to a catastrophic event at the planned drill site. Reference to instances seen by industry operating similar equipment as that proposed should be provided as well as any supportive modeling performed. Included in the RMS should be specific steps, equipment or procedures employed by the operator to reduce the risk of catastrophic failure at the drill site;

51. A cement casing program demonstrating adherence to all Idaho Oil & Gas Commission regulations and including a proposed schedule of work, a summary of other best management practices that the operator will employ, coordination of the on-site inspection of casing installation by the Inspector, and authorization access to all relevant operator-maintained reports. Additionally the County may require a multiple-wall casing with cement for fresh water/drinking water stratum(s);

52. A continuous air quality monitoring plan that addresses the requirements outlined by Idaho DEQ;

53. A continuous water testing plan that addresses the requirements as outlined in the newly adopted Wyoming Baseline Protocol. The County reserves the right to require additional testing of compounds, minerals, TDS (total dissolved solids), metals and/or aesthetic qualities as defined in IDAPA 58.01.11 Ground Water Quality Rule and/or IDAPA 58.01.02 Water Quality Standards;

[NOTE: See <http://adminrules.idaho.gov/rules/2011/58/0102.pdf>
and <http://adminrules.idaho.gov/rules/current/58/0111.pdf> – also

<http://www.ogj.com/articles/2013/11/wyoming-formally-adopts-baseline-water-testing-requirement.html>]

54. A traffic impact analysis study, which includes but is not limited to proposed truck routes, types and weights of trucks and vehicles accessing the drill site, hours of the day and days of the week that truck and vehicle traffic will be entering and leaving the site, turning movements associated with truck and vehicle traffic, proposed access points and proposed traffic control devices;
55. Colored renderings of the site as viewed from all adjacent rights-of-way showing site elevations, screening walls and other landscaping and screening at the site;
56. A line-of-sight analysis indicating that permanent equipment on the site such as tanks, dehydrators, separators, vapor recovery systems and “Christmas tree” assemblies will be screened and not visible from adjacent rights-of-way or residential properties;
57. A list of all compounds that will be employed in the drilling process;
58. A site-specific Supervisory Control and Data Acquisition (SCADA) Plan outlining how data from the drill site will be continuously collected in a real-time manner and how this data is monitored. Data shall be collected at every stage of the oil or gas drilling and production process. The plan shall address how the SCADA system will control factors such as leakage, fire, emergency shut-down, oil or gas flow rate and accumulated flow, line pressure, detection and control, well-head pressure, pump status, tank level and other critical factors defined by the County. In addition, the plan should define the equipment, sensors, hardware, communication interfaces (radio, wire, fiber optic and microwave) and electro-mechanical devices that will be employed and how these devices will function during an emergency situation;
59. A soil sampling plan that addresses the parameters for testing requirements to be determined by a certified soil scientist approved by the County, at the applicant’s expense;
60. A site lighting plan designed to promote the safety of nighttime operations that complies with the County’s lighting ordinance. The plan should include a site-specific photometric plan, indicating the type and color of light(s) to be used, and should demonstrate compliance with all Federal Aviation Administration requirements. Additionally, any and all proposed lighting plans must be approved by all neighbors affected by proposed lighting. It is the responsibility of the applicant to secure all “neighbor” waiver(s) and/or approval(s).
61. A statement from the U.S. Fish and Wildlife Service and the Idaho Department of Fish and Game declaring that the proposed drilling site, oil/gas facility and/or project will not adversely affect federally- or State-listed Threatened or Endangered species.

62. The application must be signed by the owner, operator or person of supervisory authority, under penalty of perjury, verifying that all information is true, accurate and complete.

[NOTE: Suggest charting of all submitted requirements in tabular form – see example: 1713B of Douglas Co., CO “Oil & Gas Well Facilities – Overlay District” – <http://www.douglas.co.us/planning/documents/draft-section-17b-oil-and-gas-facilities-referral.pdf>]

[NOTE: For possibility of “Special Use & Development Permit” and “Certificate of Completion”, see Board of County Commissioners of Santa Fe County, Ordinance No. 2008-19 – http://www.santafecountynm.gov/userfiles/SFCOrdinance2008_19.pdf]

B. False, Inaccurate, or Withheld Information: The Gem County Board of County Commissioners may revoke the approval of a gas and oil well development permit if it is determined at a public hearing, held at least thirty (30) days after written notice is given to the applicant, that the applicant provided information or documentation upon which approval was based, which the applicant, its authorized representatives and employees knew, or reasonably should have known, was false, misleading, deceptive, or inaccurate when accurate information would have resulted in a denial of the request; or if the applicant is determined to have withheld information that would have resulted in a denial of the request. The applicant shall be provided with an opportunity to speak at the public meeting before the Board of County Commissioners.

[NOTE: Reference 1723B of Douglas Co., CO “Oil & Gas Well Facilities – Overlay District” - <http://www.douglas.co.us/planning/documents/draft-section-17b-oil-and-gas-facilities-referral.pdf>]

C. The application will include a detailed management plan that specifically itemizes all drilling equipment and materials to be used as well as consumables and wastes to be disposed of according to all applicable local, State, and Federal requirements.

-4-3: PROFESSIONAL/TECHNICAL ASSISTANCE ACCOUNT:

Until the state of Idaho establishes and develops an authorized and legitimate departmental entity whose sole responsibility is to provide local government with gas and oil related technical expertise and on site inspection authority, the following shall apply:

A. When an administrative gas and oil well development permit is approved, and prior to the permit being issued, the operator shall deposit with the County, the sum of fifteen thousand dollars (\$15,000.00). The funds shall be maintained by the County in an interest bearing account, from which the County may reimburse itself for the actual administrative expenses, consulting fees, or contracting fees. All interest earned shall be credited to the fund balance or refunded to the operator if and when the minimum

balance is achieved. The County shall invoice and notify the operator, in writing, of any deduction from the application fund and within fifteen (15) days of receipt thereof, the operator shall pay to the County for deposit into the fund the amount necessary to return the balance to fifteen thousand dollars (\$15,000.00). The operator may appeal any charge assessed against the fund by filing an appeal as provided in this title. If the operator fails to maintain the fund as required by this chapter, such failure shall constitute a violation of said chapter, and the administrator may suspend or revoke the administrative gas and oil well development permit and the County may pursue all remedies provided for such violation. Upon completion of all drilling activities, and final inspection and approval by the County, the County shall return any remaining account balance to the operator or the operator's approved assign.

-4-4: ROAD USE AND ROAD MAINTENANCE AGREEMENT:

A. The operator will submit for approval by the County a detailed map noting public and private roads to be used/constructed for each drill site. A fee will be assessed by Gem County for all road use by the operator and its contractors. Additional fee(s) may be assessed for, and will not be limited to, any of the following:

1. Mud/dirt contamination of any portion of County, City or State roads;
2. Trash/debris to any portion of County, City or State roads;
3. Damage of any sort to County, City or State roads and bridges;
4. Snow/ice maintenance required on County, City or State roads due to activity of gas/oil industry.

B. A statement of intent to enter into a Road Maintenance Agreement shall be submitted in conjunction with the administrative gas and oil well development permit application. The terms of the Road Maintenance Agreement must be approved by the County commissioners as a condition of the administrative gas and oil well development permit and signed by the operator prior to the issuance of said permit. The County road supervisor shall have the authority to execute the Road Maintenance Agreement on behalf of the County after approval by the zoning department. The applicant will pay the County for all time, cost, and/or equipment expended for any additional use, maintenance and/or related issues caused by gas/oil industry use.

C. Where a private road or roads are to be used for access to the facility, the applicant shall enter into a road construction/maintenance/improvement agreement with all affected parties for the purpose of paying for its pro rata share of the cost of maintaining or improving the affected road(s). The applicant shall include copies of all documents related to access and agreement as a condition of permit issuance.

[NOTE: Reference 1709B.12.2 of Douglas Co., CO “Oil & Gas Well Facilities – Overlay District” - <http://www.douglas.co.us/planning/documents/draft-section-17b-oil-and-gas-facilities-referral.pdf>]

D. Traffic Impacts: The citizens of Gem County should not be impacted unduly by traffic from activities related to the gas or oil industry.

1. The applicant is to direct the traffic of large trucks around city and residential streets wherever possible.
2. All vehicles/equipment traveling in a line of more than three (3) in a row must be spaced no less than one (1) mile apart.
3. The applicant will provide to the County a site-specific detailed mapped assessment of physical needs and projected hourly use for planned traffic routes and impacts for the horizon years of the proposed gas or oil development project. This shall include but not be limited to all drilling and production activities, disclosure of all possible road damage that might occur, and notice of all expected transportation of materials.
4. The applicant must agree to finance the County’s recommended revision to road egress/ingress points and intersections/controls as necessary to provide for public safety and to reduce traffic conflicts. It shall be the applicant’s responsibility to identify and negotiate/finance additional rights-of-way that may be needed to implement necessary traffic mitigation strategies.
5. Each drill site and other gas- or oil-related facility/operation will require a traffic counter. The monitor(s)’ records will be retrieved by a County employee on a bi-monthly basis. The monitor(s) will be used to determine whether additional impact fees will be assessed to the applicant by the County. The operator will be required to analyze that data, incorporate it into the traffic management plan, and provide an assessment of the data to the County. The data must include time, county, vehicle/equipment/trailer type and weight. The applicant will reimburse the County for all costs associated with data collation and/or analysis.
6. Traffic impacts will be reassessed if reports of problems are received by the County, and at a minimum on a bi-yearly basis during gas or oil facility operation, and within six (6) months of a gas/oil project’s completion. The County may recommend reassessment at a further after-completion date if roadway elements may need to be revised post-project. All traffic/road impact information shall be public information. Any real change from applicant’s proposed road use may require a public hearing.

[NOTE: Reference 9.6.6 of Board of County Commissioners of Santa Fe County, Ordinance No. 2008-19 - http://www.santafecountynm.gov/userfiles/SFCOrdinance2008_19.pdf (This document may also be useful as an example of the organization of permitting

requirements, including the chart of Oil/Gas Unsuitability Factors.))]

-4-5: OPERATOR'S AGENT:

Every operator of any well shall designate an agent, who is a resident of the state, upon whom all orders and notices provided in this chapter may be served in person or by mail. Every operator so designating such agent shall within two (2) business days notify the administrator in writing of any change in such agent or such mailing address unless operations within the County are discontinued.

-4-6: INSURANCE AND INDEMNIFICATION:

The operator shall provide or cause to be provided the insurance described below for each well for which an administrative gas and oil well development permit is issued, and shall maintain such insurance until the well is abandoned and the site restored. The operator must provide the County sufficient documentation that the operator's insurance complies with the minimum requirements and coverage amounts of this section and the policy must clearly and specifically name Gem County as the beneficiary **and the property owner as additional insured.**

A. Indemnification and Express Negligence Provisions: Each administrative gas and oil well development permit application issued by the County shall include the following language and regardless of whether such language is actually included in the administrative gas and oil well development permit application, it shall be deemed to be included therein:

Operator does hereby expressly and irrevocably release and discharge all claims, demands, action, judgments and executions of any and all kinds which it or its successors or assigns ever had, or now has or may have, or claims to have, against Gem County, Idaho, its departments, agents, officers, servants, employees, sponsors or volunteers, and each of their respective heirs, personal representatives, successors and assigns (Gem County and all other foregoing parties being herein referred to collectively as the "indemnified parties") created by or arising out of personal injuries, known or unknown, or injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under an administrative gas and oil well development permit. Operator agrees to fully defend, protect, indemnify and hold harmless the indemnified parties from and against each and every claim, demand or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees and expenses incurred by the indemnified parties caused by or arising out of, incidental to, or otherwise in connection with any work performed by operator under an administrative gas and oil well development permit, including without limitation, personal injuries and death in connection therewith which may be made or asserted by operator or operator's agents,

assigns or any third parties. Operator agrees to fully defend, protect, indemnify and hold harmless the indemnified parties from any claims, liabilities or damages suffered as a result of claims, demands, costs or judgments against the indemnified parties, created by or arising out of the acts or omissions of Gem County or any of the other indemnified parties, occurring on the drill site or operation site in the course and scope of inspecting and permitting the oil and gas wells, including, but not limited to claims, liabilities and damages arising in whole or in part from the negligence of any of the indemnified parties, including the sole negligence of any indemnified party, occurring in the course and scope of permitting or inspecting the wells, pad sites, pipelines and other areas involved in operator's activities. It is understood and agreed that the indemnity provided for in this section is an indemnity extended by the operator to indemnify and protect Gem County and the other indemnified parties from the consequences of the negligence of any of the indemnified parties, whether that negligence is the sole or a contributing cause of the resultant injury, death and/or damage. The foregoing is not intended to require the operator to indemnify the indemnified parties from the indemnified party's gross negligence or intentional harm, irrespective of whether that gross negligence or intentional harm is the sole or a contributing cause of the resultant injury, death and/or damage.

B. General Provisions Regarding Insurance:

1. All policies shall be endorsed to read substantially as follows:

This policy will not be cancelled or non-renewed without thirty (30) days advanced notice to the owner and Gem County, Idaho, except when this policy is being cancelled for nonpayment of premium, in which case ten (10) days advance written notice to both such parties is required.

2. Liability policies shall be written by carriers licensed to do business in Idaho and with companies with at least an "A" rating issued by A.M. Best Company.

3. Liability policies shall name as "additional insured" the County and the other indemnified parties as defined in this chapter. Waivers of subrogation shall be provided in favor of all indemnified parties.

4. The operator shall present the County with copies of the pertinent portion of the insurance policies evidencing all coverage and endorsements required by this section before the issuance of the administrative gas and oil well development permit, and the acceptance by the County of a policy without the required limits and/or coverage shall not be deemed a waiver of these requirements. The County may, in its sole discretion, accept a certificate of insurance in lieu of a copy of the pertinent portion of the policy pending receipt of such document by the County. After the issuance of the administrative gas and oil well development permit, the County may require the operator to provide a copy of the most current insurance coverage and endorsements for review

at any time. An administrative fee in the amount set in the County's fee schedule will be charged to cover the cost of such review.

5. Claims-made policies shall not be accepted except for excess policies and environmental impairment (or seepage and pollution) policies.

6. Nothing in this chapter prohibits or preempts a private party from the right to bring a damage action against the gas and oil well developer, its operator, its employees, etc.

C. Required Insurance Coverage:

1. Commercial or comprehensive general liability insurance:

a. Bodily injury and property damage coverage shall be a minimum combined single limit of ten million dollars (\$10,000,000.00) per occurrence with an annual general aggregate coverage of twenty million dollars (\$20,000,000.00). This coverage must include premises, operations, blowouts or explosions, products, completed operations, blanket contractual liability, underground property damage, underground reservoir (or reserve) damages, broad form property damage **including but not limited to any substance spills, whether surface/subsurface or accidental/negligent**, independent contractor's protective liability and personal injury.

b. Underground reservoir (or reserve) damage coverage shall be on an occurrence basis, shall not be limited to sudden and accidental occurrences, shall not have a discovery or reporting limitation and shall not exclude damage to water tables, formation or strata.

c. Environmental impairment (or seepage and pollution) coverage shall be either included in the comprehensive general liability coverage or as a separate coverage. Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) coverage is written on a "claims-made" basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, oil and gas, waste material, or other irritants, contaminants or pollutants. Such policy shall provide for a minimum combined single limit coverage of ten million dollars (\$10,000,000.00) per occurrence. A discovery period for such peril shall not be less than ten (10) years after the occurrence.

2. Automobile liability insurance: Minimum combined single limit of ten million dollars (\$10,000,000.00) per occurrence of bodily injury and property damage. Such coverage shall include owned, non-owned and hired/**leased** vehicles.

3. Workers' compensation insurance: In addition to the minimum statutory requirements, coverage shall include employer's liability limits of at least one million dollars (\$1,000,000.00) for each accident, one million dollars (\$1,000,000.00) for each

employee, and one million dollars (\$1,000,000.00) for occupational disease, and the insurer shall agree to waive rights of subrogation against the County, its departments, agents, officers, servants, employees, sponsors and volunteers, the inspector, and each of their respective heirs, personal representatives, successors and assigns, for work performed for the County by the operator.

4. *Excess (or umbrella) liability insurance:* Minimum limit of ten million dollars (\$10,000,000.00) providing excess coverage for each of the perils insured by the preceding liability insurance policies.

5. *Control of well insurance:*

a. Minimum limit of ten million dollars (\$10,000,000.00) per occurrence, with a maximum deductible of two hundred fifty thousand dollars (\$250,000.00) per occurrence.

b. Policy shall cover the controlling of a well that is out of control, re-drilling or restoration expenses, and seepage and pollution damage. Damage to property in the operator's care, custody and control with a sublimit of five hundred thousand dollars (\$500,000.00) may be added.

-4-7: SECURITY:

The operator shall file with the County a performance bond of two hundred fifty thousand dollars (\$250,000.00) covering each pad site before the issuance of an administrative gas and oil well development permit.

A. Performance Bond: As to each well, the performance bond shall secure the obligations of the operator to:

1. Comply with the road maintenance agreement and the insurance provisions set forth in this chapter;

2. Pay fines and penalties imposed upon the operator by the County for any breach of the administrative gas and oil well development permit, this chapter, or the zoning ordinance, if the operator fails to pay such fines or penalties within fifteen (15) days of the assessment of such fines or penalties;

3. Comply with the conditions of the applicable administrative gas and oil well development permit, **which shall include all aspects of development as well as abandonment and reclamation;**

4. Comply with the performance obligations of this chapter; and

5. Address infrastructure damage, spills, and other damage as a result of gas and oil well development.

B. Additional Bonding: The County may impose additional bonding on an owner or operator given sufficient reason, such as noncompliance, **any history of violations**, unusual conditions, any area not covered by the state bonding guidelines, or other circumstances that suggest a particular well or group of wells has potential risk or liability in excess of that normally expected. The owner or operator may request a hearing to appeal either the decision to impose an additional bond or the proposed amount of the bond.

-4-8: PERIODIC REPORTS:

A. The operator shall notify the County of any change to the following information within one (1) business day after the change occurs:

1. The name, address or phone number of the operator; or
2. The name, address or twenty-four (24)-hour phone number of the person(s) with supervisory authority over drilling, production or operations activities; or
3. The name, address or phone number of the person designated to receive notices from the County; or
4. The operator's emergency action response plan including "drive-to maps" from public rights-of-way to each area covered by the applicable administrative gas and oil well development permit and associated site plan.

B. The operator shall provide a copy of any "incident reports" or written complaints within five (5) days after the operator has notice of the existence of such reports or complaints.

C. Beginning on December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the County that the well has been abandoned and the site restored, the operator shall submit a written report to the County identifying any changes to the information that was included in the application for the applicable administrative gas and oil well development permit that has not been previously reported to the County. In addition, the annual report shall include copies of all internal reports of responses to pipeline or well emergencies, copies of operations and maintenance logs and a copy of the emergency action plan, if updated.

D. Operator shall provide the County with all pertinent reports relating to gas and oil well development operations from or produced by all state and federal agencies within seven (7) business days of receipt by operator or its agent.

-4-9: ON SITE OPERATION REQUIREMENTS:

Oil and gas activities are a major disruption of the surface of the land and have significant value implications for surface estate owners and for agriculture. Many landowners and appraisers are not fully aware of the full impact of oil and gas exploration and production activities on a property's present and future market value. The first step is to become more aware of the oil and gas well development procedures and processes. The second step is to assist landowners and oil companies to better plan proposed facilities. The third step is to estimate the present value implications of proposed wells from the standpoint of: reduced income for the agricultural lands; reduction in the potential highest and best use; increased exposure to environmental contamination; and consideration of health, welfare, stigmas, and other marketability factors affecting the property. Each and every factor will have an adverse effect on the Ad Valorem tax base in Gem County.

Ordinance decisions made without consideration of all oil and gas drilling/development impacts will affect many generations of Gem County residents. Some areas of concern are expressed on this webpage:

<http://teeic.anl.gov/er/oilgas/impact/drilldev/index.cfm>

A. The notice of proposed oil and/or gas operations shall sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of oil and/or gas operations on the surface owner's use of the land. The notice shall be given no more than one hundred eighty (180) days nor less than thirty (30) days before commencement of any oil or gas operations on the land. The notice shall include, but is not limited to, all of the following:

1. The proposed dates on which planned operations shall commence;
2. A site-specific detailed and plan to scale noting activity locations and access routes related to the proposed oil and/or gas operations, including locations of roads, wells, well pads, seismic locations, pits, reservoirs, power lines, pipelines, compressor pads, tank batteries and other facilities;
3. The name, address, telephone number, facsimile number and e-mail address of the oil and/or gas operator and his designee. This information must include twenty-four (24)-hour contact phone numbers for the applicant, owner, permittee, operator and site manager;
4. After providing the notice of proposed oil and/or gas operations to the surface owner, the oil and/or gas operator and the surface owner shall attempt good faith negotiations to reach a surface use agreement for the protection of the surface resources, reclamation activities, timely completion of reclamation of the disturbed areas and payment for damages caused by the oil and/or gas operations. At any time in the

negotiation, at the request of either party, dispute resolution processes including mediation or arbitration may be employed. All legal cost incurred by the surface owner will be paid by the applicant.

5. The oil or gas operator shall not engage in work, location of facilities and access routes, or oil and gas operations substantially and materially different from those disclosed to the surface owner in accordance with this section, without first providing additional written notice disclosing proposed changes and offering to schedule a meeting.

B. Application for Permit to Drill; Additional Notice:

1. Before an application for a permit to drill is approved by the County, the oil and gas operator shall file a statement with the County, including the surface owner's name, contact address, telephone number and any other relevant and necessary contact information known to the oil or gas operator, certifying that:
 - a. Notice of proposed oil and gas operations was provided to the surface owner; and
 - b. The parties attempted good faith negotiations to reach a surface use agreement; and
 - c. The oil or gas operator has met all the conditions of entry and how the conditions have been met;
 - d. The surface use agreement between the oil or gas operator and the surface owner must be filed with the County zoning commission, and the terms of the agreement shall be required as a condition of approval of an application for a permit to conduct oil and gas operations.

C. Surety Bond or Guaranty; Approval; Objections; Release of Surety Bond or Guaranty:

1. The surety bond or other guaranty required shall be executed by the oil or gas operator, or a bonding company acceptable to the County. Other forms of guaranty acceptable by the County [as noted elsewhere?] may be submitted by the oil or gas operator in lieu of a surety bond.
2. The surety bond or other guaranty shall be in an amount of not less than ten thousand dollars (\$10,000.00) per well site on the land. As used in this subsection, seismic activities do not include waves or vibrations originating outside the property in question. Neither the minimum amount of the bond or other guaranty specified or referenced in this subsection, nor a blanket bond or other guaranty established by the County, is intended to establish any amount for reasonable and foreseeable damages.

A permit to conduct geophysical/seismic operations issued under the authority of the County shall include a statement that it shall not constitute authorization or permission to trespass on the surface estate. The surface owner shall not accept a surety bond for seismic activities for land which the oil or gas operator or seismic activity operator has no right to enter. The operator shall provide evidence of the right to enter derived from one (1) or more mineral interest owners.

3. Upon receipt or establishment of an acceptable surety bond or other guaranty, and receipt of all required regulatory approvals to secure a drilling permit, the oil and/or gas operator shall be permitted entry upon the land to conduct oil and/or gas operations in accordance with terms of any existing contractual or legal right.

4. Any performance surety bond, other guaranty or blanket bond issued to the County for surface damages to particular lands will be released by the County after:

a. Compensation for damages has occurred; and

b. Agreement for release by all parties; and

c. Final resolution of the judicial appeal process for any action for damages and all damages have been paid; or

d. The oil and/or gas operator certifies in a sworn statement that the surface owner has failed to give the written notice required or has failed to bring an action for damages within a five (5)-year time period.

5. Prior to the release of any applicable bond or other guaranty, the County shall make a reasonable effort to contact the surface owner and confirm that compensation has been received, an agreement entered into, or that the surface owner has failed to give written notice required or failed to bring a timely action for damages. The County may, in its sole discretion, release any performance surety bond, other guaranty or blanket bond related to particular lands.

6. Any surety bond or guaranty executed under this section shall be in addition to the surety bond or guaranty required for reclamation and compliance with rules and orders of the County.

D. *Surface Damage and Disruption Payments; Penalty for Late Payment:*

1. The oil and gas operator shall pay the surface owner as follows:

- a. A sum of money or other compensation equal to the amount of damages sustained by the surface owner for loss of production and income, loss of land value, and loss of value of improvements caused by oil or gas operations.
 - b. The amount of damages and method of compensation must be determined by a licensed appraiser approved by the County. When determining damages, consideration shall be given to the period of time during which the loss occurs.
 - c. The payments contemplated by this subsection shall cover surface and subsurface, including but not limited to water contamination, of lands directly affected by oil or gas operations. Payments under this subsection are intended to compensate the surface owner for damage and disruption. No person shall sever from the land surface the right to receive surface damage payments.
2. An oil or gas operator who fails to in a timely manner pay an installment under any annual damage agreement negotiated with a surface owner is liable for payment to the surface owner of twice the amount of the unpaid installment if the installment payment is not paid within sixty (60) days of receipt of notice of failure to pay from the surface owner.

E. *Surface Damage Negotiations; Notice of Damages to Oil Or Gas Operator; Right to Bring Action:*

1. If the oil and/or gas operator has commenced oil and/or gas operations in the absence of any agreement for compensation for any damages, a surface owner shall give written notice to the oil and/or gas operator and the County of the damages sustained by the surface owner within five (5) years after the damage has been discovered, or should have been discovered through due diligence, by the surface owner.
2. If the surface owner who submits a notice as required receives no reply to his notice, receives a written rejection or counter offer, or rejects an offer or counter offer from the oil or gas operator, the surface owner may bring an action for compensation for damages in the district court of Gem County. All legal cost incurred by the surface owner will be paid by the applicant.

F. *Remedies Cumulative:* The remedies provided by this ordinance do not preclude any person from seeking other remedies allowed by law, nor does this ordinance diminish rights previously granted by law or contract.

G. *Waiver:* A surface owner may waive any rights afforded under this ordinance by providing a written waiver of rights to the oil or gas operator, identifying which rights have been waived.

H. Statute of Limitations for Civil Action: A surface owner entitled to bring an action for damages under this ordinance, or to seek any other remedy at law for damages caused by oil or gas operations, shall bring such action within ten (10) years after the damage has been discovered, or should have been discovered through due diligence, by the surface owner.

I. Location: It shall be unlawful to drill a well, or to re-drill, deepen, reenter, activate or convert any abandoned well, the center of which, at the surface of the ground, is located, at a minimum, within two thousand five hundred feet (2,500') from any habitable structure, without first meeting all requirements of the administrative gas and oil well development permit, if any, including, but not limited to, hours of operation, noise, lighting and odors. A waiver to the standard may be granted if knowledgeable written consent, based on a site plan showing setbacks and access points, is obtained from the affected surface property owner(s). Additionally, Gem County may require and specify a greater setback distance than two thousand five hundred feet (2,500') based on public health, safety and potential diminution of property value(s).

This does not apply to habitable structures constructed after the initial development of a particular well. All distance shall be measured from the proposed well in a straight line, without regard to intervening structures or objects.

1. Drilling may commence within two thousand five hundred feet (2,500') if written authorization is granted from all adjoining property owners, as long as all other setbacks and well spacing requirements are met by the operator.
2. Drill site pads shall be the minimum size necessary to provide a safe work area and minimize surface disturbance, up to a maximum size of two (2) acres.
3. There shall be a maximum well spacing of one (1) drill site pad per six hundred forty (640) acres. Any multiple-well drill sites will be spaced with this same ratio of pad to acreage and not closer than 2640 feet between sites. Well spacing in areas of greater sensitivity may be increased by the County due to local conditions.
4. Gas and/or oil exploration shall only be permitted in A1 zoning areas (one (1) home per forty (40) acres).
5. Any well drilling or gas/oil facility within range of the Emmett Municipal Airport and flyway must be coordinated with Airport authorities. Care must also be taken to prevent hazard to aircraft landing at Walter Knox Memorial Hospital.
6. No drilling will be allowed in any area that encompasses existing domestic water supplies with flows of less than seven (7) gallons per minute.

7. Where drilling occurs in any alluvial aquifer zones (dry, sandy, porous), drilling pits will be prohibited, and all containment systems must be above-ground closed-loop systems.

8. To protect the integrity of Black Canyon Dam and reservoirs/structures/property in other parts of the County in known geologic fault areas, it shall be unlawful to conduct oil or gas activity within Gem County's seismic fault zones (as identified in consultation with USGS and/or BLM?).

[NOTE: Incidences of earthquakes have been linked to even conventional drilling activities – see report on National Research Council study

<http://cleantechnica.com/2012/06/18/oil-conventional-gas-extraction-can-cause-earthquakes-too/> – also see series of videocasts monitoring earthquakes associated with fracking and wastewater injection wells –

<http://www.youtube.com/watch?v=uLp94UaFKrY&list=UUHE92x768p8h-fMrqhsnE1Q> – and article “Fracking Industrialization & Induced Earthquakes” – <http://fullerfuture.files.wordpress.com/2013/12/frackingindustrializationandinducedearthquakes-12-2-13.pdf>]

[NOTE: Refer to fault lines shown on this map prepared by Idaho State University Geosciences Department: <http://imnh.isu.edu/digitalatlas/counties/gem/Gem.pdf>]

J. Floodplain Drill Site: A drill site or operation ~~will not~~ ~~may only~~ be allowed in a floodplain ~~with the approval of the Gem County floodplain administrator and the federal emergency management agency utilizing and in reference with the current flood insurance rate map of Gem County.~~

K. Driving Surfaces: The operator shall construct all driving surfaces used for parking, loading, unloading, driveways, and other vehicular access, to County road standards. The operator shall maintain the surface for such facilities and drive approach in good condition and repair and meet the minimum requirements set forth in the fire code. Year-round access (snowplowing, etc.) beyond that normally assumed by the County will be the responsibility of the operator. The pad site is not required to be constructed to the above-listed standards.

L. Discharge of Waste:

1. No person shall place, deposit or discharge or cause or permit to be placed, deposited or discharged any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, refuse, wastewater, brine or hazardous substance from any production operation or the contents of any container used in connection with any production operation in, into or upon any public right-of-way, storm drain, ditch, sewer, any body of water or any public and private property in the county.

2. Reports on transporting of solid wastes, including but not limited to radioactive waste, generated by or hauled because of gas or oil development shall be made bi-monthly? to the County solid waste manager.

M. Fire Suppression and Prevention Equipment: The operator shall provide and maintain in good working order all fire suppression and prevention equipment required by any applicable federal, state or local law, or the operator's emergency response plan, at the operator's cost. The operator shall keep adequate foam fire suppressant equipment and supplies at each drill site.

N. Blowout Prevention: In all cases, the operator shall install and utilize blowout prevention equipment on all wells being drilled, worked over, or in which tubing is being changed. Protection shall be provided to prevent blowout during oil and/or gas operations as required by and in conformance with the requirements and recommendations of the American Petroleum Institute.

O. Chemical and Materials Storage: The operator shall store and handle all chemicals and/or hazardous materials in such a manner as to prevent, contain and facilitate rapid remediation and cleanup of any accidental spill, leak or discharge of a hazardous material. No unnecessary storage of excess chemicals or other materials shall be allowed on the site. The operator shall maintain all material safety data sheets (MSDS) for all hazardous materials on site. The operator shall comply with all applicable federal and state regulatory requirements for the proper handling and labeling of containers. The operator shall take all appropriate pollution prevention actions including, but not limited to, raising chemical and materials and bulk storage (e.g., placing such materials on wooden pallets), installing and maintaining secondary containment systems and providing adequate protection from stormwater and weather elements.

P. Closed Loop System: The operator may be required to utilize closed loop systems, as opposed to pits, in certain sensitive areas in Gem County. The requirement of a closed loop system would be outlined and defined during the administrative gas and oil well development permitting process. In Gem County, storage or reserve pits are required to be lined as per state and best industry standards.

Q. Drip Pans and Other Containment Devices: The operator shall install drip pans and other containment devices underneath all tanks, containers, pumps, lubrication oil systems, engines, fuel and chemical storage tanks, system valves, connections and any other areas or structures that could potentially leak, discharge or spill hazardous liquids, semi-liquids or solid waste materials, including hazardous waste.

R. Dust, Vibrations, Odors, Noise, Lights, Visual Impact/Nuisances: The operator shall conduct all drilling, and production and transportation operations in such a manner as to minimize, so far as is practicable, dust, vibration, or noxious odors, noise, light pollution, and undue visual impact. Complaints about any of these matters from neighbors or as a result of onsite inspections by County personnel will be handled by the County code

enforcement officer. The operator shall provide air monitoring equipment onsite and be able to provide reporting on request.

1. *Fugitive Dust*: Operators shall employ practices for control of fugitive dust caused by their operations and comply with IDAPA 58, Department of Environmental Quality 58.01.01 – Rules for the Control of Air Pollution in Idaho. Failure to comply may result in Federal Clean Air Act and/or civil action(s) against the applicant and operator. Such practices shall include but are not limited to the use of vehicular speed restrictions, regular road maintenance, restriction of construction activity during high-wind days, wetting, and, where needed due to prevailing conditions, road surfacing, use of *clean* gravel sources, and wind breaks and barriers. Operators are not to use production water in surface sprinkling.

[NOTE: See IDAPA rule 58.01.01 -

<http://adminrules.idaho.gov/rules/current/58/0101.pdf>]

2. *Vibrations*: Gas and oil facilities and equipment shall be operated in such a manner that vibrations produced are minimized so as not to impinge on neighboring residents nor cause disturbance to sensitive fauna in the vicinity. Such efforts at minimization shall include, but not be limited to, anchoring and/or padding of mechanized equipment.

3. *Odors*: Gas and oil facilities and equipment shall be operated in such a manner that odors do not constitute a nuisance or hazard to public welfare. Exhaust from all engines, motors, coolers and other mechanized equipment shall be controlled to reduce VOC emissions and be vented in a direction away from all building units, including structures habitable or in regular use on neighboring properties. Idling trucks shall be parked in such a manner and for such time as not to allow exhaust to needlessly add to air (and noise) pollution.

4. *Noise*: Generation of equipment and vehicular noise involved in gas and oil development and operation is not to become a nuisance for any receptor at any time.

a. All oil and gas facilities with non-electric engines or motors that are within one thousand (1,000) feet of any receptor or designated activity areas on neighboring properties shall be equipped with quiet-design mufflers or equivalent, to be maintained in proper working order. Particular consideration must be given to bench/hill echo effect.

b. The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented upward or in a direction away from nearby residences, platted subdivision lots, and farm/ranch activity areas.

c. All oil and gas facilities with engines/motors (except wellhead compressor engines) shall be electrified if located within one thousand three hundred twenty (1,320) feet of distribution voltage. The electrification requirements contained herein refer to the use of three (3)-phase power, and “distribution voltage” means 12.47 kV three (3)-phase

power. The applicant may provide information demonstrating that electrification is not feasible. The County shall review this information and may provide a waiver of this requirement. If distribution voltage is not currently within one thousand three hundred twenty (1,320) feet of the proposed oil and/or gas well facility, the applicant will contact and provide the surface owner an opportunity, at the operator's cost, to extend distribution voltage to within one thousand three hundred twenty (1,320) feet of the proposed facility. Any internal combustion engine-powered artificial lift equipment may be used prior to the time that a site facility is electrified if the affected receptors, including but not limited to people who are not adversely affected, have agreed to this in writing.

[NOTE: See 1709B.02.2 of Douglas Co., CO "Oil & Gas Well Facilities – Overlay District" - <http://www.douglas.co.us/planning/documents/draft-section-17b-oil-and-gas-facilities-referral.pdf>]

d. The traditionally-held noise standard for an outdoor rural setting is 20-30 dB(A). (Decibels are calculated on a logarithmic scale, wherein an increase of ten (10) points DOUBLES the dB(A) rating.) Oil and gas operations and construction at any well site, production facility, or gas facility shall comply with the following maximum permissible noise levels. Any audible noise must not be a nuisance to any receptor.

Noise levels shall generally be kept to the maximum standard of:

ZONE:	7am to next 7pm	7pm to next 7am
Drilling	30 dB(A)	20 dB(A)

The operator may request modification of these requirements, subject to County review, if it provides written acceptance from all landowners, residents and affected receptors. Sound levels shall be measured from the receptor to the noise source.

5. *Lights:* No operator or employee shall permit any lights located on any drill site or operation site to be directed in such a manner so that they shine directly on, or toward, a neighboring habitable structure, unless the operator gains the written permission of all affected property owners/residents after disclosing all aspects of location, duration, intensity, and potential health impacts of proposed lighting, and complies with appropriate agency recommendations relating to farm/ranch and game animals and other sensitive habitats which might be affected. Care must also be taken that lighting is placed and/or shielded so as to avoid glare on nearby driveways and public roads. The operator shall also see that nighttime use of vehicle headlights is prevented from sweeping across neighboring inhabited structures and farm/ranch animal pens.

6. *Visual Impact:* The operator shall consider aesthetic visual impacts on the neighborhood in the design of wells, pipelines, and other production-related sites. The operator shall maintain all aspects of the site such sites and structures thereon in good operating condition and good appearance. The operator shall paint and maintain all

equipment at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the administrator shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be non-contrasting and, except where needed for safety, non-reflective, and of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue and brown. **The operator shall also incorporate into its site designs concealing plantings around its long-term installations.**

S. *Emergency Response Plan:* Prior to the commencement of oil and/or gas drilling, or any other hydrocarbons production activities, the operator shall submit to the administrator an emergency response plan, and no drilling or other production activity shall commence until such plan has been approved by the County. **The plan shall address, but not be limited to, the following: explosions, fires, gas/chemical/water leaks/spill/ruptures, vehicular accidents/spills, and injuries to personnel. It must also include the expected response times and names and contact information of contractors which the operator intends to employ for purposes of emergency response.**

T. *Fire Prevention; Sources of Ignition:* The operator shall provide and maintain on the drill site at all times during drilling and production operations all firefighting apparatus and supplies which are required by the fire chief, or the fire chief's designee, or which are required by any applicable federal, state or local law, at the operator's cost. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shutoff valve to the well distribution line.

U. *Fencing/Screening:* An eight foot (8') high chainlink fence with barbed wire or similar device as approved by the County, shall be installed around all equipment on the pad site. **Screening in the form of fence slat additions, berming and landscape plantings is also required where installations are seen from public roadways. All landscape plantings are to include irrigation to keep the plants alive. All potable water source(s) used for such purposes must be provided with a backflow prevention device.**

V. *Freshwater Wells, Groundwater Aquifers, Surface Water, Animal Use Water, Irrigation Water and/or Drinking Water:*

1. Statement: Gem County's Payette river, its tributaries, lakes and springs are used for recreation, fishing, tourism, agriculture, manufacturing and hydroelectric production. Though usually plentiful, the water resources of Gem County are threatened by chemical contaminants and other pollutants from a wide range of sources. With over ninety-six percent (96%) of Gem County residents and the entire City of Emmett relying on groundwater for their livelihood, it is in the best interest of all citizens of Gem County to establish LOCAL LAND USE policy/laws to prevent any potential ground and/or surface water contamination.

Additionally, this ordinance will serve the citizens by ensuring that water is conserved and available for the sustainability of Gem County's economy, ecosystems, and resulting quality of life.

[NOTE: Sampling and analysis procedures for groundwater baseline sampling, analysis and monitoring program should not deviate from protocol established and enacted by the State of Wyoming (November 07, 2013) – see http://wogcc.state.wy.us/downloads/08162013_WOGCC_APPENDIX_K.pdf]

2. Groundwater protection plan:

- a. Prior to any gas and/or oil extraction, the applicant will provide to the County a detailed site-specific groundwater protection plan. The plan must be prepared by a certified hydrogeologist, approved by the County, prior to commencement of plan work.
- b. The groundwater protection plan must be submitted to USGS and IDEQ for review and comment prior to submittal to the County. This information must be made available to the public sixty (60) days prior to the administrative permit public hearing date.
- c. The applicant is responsible for all costs related to the groundwater protection plan, including but not limited to review by the County's zoning department and/or required public hearing(s).

3. Baseline groundwater testing:

- a. Statement: No IDWR, IDEQ, USGS or any known baseline groundwater study has been completed for stratum(s) affected by gas and/or oil exploration or extraction in Gem County. Additionally, no known water quality study nor compilation of data has been completed for chemical, biological or radioactive contaminants related to gas or oil exploration or extraction.

In the best interests of all parties involved, all applicants must share the responsibility to ensure the citizens of Gem County public health, safety and preservation of property value.

b. Requirements of the applicant:

- (1) Prior to any oil and/or gas development and/or extraction, the applicant shall pay to the County a fifty percent (50%) cost share for a USGS-approved groundwater baseline testing program, including but not limited to planned individual drill sites and/or mapped countywide areas of multiple proposed drilling sites. The applicant will pay one hundred percent (100%) of all costs for baseline water testing, analysis and review when USGS no longer provides matching funds.

[NOTE: Based on USGS recommendations, knowing the area of drilling will determine what studies are needed for recommending adequate baseline

groundwater testing. As of November 2013, USGS has committed to the "other" 50% cost share "until the money is no longer available".]

- (2) The applicant is responsible for all costs incidental to the groundwater baseline testing plan, including but not limited to review by the County's zoning department and/or required public hearing(s).
- (3) Prior to any gas and/or oil extraction, the applicant will provide to the County a detailed groundwater baseline testing plan that will be subject to public review/comment and surface owner consent.
- (4) The groundwater baseline testing plan must be submitted to USGS & IDEQ for review and comment prior to submittal to the County.
- (5) The wells within the baseline testing area will be chosen in compliance with IDL distance standards *at a minimum*; but the County reserves the right to expand these limits if deemed necessary to protect citizens' rights.
- (6) The operator shall, within ~~one hundred twenty (120)~~ sixty (60) days of its the completion date, equip each well with a cathodic protection system to protect the production casing from external corrosion, unless the administrator approves an alternative method of protecting the production casing from external corrosion. The operator of a **gas or oil industry** well shall provide the administrator with a "pre-drilling" and "post-drilling" water analysis and flow rate (see requirements below) from ~~any~~ all existing freshwater wells within one (1) mile (5,280') of the production well. **The water analysis and flow rates shall include all drinking/freshwater stratum(s).** ~~as well as~~ Additionally, the operator shall provide the County with a copy of all well bore log reports and any other reports provided to state and/or federal agencies. Such water tests shall conform to the following testing requirements:
 - (A) Water samples must be collected and analyzed by a certified hydrogeologist, approved by the County and paid by the applicant, utilizing proper sampling and laboratory protocol from the U.S. Environmental Protection Agency or Idaho Department of Environmental Quality;
 - (B) The operator or County-approved water sampling agent is required to give fourteen (14) days advance notice to the property owner, who is to be invited to observe testing and collect duplicate samples so that s/he may have analyses performed separately.
 - (C) Well samples shall be analyzed prior to any drilling activity to document baseline water quality data of the well. A post-drilling sample shall be analyzed within three (3), twelve (12) and twenty-four (24) months after the drilling begins; and additional ongoing monitoring may be required.

(D) **Only** if it is found that the freshwater well is no longer in use and without possibility of future use, ~~or if the freshwater well owner objects to having the water well tested,~~ **may** the owner of the freshwater well **may** waive the right to have the operator test the water **tested prior to drilling.**

(7) For the protection of public health and safety, as a condition of permit approval the applicant must provide to the County, prior to any drilling activity, documentation of a groundwater protection plan and baseline water plan. The wells must be drilled in locations recommended by USGS. Testing shall be completed by an approved third-party testing agency. The applicant shall send written notification to the County and all landowners within one (1) mile of the drill site the results of the baseline water testing and the intent to drill.

Baseline tests shall be completed for all items including but not limited to those listed below:

(A) *Field Parameters:* No sample may be taken until consistent water is coming out of the well, therefore it is required to take field parameters of:

- (i) Water temperature
- (ii) PH
- (iii) Specific conductivity

(B) *Specific Conductivity and Total Dissolved Solids:* Once field parameters show consistent water, a sample is to be laboratory-analyzed for specific conductivity and total dissolved solids.

(C) *Major Ions:*

- (i) Chloride
- (ii) Fluoride
- (iii) Sulfate
- (iv) Nitrate
- (v) Silica
- (vi) Alkalinity
- (vii) Calcium
- (viii) Sodium
- (ix) Potassium
- (x) Magnesium

(D) *Trace Elements:*

- (i) Aluminum
- (ii) Arsenic
- (iii) Barium
- (iv) Boron
- (v) Iron
- (vi) Manganese
- (vii) Selenium
- (viii) Uranium

(E) *Radiochemical:*

- (i) Gross alpha/gross beta radioactivity, in addition to uranium listed above, and radium

(F) *Organics:*

- (i) BTEX (benzene, toluene, ethylbenzene, and xylene)
- (ii) Methane; carbon isotopic composition for samples with sufficient methane
- (iii) Diesel fuel organics (all)
- (iv) Total petroleum hydrocarbons

(G) *Other Heavy Metals:*

- (i) Cadmium
- (ii) Chromium
- (iii) Lead
- (iv) Mercury
- (v) Strontium
- (vi) Vanadium

(H) *Other:*

- (i) Formaldehyde
- (ii) Hydrofluoric acid
- (iii) Nitrogen oxides
- (iv) Sulphur dioxide

Continuous water testing shall be completed annually while the well is in production. Copies of baseline water quality test results shall be provided free of charge to the owners of the wells tested within fifteen (15) days of receipt of the laboratory analysis. Continuous water testing must include parameters of all chemicals that were used in the drilling and production process.

Baseline and continuous water testing will entail testing of wells or springs within one (1) mile of each drilling site. The tests will measure a range of factors, including but not limited to temperature, bacteria, dissolved gases like methane and propane, and roughly twenty (20) chemical compounds and elements including barium, benzene, strontium and nitrates and any other chemicals used in the drilling and production activities.

W. Flaring: The process of flaring is allowed in Gem County. In Gem County, no person shall allow, cause or permit raw gas emissions to be vented into the atmosphere on day(s) when Idaho DEQ issues a “NO BURN BAN” for the Treasure Valley.

X. Air Quality Testing: To ensure that the overall air quality impact to Gem County is minimized and that future air impact from gas and oil operations does not exceed regulatory criteria on or off the drill site, the County will direct the following air quality activities:

1. *Baseline Air Testing:* Prior to any disturbance of the drill site, the County will conduct a Baseline Air Survey over a forty-eight (48)-hour period. At a minimum, the sampling will include evaluation on benzene, toluene, ethylbenzene, xylenes, ozone, nitrogen oxides, sulfur dioxides, hydrogen sulfide, methane and formaldehyde. The operator may conduct independent sampling during the evaluation period or be present during testing if desired.

2. *Continuous Air Monitoring:* Continuous air monitoring is required immediately following the commencement of drilling operation and must be maintained until all wells are abandoned. Two (2) monitors will be placed at the site to allow a general evaluation of the possible upwind and downwind portions of the drill site. The location of the continuous monitoring equipment will be discussed with the operator's representative prior to installation. The system may include either a static auto-gas chromatograph, fence line monitoring system, or equivalent as approved by the County or delegated County staff. At a minimum, monitoring will include evaluation of benzene, toluene, ethylbenzene, xylenes, ozone, nitrogen oxides, sulfur dioxides, hydrogen sulfide, methane and formaldehyde. Alteration to the monitoring approach to accommodate specific compounds may be considered by the County as appropriate. The data will be made available to the public via either a dedicated website or direct incorporation with the Idaho Environmental Quality air monitoring network, as applicable.

3. *Field Inspection Monitoring:* At the County's discretion, periodic field inspection may be performed using calibrated monitoring equipment to confirm the drill site is operating in conformance with the Leak Detection Compliance Plan elements. If a specific leak is identified, discrete sampling may also be performed by the County as necessary. The operator will be notified prior to performance of a Field Inspection to allow for an operator representative to be present if desired.

4. All costs related to air sampling and monitoring equipment operation shall be borne by the operator. Testing and laboratory protocol shall comply with the Idaho Department of Environmental Air Quality monitoring system reporting standards. If requested, the operator may witness testing conducted by the County consultant.

Y. Grass, Weeds, Trash: The operator shall keep the drill site and operation site clear of debris, pools of water or other liquids, contaminated soil, brush, high grass, weeds, combustible trash and other waste material within a radius of one hundred feet (100') of the site perimeter. All construction-related debris shall be promptly removed from the site for proper disposal. The operator shall have a weed control plan for well pads, pipelines and other disturbed areas. The weed control plan must be approved by the Gem County weed supervisor.

Z. Hazardous Materials Plan: The operator shall file with the fire chief and zoning department, a hazardous materials management plan and shall update such plan by filing any additions, modifications, and/or amendments regarding all construction related activities and oil and natural gas operations and production. Said plan must meet or

exceed all applicable local, state, and federal laws, statues, or ordinances regarding hazardous materials. The operator shall file such updated plans with the fire chief within two (2) business days of any material change in the activities at the site from that approved in the administrative gas and oil well development permit. The County commissioners will be notified of any such changes.

AA. Signs: The operator shall immediately install and continuously display a sign at the gate of the temporary and permanent site fencing erected pursuant to the requirements of this section. Such sign shall conform to the approved sign plan and shall contain all the following:

1. Well name and number;
2. Name of operator;
3. Address of property;
4. The emergency 911 number;
5. Telephone number of two (2) persons responsible for the well who may be contacted twenty-four (24) hours a day in case of an emergency;
6. The operator shall post and continually maintain permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" immediately upon completion of the drill site fencing at the entrance of each drill site and in any other location approved or designated by the fire chief. Such shall conform to the approved sign plan. Each such sign shall include the emergency notification numbers of the fire department and the operator;
7. The operator shall post and continuously maintain a "Muster Point" sign at the entrance of the drill site and notify the local rural fire chief of its location. Such sign shall conform to the approved sign plan. In the event of a fire or discovery of a fire, smoke or unauthorized release of flammable or hazardous materials on any property, the operator shall immediately report such condition to the fire department and all capable persons on the drill site shall immediately report to the muster point.

AB. Valves: The operator shall equip each well with a shutoff valve to terminate the well's production. The operator shall paint these valves red and post signs to show they are shutoff valves. Such signs shall conform to the approved sign plan.

AC. Waste Disposal: Drilling mud, cuttings, liquid hydrocarbons, wastewater, and all other field waste derived or resulting from or connected with the drilling, reworking or deepening of any well shall be disposed of in accordance with the rules of all applicable local, State and Federal agencies. Detailed disposal logs shall be maintained by the operator and provided to the County every six (6) months from the date of application of the individual administrative gas and oil well development permit.

AD. Watch Person: The operator must keep a watchman or security personnel at all times on site during the drilling or reworking of a well, when other workmen are not on the premises.

AE. Environmentally Sensitive Areas: The exploration and/or development of gas and oil wells, or other drilling or production activity of any kind, may be permitted within environmentally sensitive areas in Gem County only after special consideration has been given under the administrative gas and oil well development permitting process. Certain areas that contain critical wildlife habitat are protected from development in Gem County. Gem County strives to protect the essential habitat and buffer areas that support species of special concern such as the greater sage grouse; other sensitive areas may include key big game winter range, fawning/calving areas, migration corridors, raptor nesting sites, sensitive plant locations, and wetlands (seasonal and permanent);

AF. Hydrogen Sulfide: The operator shall have a management/evacuation plan in place in the event of a hydrogen sulfide emergency. If a gas or oil field in the County is identified as a hydrogen sulfide (H₂S) field or if a well is producing hydrogen sulfide gas, the operator shall immediately notify the administrator of the well or facility and Gem County emergency management.

~~**AG. Surface Restoration:** The operator shall restore surface location of all dry wells and/or abandoned operations as nearly as possible to its original condition, as negotiated in the surface owner agreement or as determined by the administrator.~~
[moved to -4-11-B]

AG. Tank Battery Equipment: The operator shall equip any tank battery facility with a remote foam line arrestor system, and shall erect a sign clearly indicating the location of the foam line arrestor system, which the sign shall conform to the approved sign plan. All connections for the remote foam line arrestor system shall meet industry specifications and be approved by the local fire chief.

AH. Utility Lines: In certain areas of the County, the operator may be required to bury utility lines to the operation site and/or drill site.

AI. Emergency Response Plan Testing: The operator shall conduct a thorough testing of its emergency response plan on an annual basis. The operator shall provide seven (7) days' notice of the time and date of each test to the fire chief. The fire chief may observe the test and may require the inclusion of his own local scenarios as a component of the test.

AJ. Soil Sampling Pre- and Post-drilling; Periodic Soil Sampling: It shall be unlawful to contaminate any soil above regulatory thresholds, and fail to expeditiously remediate such contamination, at any drill site or gas/oil production facility in the County. Soil sampling shall be subject to all the following requirements:

1. Upon application for an oil and gas well permit, soil sampling shall be conducted by a representative of the County prior to the commencement of any drilling activities at the proposed drill site to establish a baseline study of site conditions. A minimum of five (5) soil samples per acre, equally-spaced on a grid, will be taken. A minimum of five (5) additional samples will be taken at the locations of, including but not limited to, any proposed equipment to be utilized at the site to document existing conditions at the drill site, above-ground storage tanks, compressor and/or separator, generators and well head to document existing conditions at the drill site;
2. A licensed consultant, approved by the County, shall be utilized to collect and analyze all pre-drilling and post-drilling soil analyses. The cost of such fees and charges shall be borne by the applicant;
3. Soil samples will be collected and analyzed utilizing proper sampling and laboratory protocol set forth by the TCEQ and/or EPA. The results of the analyses will be addressed to the County and a copy of the report provided to the operator and surface owner. The analyses will include but not be limited to the following: TPH, VOCs, SVOCs, barium, chromium, ethylene glycol, metals, salts, chlorides, NORM, TENORM uranium, thorium, potassium, any decay products such as radium and radon, and all other materials disclosed as being used by the applicant;

*[NOTE: From EPA's webpage "What Is TENORM?": "Rocks and soil contain natural radioactivity, which also dissolves into ground water. The occurrence of these 'naturally occurring radioactive materials' (NORM) varies throughout the world... The radioactive wastes from extraction and processing are called 'Technologically Enhanced Naturally Occurring Radioactive Material' (TENORM) because human activity has concentrated the radioactivity or increased the likelihood of exposure by making the radioactive material more accessible to human contact. ... TENORM wastes are not specifically regulated by EPA nor NRC. As a result, **the responsibility for regulating TENORM disposal falls to states.**" – See <http://radiation.supportportal.com/link/portal/23002/23013/Article/22547/What-is-TENORM>]*

4. Subsequent to the drilling of each well, periodic soil samples shall be taken during inspection events from areas of known or suspected spills to document soil quality data at the drill site.
5. When abandonment occurs pursuant to the requirements of the Idaho Gas & Oil Commission, the County will collect post-operation samples when equipment is removed from the drill site to document that the final conditions are within regulatory requirements.
6. If it is found that the soil contains a greater-than-background concentration of (pursuant to State or Federal law) any toxic or hazardous substance, or contamination not previously recorded in the soil baseline testing, the operator shall prepare a

remediation plan to be reviewed and approved by the County after public comment. The remediation plan shall be prepared within thirty (30) days, and thereafter soil sampling shall be collected and analyzed at such locations on the drill site as are necessary to determine compliance.

AK. Replacement of Water Supply: If any water supply of a surface owner who obtains all or part of his supply of water for domestic and/or agricultural use from a water well has been materially affected by contamination or partial or complete interruption proximately resulting from a gas or oil well operation, the operator of such gas or oil well shall promptly provide a replacement water supply which shall be capable of meeting the uses such water supply met prior to the contamination or partial or complete interruption.

AL. Tracing or Tagging Additives:

1. The operator shall add non-radioactive tracing or tagging additives into all fluids used on an operation site.
2. The operator shall provide the formula identifying the non-radioactive tracing or tagging additives in writing as part of the hazardous materials management plan.
3. The fluid non-radioactive tracing or tagging additives must be unique for each operation site.
4. If the operator changes or amends the non-radioactive tracing or tagging additives, the hazardous materials management plan must be amended and submitted to the fire marshal and the gas inspector at least seven days before introducing the changed additives onto the operation site.

-4-10: WELL COMPLETION:

This section needs to be filled in.

[NOTE: One matter that would fall under this section: Colorado Oil & Gas Conservation Commission Rules, "Aesthetic and Noise Control Regulations," 805.b(3) on emissions control in well completions – see http://cogcc.state.co.us/RR_Docs_new/rules/800series.pdf]

[NOTE: Some information on well completion regulations – <http://www.law.cornell.edu/cfr/text/30/250.513>]

-4-11: WELL ABANDONMENT/RECLAMATION:

A. Well Abandonment: The current permit holder is responsible for sealing (capping) all wells to be temporarily abandoned, or cement-plugging and sealing those to be permanently abandoned. The operator shall safely and securely plug and thoroughly seal off any uncased dry wellbore within twenty-four (24) hours of its abandonment. A completed gas or oil well shall be thoroughly plugged and sealed after permission has been obtained by the County.

1. The operator shall submit a Notice of Intention to Abandon/Re-Abandon Well to the County prior to sealing or plugging any well.

a. If the well is to be temporarily abandoned, the applicant shall submit a written Notice, and the permit to abandon shall be valid for a period not to exceed three (3) years from the date of approval. Temporary abandonment status allows the operator to resume production, when authorized by the County, within that three (3)-year period. At the expiration of the three (3)-year period, the permit holder shall commence plugging operations within thirty (30) days. Any further proposed use of the well after plugging shall be subject to the initial permitting process.

[NOTE: See Rule B-7-h-3-D of Arkansas Oil and Gas Commission, General Rules and Regulations, for further information on temporary sealing requirements; Rule B-8, B-9, and B-10 address plugging methods and procedures – <http://www.aogc.state.ar.us/OnlineData/Forms/Rules%20and%20Regulations.pdf>]

b. In the case of a dry and uncased well abandonment, the Notice may be faxed or phoned to the County no less than eight (8) hours prior to plugging and sealing, and the County may send a representative to be present.

c. In the case of a cased well that is to be permanently abandoned, a written Notice shall be provided to the County at least seventy-two (72) hours prior to the commencement of plugging operations, and the County may send a representative to be present.

2. The well must be plugged in such a manner as to protect all freshwater sources and surface air from contamination. If the wellbore is under enough pressure to present an explosive hazard and the applicant cannot successfully plug or cap a well, ???; [this needs to be addressed, especially concerning an idle high-pressure well without adequate venting – as when a produced-gas/oil market or transport to market is not yet in place]

3. A report on the plugging shall be submitted to the County administrator within five? (5) days, and the County shall inspect the abandoned well within ten? (10) days thereafter.

4. The operator shall be responsible for monthly? monitoring of all abandoned wells to ensure their safety and the non-contamination of air and all water sources. If monitoring

shows that a well is leaking, the operator shall have two (2) days in which to begin the process of opening and resealing the well, which shall be re-inspected accordingly, and any environmental remediation necessary.

B. Surface Restoration: The operator shall restore surface characteristics location of all dry wells and/or abandoned operations as nearly as possible to ~~its~~ their original condition, as negotiated in the surface owner agreement or as determined by the administrator.

-4-12: WORK OVER OR REWORKING OF WELL; NOTICE:

Any person who intends either to work over or rework a well using a drilling rig or fracture stimulate a well after initial completion shall give written notice to the County at least twenty (20) days before the activities begin. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including, but not limited to, the duration of the activities and the time of day they will be conducted. The notice must also provide the address and twenty-four (24)-hour phone number of the person conducting the activities. The person conducting the activities shall post a sign on the perimeter fencing giving the public notice of the activities, including the name, address, and twenty-four (24)-hour phone number of the person conducting the activities. Such sign shall conform to the approved sign plan.

-4-13: SUPPLEMENTAL DRILLING:

Supplemental drilling to deepen or directionally drill a well that has not been abandoned shall be conducted in accordance with the conditions of the applicable administrative gas and oil well development permit and associated site plan for the well.

-4-14: CLEANUP:

A. Cleanup After Well Servicing: After a well has been completed, or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities, and repair all damage to public property caused by such operation according to State and Federal regulations.

B. Cleanup After Spills, Leaks and Malfunctions: After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of County, State and Federal regulation all waste material from any public or private property affected by such spill, leak or malfunction. The operator shall be subject to a criminal citation and a fine of up to one thousand dollars (~~\$1,000.00~~) an amount to be determined per violation for each day the violation is permitted to continue.

~~C. *Painting*: The operator shall paint and maintain all equipment at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the administrator shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include, sand, gray and unobtrusive shades of green, blue and brown. [moved to 4-9-R-6]~~

C. *Blowouts*: In the event of the loss of control of any well, the operator shall immediately take all reasonable steps to regain control regardless of any other provision of this chapter and shall notify the administrator and fire chief as soon as practicable. If the administrator or fire chief determines that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the administrator or fire chief may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which they deem necessary to regain control of such well, and all costs incurred by the County shall be assessed against the operator and the operator shall pay such costs within ten (10) days of receiving an invoice from the County. In the event that the operator fails to pay such costs as provided herein, the County may charge such costs to any fund or bond posted by the operator to secure such costs, and shall also have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the County to such action of the administrator or fire chief in gaining control of said well.

-4-15: REMEDIES OF THE COUNTY:

A. If an operator or the operator's officers, employees, agents, contractors, subcontractors or representatives fail to comply with the conditions of the applicable administrative gas and oil well development permit and associated site plan or any other specified requirement (including any requirement incorporated by reference as part of the permit), or any applicable provisions of this chapter or any other County ordinances, the County shall endeavor to give written notice to the operator specifying the nature of the alleged failure and giving the operator a specified time to cure, taking into consideration the nature and extent of the alleged failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community; provided, however, that if circumstances warrant proceeding without notice, no notice will be sent. In any case, failure to give such notice shall not prohibit the County from pursuing any available remedy.

B. If the operator does not cure the alleged failure within the time specified, the County may pursue all other remedies allowed by law, including, but not limited to, any or all of the following:

1. The administrator may suspend the well permit until the alleged failure is cured;
 2. The administrator may revoke the administrative gas and oil well development permit if the operator fails to initiate and diligently pursue and cure;
 3. A criminal citation may be issued for violation of the administrative gas and oil well development permit, this chapter or any other ordinance or order of the County.
- C.** The operator may appeal a decision to suspend or revoke the administrative gas and oil well development permit or other remedial order or action of the County taken pursuant to this section (other than a criminal citation) to the County commissioners as provided in this title.

-4-16: ENFORCEMENT; RIGHT OF ENTRY:

The administrator and fire chief are authorized and directed to enforce this chapter, and the terms and conditions of any approved administrative gas and oil well development permit. Whenever necessary to enforce the foregoing, or whenever there is reasonable cause to believe there has been a violation of any of the foregoing, the administrator and/or the fire chief may enter upon any property covered by this chapter at any reasonable time to inspect or perform any duty or requirement imposed by this chapter. If entry is refused, the county shall have recourse to pursue every remedy provided by law and equity to gain entry.

-4-17: PENALTIES:

Any operator or person permitting a violation of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the County before a Magisterial District Judge, pay a fine to be determined, plus all court costs including reasonable attorney fees incurred by the County in the enforcement of this ordinance. No judgment shall be imposed until the date of determination of the violation by the Magisterial District Judge. If the defendant neither pays nor in a timely manner appeals the judgment, the County may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offence. Further, an appropriate officer(s) or agent(s) of the County is hereby authorized to issue a cease-and-desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. A person who violates this ordinance shall also be responsible for the County's attorney fees, engineering fees, expert fees and court costs associated with enforcement.

[NOTE: Does this need to be put under "Remedies of the County" above?]

-4-18: PUBLIC INFORMATION:

A. Public Information Regarding Administrative Gas and Oil Well Development Permit Activity: After approval of an administrative gas and oil well development permit application, the operator shall submit to the administrator an accurate written time line account of all planned operational events associated with the permit. The account must be updated weekly and must thoroughly describe the events that will occur. Events to be documented shall include, but are not limited to, site preparation and grading, site construction of the drilling rig and accessory structures, the expected amount of time spent drilling on site, all casing installation, testing, disassembly of the drilling rig, pipeline installation, fracture stimulation, maintenance, installation of production facilities, site cleanup and production. **This information shall be accessible to the public on request.**

B. Registration and full disclosure for all persons/businesses prospectively conducting business related to gas and oil industry in Gem County:

1. All businesses and individuals planning to conduct gas and oil-related business in Gem County are required to register their intent and disclose their planned activities to the County zoning department. This is to include, but is not limited to, any who offer relevant leases or purchase/transfer agreements to property owners, who represent exploration and development companies, who contract with such companies, and any other agents operating under the auspices of such companies.
2. Further, all such businesses and individuals shall fully disclose to the County any violations, grievances and complaints that have been brought against them in relation to activities related to their intended participation in the gas and oil industry, including but not limited to those instigated by CWA, CAA, federal, state and local agencies. Once such individuals or businesses are working in gas and oil development-related capacities in the County, they will be required to keep the County fully informed of any such violations, grievances and complaints as soon as they arise, or the County will have the right to limit or prohibit their activities within its borders.

-5: PRODUCTION:

Specific matters related to gas and oil well production will be addressed at a later date, as an amendment to this chapter.

-6: GATHERING LINES/PIPELINES:

[Some elements of this section, to be filled in later...]

A. Any proposed pipeline construction will require an administrative permit.

B. Any existing pipeline to be used for transport within Gem County must be certified by the appropriate agency.

C. The applicant shall not use any existing gas line made of steel and installed before the year 2008.

[NOTE: Pipelines and gathering lines are an integral part of gas/oil production. This ordinance should include but not be limited to the following: administrative permit, restriction of location to public road easement(s), road agreement, impact analysis. Some other matters that would fall under this section: connection site to pipeline, connections for transferring gas for delivery, and for odorization of natural gas; aesthetic screening; whether buried or aboveground, minimizing waterways/riparian impacts; any channeled produced fluids and other oil/gas liquids]

[NOTE: See “Health Hazards Associated with Handling Pipe Used in Oil and Gas Production” – https://www.osha.gov/dts/hib/hib_data/hib19890126.html – “The magnitude of the problem is difficult to estimate, but it is not unrealistic to expect contamination at all oil and gas production sites and pipe handling facilities.”]

-7: NATURAL GAS OR OIL PROCESSING FACILITIES:

[Some elements of this section, to be filled in later...]

A. Any proposed natural gas or oil processing facilities’ construction will require an administrative permit.

B. Design and construction must comply with all Federal, State & local laws, rules, etc.

[NOTE: Some matters that would fall under this section: compressing, liquid treatment facilities, dehydrator, traffic, screening]

-8: INJECTION WELLS:

All injection wells are subject to special use permit. No injection well may be installed within one (1) mile of any domestic well without adjoining property owner(s)’ written permission.

[NOTE: Must comply with IDAPA 37.03.03 - Rules and Minimum Standards for the Construction and Use of Injection Wells – see <http://adminrules.idaho.gov/rules/current/37/0303.pdf> – and with EPA UIC Program – see <http://water.epa.gov/type/groundwater/uic/>]

[NOTE: Perhaps this would go under PRODUCTION?; more to be filled in – public health/safety & water resource issues, ?]

-9: JOBS:

The operator must advertise in the local newspaper(s) for any newly hired workers, contractors, tier contractors and of construction bids. Additionally the operator must advertise the same opportunity with the Idaho Department of Labor's local Emmett office.

-10: LAND USE CLAUSE:

The Gem County Board of County Commissioners has approved this chapter in accordance with the Gem County land use plan, and the Local Land Use Planning Act (LLUPA), for the purposes set forth in that act, and finds it is necessary for the development on land to protect the quantity and quality of groundwater, **as well as pooled and canal-conveyed water**, in the county, and for the health, safety, and general welfare of the people of Gem County. The Board of County Commissioners finds that this chapter does not conflict with any rules of the Idaho Gas and Oil Conservation Commission, and is within the powers delegated to it by the LLUPA.

[NOTE: A reference would presumably need to be made from an additional sub-chapter Y within Gem County code 11-6-5 (Provisions for Unique Land Uses) – any mention in the paragraph above?]

-11: DISCLOSURE:

Disclosure of the chemicals used in drilling, the waste generated and its management, and the details of how and where drilling was completed, is essential for the following reasons:

- A.** Adequate pre-drilling disclosure allows owners and users of nearby water sources to conduct baseline testing to establish the quality of their water prior to drilling, including the presence or absence of identified chemical constituents of any fluids.
- B.** Chemical disclosure is crucial to aid in determining the source of any subsequent groundwater contamination.
- C.** First responders need the information to appropriately respond to accidents and emergencies.
- D.** Medical professionals require full access to information on what their patients may have been exposed to, and in what concentrations, for diagnosis and treatment.

E. Chemical disclosure allows the public to fully assess the risks that chemical use, transport and storage pose to their communities.

F. Disclosure of water use provides to the public information about the impacts of drilling on County supplies of fresh water.

G. Disclosure of information regarding waste creation and disposition provides an accounting of the waste created, its contents, and the societal costs of its disposal.

H. A robust public disclosure regime is essential for scientific research that will provide a better understanding of the cumulative environmental and health effects of drilling and will serve as a basis for well-informed policies to protect the public.

I. A disclosure regime highlights responsible corporate actors while calling attention to practices that jeopardize the environment and public health.

[NOTE: See <http://www.nrdc.org/energy/files/Fracking-Disclosure-IB.pdf>]

-12: IMPACT FEES:

The impact of gas and oil exploration to Gem County is unknown. The County has reduced the road maintenance budget and has deferred Development Services cost to the City of Emmett. The burden of establishing and enforcing a needed gas and oil ordinance to protect all interests of the County will impact all Gem County employees and citizens and will possibly require additional staff from every department.

Idaho statute provides the ability to allow each County to assess impact fees in order to protect the public health and safety of its citizens. Therefore an established hourly rate for each department will be paid by the applicant for each permit related to gas/oil exploration and extraction within Gem County as follows:

Development Services: \$125 / hour

Prosecuting Attorney's Office: \$

Road Department: \$

Emergency Services: \$

Sheriff's Department: \$

Assessor's Office: \$

Clerk's Office: \$

Commissioners' Office: \$

Treasurer's Office: \$

-13: ADDITIONAL CONSIDERATIONS:

A. County staff shall analyze whether the existing County regulations pertaining to air quality standards and siting and setback regulations for oil and gas operations are sufficient to protect public health, safety, and welfare, and whether amending such regulations pursuant to the County's statutory authority is necessary to adequately mitigate the impacts and hazards associated with oil and gas development.

B. Because of the extensive work staff that will need to be undertaken, the serious and profound concerns of County citizens about the potential health and safety hazards presented by future oil and gas development in the county, the additional health and safety information that will become available in the near future through scientific study of oil and gas operations, and potential Federal and State legal and regulatory changes that may impact county regulatory authority related to oil and gas operations, Gem County may deem that it is reasonable and necessary to protect the public health, safety, and welfare of the County and prevent irreparable harm by enacting a temporary moratorium on all drilling until an ordinance is adopted.

C. In addition, County staff may need to consider and develop a full range of tools and responses available to the County to address the impacts of oil and gas operations on air quality, including the following staffing and programs which shall be presented to the Board for further direction and final approval within the next twelve (12) months:

1. Additional staff or third-party consultants necessary to review and process;
2. Additional staff or third-party consultants necessary to adequately inspect current and future wells with approved Idaho gas permits;
3. Additional staff or outside consultants to fulfill Local Government Designee duties;
4. A memorandum of understanding with the Idaho Oil & Gas Commission and any other interested local government(s) on regulatory matters related to oil and gas development as authorized by the Oil and Gas Conservation Act; and
5. Formation of an advisory group on scientific and technical issues to help inform future County decisions on oil and gas development and completion of air and water quality sampling prior to additional oil and gas development.

“I recognize the rights and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them or to rob, by wasteful use, the generations that come after us.” - Theodore Roosevelt, Aug 31, 1910