

La Plata County Planning Commission
Recommendations to Board of County Commissioners
Regarding Version 2 of Proposed Chapter 90, Associated Visual Mitigation Guide
And Conforming Amendments

Recommendation #1: Unreclaimed Pads

Sections 90-10.IX. and 90-4.II.E of the draft be revised as follows:

Sec. 90-10 Standards applicable to all oil and gas development.

IX. Reclamation. Disturbed surfaces shall be restored to the maximum extent practicable to the condition which existed prior to commencement of the oil and gas operations, as required by the operator's approved reclamation plan. Interim and final reclamation shall be as set forth in the COGCC's Rules 1003 and 1004, subject to the provisions of this subsection.

- D. Working Pad Surface and Road reclamation. During interim reclamation, portions of the working pad surface no longer needed for permanent production operations and access roads not needed for vehicle travel shall be reclaimed. To the maximum extent practicable, cut slopes, fill slopes and borrow ditches shall be covered with topsoil and revegetated to restore habitat, forage, scenic resources and to reduce soil erosion and maintenance costs. At abandonment, the working pad surface and access roads must be reclaimed by the operator unless each of the following exists:
1. The working pad surface or access is suitable for an existing post-reclamation use that is compliant with the code, including without limitation maintaining compliance with any dust suppression requirements.
 2. If the access serves a residential use that is not otherwise exempt, the access has a valid county-issued driveway permit and, at the time of final reclamation, meets the applicable driveway standards set forth in section 74-8.
 3. If the working pad surface or access will be or is shared or used by more than one property owner, a legal mechanism exists for ongoing maintenance (including without limitation maintaining compliance with any dust suppression requirements) after the operator has completed final reclamation and such mechanism is recorded in the county clerk's real property records.
 4. The unreclaimed working pad surface or access road will not negatively contribute to sediment erosion or increase the potential for water contamination.
 5. The operator leaves all culverts and bridges in a condition that avoids plugging or collapse and erosion at inlets and outlets.
 6. The affected surface owner submits a written request to CDD that the working pad surface, access road, or certain parts thereof, be left unreclaimed and committing that the affected surface owner shall not engage in any excavation within the unreclaimed portions of any working pad surface that involves

disturbing more than three (3) feet below the surface without first obtaining a county land use permit or building permit, as appropriate, for the same.

7. The decision-making body~~director~~ finds that no net adverse impact to public health, safety, welfare, the environment, or wildlife resources will result from leaving the working pad surface or access road in place for the proposed post-reclamation use and approves or approves with conditions, a final reclamation plan detailing the unreclaimed working pad surface or road.

In general, all working pad surfaces and spur access roads for which the sole purpose is facility access shall be reclaimed to match pre-existing adjacent topography, all culverts removed, and drainage crossings reclaimed to reduce potential long-term erosion or degradation. Final reclamation includes recontouring the working pad surface and any road back to the original contour, seeding, controlling noxious weeds and may also include other techniques to improve reclamation success such as ripping, scarifying, replacing topsoil, constructing waterbars, pitting, mulching, redistributing woody debris and barricading. Seeds of native, perennial species or other plant materials must be used. If waterbars were used, they must be removed and seeded following successful revegetation.

Sec. 90-4 Permits and procedures.

II. Procedures.

E. Summary of subsequent review process subject to call-up.

1. Final reclamation review. Every operator that performs final reclamation on an OGL after the effective date of this chapter shall provide the CDD the information set forth in section 90-7 as part of the review and shall be subject to the procedures set forth in paragraph 90-4.II.E if modification to the final reclamation plan is desired or necessary. A written request for final reclamation review containing the information required by section 90-7 shall be submitted to the CDD no more than one hundred eighty (180) days but not less than ninety (90) days prior to an operator's commencement of final reclamation.
 - a. No modifications, including compensation to the surface owner in lieu of completion of reclamation requirements, shall be approved unless they are at least as protective as the original final reclamation requirements. Notwithstanding the foregoing, the director may approve or approve with conditions a final reclamation plan that proposes to leave all or part of the working pad surface or access road to the OGL unreclaimed if all the conditions set forth in section 90-10.IX.D are met.

Recommendation #2: Local control over oil and gas development and operations

From the Planning Commission's point of view, our policy documents call for a balance between competing interests. The Planning Commission recognizes that the Board has authority to create standards and may adopt stricter standards. However, the Planning Commission questions whether

the stricter standards compromise our goals to balance competing interests. Specifically, the Planning Commission questions whether the setbacks go beyond the type of regulations that are reasonable and necessary, both of which are required by state law. The Planning Commission believes the new state rules may supersede the need for the County to be so deeply involved in oil and gas regulations.

Recommendation #3: Setbacks for “Residential Building Units”

The Planning Commission believes the County should rely on the setback standards adopted by the State and particularly support the concept of waiver through informed consent because it offers flexibility. Therefore, the Planning Commission does not support a hard 500’ setback.

Recommendation #4: Setbacks – Commercial and Industrial Buildings

The Planning Commission believes the County should rely on the setback standards adopted by the State and particularly support the concept of waiver through informed consent because it offers flexibility. Therefore, the Planning Commission does not support a hard 500’ setback.

Recommendation #5: Setbacks – Property Lines

The standards should conform to Rule 604.a.2 which allows surface use agreements and waivers from all affected parties.

Recommendation #6: Flowlines and Pipelines

Section 90-10.II.C.4 of the draft be revised as follows:

Sec. 90-10 Standards applicable to all oil and gas development.

II. Protection of surface quality.

C. Setbacks. The county requires setbacks that, at a minimum, comply with the applicable setbacks set forth in COGCC rules, including without limitation Rule 604. Notwithstanding the foregoing, the county also establishes the following minimum requirements that are in addition to the setbacks established by COGCC rules:

4. Flowlines and pipelines. All flowlines and pipelines shall be a minimum of fifty (50) feet from residential building units, high occupancy building units, and commercial and industrial buildings. The setback distance shall be measured from the nearest edge of the flowline ~~easement~~ or the pipeline ~~route~~. The director may require an applicant to provide a risk-based engineering study for all or part of its proposed flowline or pipeline right-of-way and may require the application of more stringent construction or operation standards or greater setbacks. If required, a risk-based engineering study must, at a minimum, consider the risks posed by the flowline(s) and pipeline(s) in light of contents, size, and pressure.

Recommendation #7:

Reciprocal Setbacks

Add the following to the end of Section 70-6.IV.C.2: A single-family residence on a legal lot of record may be granted an exception of a 200 foot setback from the wellbore following the guidelines of “informed consent” as put forth in COGCC Rule 604.b. If a surface use agreement or waiver does not include informed consent, the minimal setback will be 500’ as per COGCC Rule 604.a.

In addition, the Planning Commission recommends the following revisions to Section 70-6.IV:

Sec. 70-6 Setbacks and structure height.

IV. Oil and gas reciprocal setbacks.

A. Purpose. The purpose of this section is to provide standards to separate dwelling units, including high occupancy building units, from existing industrial oil and gas uses to eliminate or minimize potential nuisances such as noise, glare, and odors; to minimize adverse impacts and to minimize risks posed by air pollutants, hazardous materials, site contamination or pollution or danger from fires or explosions. Because of the public health, safety and welfare issues posed and continuing impacts on subsequent property owners, the setbacks contained within this section ~~shall~~ ~~not~~ may be waived or reduced ~~even~~ if agreed upon by the operator and the applicant.

Recommendation #8:

Planning Commission Review of Major Oil and Gas Permits

The Planning Commission believes applications for major oil and gas permits should be reviewed by both the Planning Commission and the Board of County Commissioners and recommends the concept similar to that in current section 90-101: “All applications for major facilities shall be scheduled for public review before the planning commission and the board of county commissioners...”

