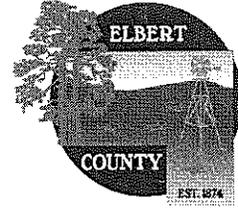




# COUNTY OF ELBERT

## PLANNING DEPARTMENT

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January 28, 2014  
For the Planning Commissioners meeting of  
February 13, 2014

**TO: ELBERT COUNTY PLANNING COMMISSION**

**FROM: CAROLYN PARKINSON, PLANNER I**

**RE: SU 13-0010 PRESCOTT RANCHES EXPLORATORY WELL- SPECIAL USE PERMIT REVIEW- A REQUEST TO PERMIT AN EXPLORATORY OIL AND GAS WELL FOR FUTURE DEVELOPMENT OF MINERAL RESOURCES IN SEC 32, T12, R59.**

**APPLICANT: MUSTANG CREEK OPERATING, LLC**

**REPRESENTATIVE: LT ENVIRONMENTAL INC, BRET FORKNER, CHARLES GREESON**

### **SUMMARY OF REQUEST:**

The project is located in a pasture and is approximately 1.6 miles east of County Road 133 and 2 miles south of County Road 34. The gross site acreage is in excess of 4300 acres, though the area of disturbance is approximately 4 acres. The current zoning is Agriculture and no change in zoning is requested.

Pad development will consist of construction and reclamation activities. Construction will include well drilling, well completion, installation and operation of production equipment, and maintenance activities. The proposed construction will occur 24 hours a day, 7 days a week. This schedule will last 30 to 120 days. Once the production phase is underway, reclamation will continue until 70% of the original vegetation, or seed mix requested by the land owner, is established. Typically, permanent equipment on site consists of a well head, a separation tank, and a storage tank.

The work proposed will require heavy truck traffic into and out of the site. A Road Operations and Maintenance Agreement with Elbert County Public Works will be required as a condition of approval. The applicant has submitted a traffic study as part of their application and proposes to use the most efficient routes available while minimizing impacts to neighboring properties.

## **PERTINENT DATA:**

Site Description – The property in question consists of 4300+ acres. Access to the proposed site is from County Road 34. This parcel is remotely located and will require the creation of an access that is significant, in terms of distance from county road access to the site. These improvements will be part of the Road Operation and Maintenance Agreement. This parcel is adjacent to properties zoned A. The nearest residence is more than one 1 mile from the proposed wellhead. The applicant will attempt to monitor four water wells within ½ mile of this project, in accordance with COGCC rule 609. Monitoring is dependent on permission from the well owner to access and baseline. Any monitoring data will be forwarded to Elbert County.

The proposal does not lie in a floodplain and no slopes of 20% or greater are present on site.

Environmental Considerations- There are no streams, springs, irrigation ditches, or other surface waters within 1000 ft and no other water sources are contemplated for the site. There are no encroachments into wetlands associated with this proposal.

A Storm Water Management permit application has been submitted. In addition to Best Management Practices that are required by this permit, Mustang Ranches has implemented a number of good house keeping practices. These practices include regular cleaning, organization and maintenance of well pad equipment, and erosion and sediment control structure inspections throughout the project. Chemicals are stored in buildings or containers where there is no potential for storm water contact or are contained within berms. All tanks, drums or other containers will be clearly labeled to identify the contents. Material Data Sheets will be maintained on site and provided to emergency personnel as requested.

No waste will be disposed of on site or discharged to waters of the state. The wastes generated will be disposed of regularly following good housekeeping procedures. Though not anticipated, should soil contamination occur, these soils will be contained on site until material can be disposed of at licensed facility.

A more detailed description of environmental protection protocols is outlined within the Facility Operating Plan that was provided by the applicant in their submittal. This plan was included in your packets.

Water Supply Plan- The applicant is proposing to use well water supplied from HCB Ventures LLC. Water will be supplied by truck from El Paso County. This supply has been verified as approved for such a use.

Surrounding Land Use and Zoning – All adjacent parcels to the site are zoned A (Agricultural) with appropriate use.

Noise Mitigation- The proposed site is very remote. There are no residences, schools, churches, retail establishments, or offices within 1 mile of the wellhead. Noise mitigation barriers will not be required. All motors and engines will be electrified if located within 1320 ft of distribution voltage. The proximity of this facility to distribution voltage has not been established as yet. All electrically operated equipment will use “quiet design” mufflers or equivalent. Sound emissions will be, at a minimum, in accordance with COGCC regulations.

Lighting Mitigation – Lighting locations will be in compliance with COGCC rule 803, which state that “To the extent practicable, site lighting shall be directed downward and internally so as to avoid glare on public roads and building units within 700 feet.”

Visual Mitigation- All moving parts of production equipment will be painted in noticeable colors for safety purposes, however, production facilities which are observable from any public highway shall be painted with uniform, non-contrasting, non-reflective color tones and with colors matched to but slightly darker than the surrounding landscape.

Wildlife Mitigation – Due to the sparse human population and abundance of undisturbed, native habitat in the immediate and distant vicinity of the site, wildlife permanently or temporarily residing in the area will likely relocate if the construction activities are disruptive to their migration, feeding or reproductive habits. The operator and its subcontractors will not intentionally harass, hunt, injure, or kill any wildlife encountered at the site.

## **BACKGROUND:**

On August 26, 2013, the applicant had a pre-submittal meeting with Community and Development Services and other interested County staff and agencies. This representative had submitted a similar application previously for Southwestern Energy. It was recommended to the applicant that a similar application packet be submitted for the current application. Notes from that meeting are included in your packets. The applicant was also advised that a Community Meeting was required prior to formal submittal. The Community Meeting took place on October 19, 2013 at Big Sandy School in Simla. There were approximately twenty residents in attendance. Robert Davis of Nexgen made a presentation and then opened the meeting to questions. Questions were asked regarding the source of the water needed to drill the well, final disposition of produced water, water well testing and casing integrity, air quality measures, benefits to the County, and concerns regarding impacts to local roadways. Detailed notes from that meeting are also included in your packets.

The application was submitted on October 30, 2012. Some corrections and additions were required to complete the submittal. The formal application was accepted on November 11, 2013.

## **EVALUATION:**

Part II, Section 17, C – Procedures of the Elbert County Zoning Regulations specifies that an application for a Special Use Review must be evaluated by the appropriate referral agencies. The Planning Department identified twenty two (22) agencies to evaluate and comment on this application. The following is a summarization of their responses; complete responses can be found in the file and have been provided in the Commissioners packet.

Any agency or department that does not respond is assumed to have no objections.

Simla Fire District –Simla Fire Protection District requests a meeting to discuss six fire protection and safety items.

Town of Simla- No response

Double El Conservation District- Required additional detail regarding restoration, re-seeding, noxious weed control and storm water practices. Information was provided and appropriate changes were made to the documentation.

Mountain View Electric Association - No objection to this proposal

Big Sandy School District- No response

Environmental Protection Agency- No response

Colorado Division of Water Resources –The results of a recent court case require the state to ensure no injury to existing ground water rights as a result of oil and gas exploration activities. This particular well falls in a “donut hole” of previously approved areas identified as Non-Tributary Ground Water. Therefore, the applicant may either do an augmentation plan or submit an application for a “Determination of Non-Tributary Ground Water”. This development was unexpected for both the applicant and staff. The application for a “Determination of Non-Tributary Ground Water” has been submitted to the state. Review is estimated to take 60-90 days. Proof of approval of this determination will be a condition of approval and in any case does not prohibit the drilling phase. The water in question is the produced water associated with a producing well.

An additional comment was made by the division regarding coal bed methane formations and the use of produced water for beneficial use. The applicant has indicated that neither circumstance applies to this application.

Colorado Department of Transportation – No objections

Colorado Parks and Wildlife – No objection

Colorado Air Pollution – No response

Colorado Department of Health –No response

Colorado Department of Natural Resources – No response

El Paso County Planning Department – No response

Elbert County Assessor – No response

Elbert County Mapper – No response

Elbert County Treasurers Office – No response

Elbert County Health and Environment – The Health Department required additional information. The information was provided and the appropriate changes made to the documentation. EC Health and Environment has indicated that these changes are satisfactory and that they have no further comments or objections.

Elbert County Public Works Dept. – No response

Elbert County Building Department – No objection to this proposal

Elbert County Office of Emergency Management – No response.

Elbert County Sheriff's Office – No response

Elbert County Engineer- Enertia Engineering Consultants provided comments and questions in a four page document dated November 24, 2013. The comments included thirteen (13) areas of the submittal. All issues have either been corrected within the documentation or addressed to Enertia's satisfaction.

## **FINDINGS:**

Approval of this proposal requires compliance with the following standards for approval:

1. *Whether the proposed Special Use complies with the requirements of the Elbert County Master Plan, Elbert County Zoning Regulations, and Elbert County Subdivision Regulations* - This proposal is located in an agriculturally zoned area of the county. The Master Plan does not include discussion on Special Uses for this area. However, the Master Plan does assert that its implementation is to be guided and regulated by the Zoning Regulations and Subdivision Regulations. Being a permitted use by special review, this proposal, if approved, will comply with the Zoning Regulations. The applicants for this proposal have also complied with the general provisions for Special Use Applications as defined in Part II, Section 17, B, including all provisions for public notice. Since there is to be no division of land, no provision of the Subdivision Regulations is applicable.
2. *Whether the proposed Special Use is in harmony and compatible with the surrounding area and neighborhood* - The Special Use Review process ensures that land uses not listed as uses by right are appropriate for the specified location and zoning district. This proposal is for a use identified as being permitted through the Special Use Review process for A (Agricultural) zoned property. The applicant has contacted all local, state, and federal agencies involved and has satisfied or is in the process of satisfying, all requirements. Additionally, all comments and concerns related to the referral responses have been addressed to the satisfaction of those agencies, or will be by inclusion as a condition of approval. The site is very remote and there were no referral responses received that indicated any incompatibilities with the surrounding area. It is Community and Development Service's opinion that this proposal is compatible with the surrounding area and neighborhood.
3. *Whether the proposed Special Use will adversely impact the provision of public services* – The proposed site is very remote. Public services are limited to road maintenance and possible emergency services.

The applicant will be required to enter into a Road Operation and Maintenance Agreement with Elbert County Public Works. This document will ensure any improvements that may be required by the applicant's activities, as well as the

maintenance of any existing roadways used by the applicant.

The applicant has agreed to meet with Simla Fire District to satisfy any requirements of that District. Additionally, Mustang Creek LLC is requested to participate in the Local Emergency Planning Commission (LEPC) to facilitate regular communication with Elbert County Emergency Management. This recommended participation is authorized by the Emergency Participation Community Right to know Act (EPCRA).

4. *Whether the proposed Special Use will adversely impact the environment* – Mustang Creek LLC has submitted a number of permits and plans related to environmental protection. A CDPH permit is pending. An approved CDPHE permit will be a condition of approval. The applicant has submitted a Storm Water Management Plan, Crisis Management and Incident Response Plan, a Wildlife Management Plan, a Water Supply Plan and Surface Water/ Aquifer Protection Plan, a Waste Management Plan, a Weed Management and Re-Vegetation Plan, and a Drainage Report. All of these documents have been reviewed by the Elbert County Engineer (Enertia). All comments and/or concerns have been corrected or addressed in writing and have been deemed correct and complete by the County Engineer. No additional negative comments were received by environmentally related referral agencies.
5. *Whether the proposed Special Use will create traffic congestion or burden the existing road system* – The project is located in a pasture and is approximately 1.6 miles east of County Road 133 and 2 miles south of County Road 34. This project will require heavy truck traffic from the Interstate to the proposed site. There may be additional incidental traffic related to Operator personnel to and from the site. A traffic report was submitted and reviewed by the County Engineer and Public Works was a County referral for this proposal. An agreement will be required to mitigate any impacts to the existing road system prior to this application's presentation to the BOCC. No other referral response indicated concerns related to congestion or impacts to the existing road system.
6. *Whether the proposed Special Use will be adequately landscaped, buffered, and screened* –The plan exhibit submitted for the application does not include a landscape plan; however, the size of the subject property, together with the remote location of the proposed site, should provide adequate screening and buffering from public roads and for surrounding properties, once the drilling and completion phase is finished. The applicant has submitted a Visual Mitigation Plan that meets COGCC requirements. During the drilling and completion phase, the project will be more visible and noise may be a nuisance for the few residents in the area. Following this 30-120 day period, the site will be less visible and the noise will subside.
7. *Whether the proposed Special Use Review will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County* – If the applicants meet the requirements of each of the referral agencies there should be no concern to the health, safety, or welfare of the present or future inhabitants of Elbert County.

## RECOMMENDATION:

Recommend approval of **Prescott Ranches/Mustang Creek SU 13-0010**, with the following conditions of approval:

1. The applicant agrees to continue reclamation until 70% of the original vegetation, or seed mix requested by the landowner, is established, per COGCC and CDPHE General Stormwater Discharge Permit requirements.
2. A Road Operations and Maintenance Agreement must be in place with Elbert County Public Works prior to recordation. As part of this agreement, the applicant agrees to repair/replace any and all roadway infrastructure (i.e. gravel or paved surface), cattle guards, culverts, or drainage swales impacted by vehicular traffic, associated with the project.
3. The applicant will comply with all comments from Enertia Engineering contained in their referral comment letter dated November 24, 2013. Confirmation of compliance will be required prior to recordation.
4. The applicant agrees to all site inspections requested by the Elbert County Engineer. Any and all costs associated with these inspections shall be paid for by the applicant. A letter of agreement is to be placed in the Community and Development Services file prior to recordation.
5. The applicant will test four water wells located within ½ mile of this project, in accordance with COGCC rule 609. Monitoring is dependent on permission from the property owner to access and baseline. Any monitoring data will be forwarded to Elbert County. Testing will occur prior to activity and following completion and shall include all tests required by COGCC. With permission from the landowner, results of that testing will be made available to the well/landowner, CDS and the Elbert County Health and Environment Department.
6. The applicant will maintain good housekeeping on the site in accordance with the submitted Facility Operations Plan.
7. Chemicals will be stored in accordance with the submitted Facility Operations Plan.
8. Waste disposal will be conducted in accordance with the submitted Facility Operations Plan. No open pits will be permitted.
9. The applicant agrees to electrify all site equipment in accordance with the submitted Facility Operations document.

10. All lighting mitigation, visual mitigation and wildlife mitigation will be in accordance with the respective plans submitted by the applicant.
11. Prescott Ranches/Mustang Creek LLC will comply with all requests made by Simla Fire Protection District. A letter of agreement is to be placed in the Community and Development Services file prior to recordation.
12. An approved "Determination of Non-Tributary Ground Water must be placed in the Community and Development Services file prior to recordation.
13. Should the project change to include coal bed methane formations or the use of produced water for beneficial use, the application must be re-submitted to CDWR for approval.
14. Mustang Creek LLC is encouraged to participate in the Local Emergency Planning Commission (LEPC) to facilitate regular communication with Elbert County Emergency Management. Communications is also encouraged through regular email or main in regards to any pertinent or voluntary information. Mustang Creek LLC is required to report on storage use and release of hazardous material per the Emergency Participation Community Right to Know Act. (EPCRA)
15. The applicant will secure and submit to Community and Development Services, all required COGCC permits prior to recordation.
16. The Special Use Exhibit should be recorded within one hundred eighty (180) days of Board of County Commissioner approval.
16. The Special Use will not become effective until all conditions of approval are met, all fees paid and documents recorded.
17. Adopt the Findings enumerated herein.

Respectfully Submitted,

Carolyn Parkinson  
Planner I

Attached: Site Narrative, Facilities Operating Plan, Copies of Applications to State Agencies, Color Aerial Photo, Lighting Plan, Vicinity Map, Visual Mitigation Plan, Wildlife Mitigation Plan, Water Supply Plan and Surface/Aquifer Protection Statement, Road Access, Haul Routes, and Road Maintenance Agreement, Waste Management Plan, Weed Management Plan, Traffic Report and Control Plan, Drainage Report, Community Meeting notes, Pre-submittal Meeting notes, Authorization and Representation, Referral responses, Site plan