

FINDINGS AND PERMIT

High Impact Permit No. 13-000005
Kinder Morgan CO2 Company, LP, Applicant
On property located at 17774 Road 14, Yellow Jacket, CO
Situating south of Road 14, west of Road U
In Sec. 13, T.37N., R.18W., N.M.P.M.
PID No.: 5353-132-00-014

For the purpose of expanding on an existing compressor station by the installation of surface compression and other surface facilities to sustain production levels and to maintain CO2 production by lowering the abandonment pressure of the well sites/field
Date: April 22, 2013

The Montezuma County Land Use Code, Under Resolution Number 2012-6 provides for High Impact Permit Regulations whose general purpose is to facilitate the identification, designation and regulation of High Impact Development projects in the unincorporated areas of Montezuma County. This process will ensure compatibility of commercial and industrial uses with surrounding land uses. The specific purposes of these regulations are:

- A. To protect and strengthen the established industries of agriculture, commerce, industry, tourism, recreation, and to protect property values.
- B. To protect and strengthen the economic viability of the private and governmental sectors of the County;
- C. To regulate development that would otherwise cause excessive noise, water or air pollution;
- D. To ensure, to the maximum extent practicable, that growth will pay for itself, and that the present residents do not have to subsidize new growth and development;
- E. To ensure that High Impact Development projects are sited, constructed, developed and operated in a manner that is consistent with the land use policies and regulations of Montezuma County.
- F. To protect the rural character and visual and aesthetic resources of the County and to protect the health, safety, and welfare of the people of the County and the State of Colorado.

These competing purposes and needs must be reconciled by the judicious application of the Montezuma County Land Use Code which is based on the Montezuma County Comprehensive Land Use Plan, formulated by a citizen working group which spent some 18 months formulating a plan to address the appropriate balance between the protection of private property rights, private property values, and the cost effective provision of public services and facilities. The Comprehensive Plan and the Land Use Code that resulted were developed in the spirit of people working together to resolve land use issues, rather than taking hard line positions. It is this framework that must guide County land use decisions.

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The Montezuma County Board of Commissioners must render its decision pursuant to Section 2202.8 of said Land Use Code which provides in part as follows:

"B". The proposed use shall not generate any significant adverse impacts on other property in the area and is consistent with this Code", and

"D". If the applicant fails to meet these decision criteria, the permit shall either be approved with conditions, insuring compliance with the decision criteria, or it shall be denied."

FINDINGS AND PERMIT

- a) On March 18, 2013, the Board of County Commissioners reviewed the High Impact Permit Application and forwarded the same to the Planning and Zoning Commission Board for review.
- a) The property consists of 39 acres, more or less. There is an existing compressor station/facility on property adjacent to the subject parcel located at 14068 Road U, Yellow Jacket, CO, consisting of 12 acres, more or less, created by Resolution No.: P-2-81. The Fredrick property was purchased for the purpose of expanding on the existing compressor station/facility.
- b) Threshold Standards that may be exceeded; however, mitigated are:
 1. Threshold Standard No. 2- Exceeds on the parcel where the existing compressor station/facility is located. The purchase of an additional 39 acres, more or less, by KM was to expand on their existing compressor station/facility. If permitted, this standard will continue to be exceeded. KM has submitted site plans of the proposed facility showing "similar and like" to demonstrate how the area may be impacted. Efforts will be made in the layout of the site to lessen the impact to rural character in the immediate area. The closest residential structure, other than the Frederick's residence, is approximately ½ mile from the proposed site.
 2. Threshold Standard No. 3-Maximum Building Height: One building is being proposed within this application which will exceed the height threshold standard of 45 feet by 9 feet. This is mitigated by the proposed location of the structure, and building materials used.
 3. Threshold Standard No. 11-Traffic: This standard will be exceeded during the construction phase of the project which will last approximately 18 months. Construction will take place during daylight hours only. Once the facility expansion is completed, this standard will be met. Kinder Morgan and (or) contractors/subcontractors will use the established truck route - Montezuma County Roads Z, 16, Y and U. These roads will be kept in good repair and magnesium chloride and water will be used to control dust and particulate impacts to neighboring properties. Kinder Morgan also keeps a road maintenance bond in place with the County.
 4. Threshold Standard No. 25-Noise: During the construction phase of the project, this standard may be exceeded. However, construction activities will occur mainly during daylight hours to help mitigate any impacts to neighboring residential land uses. After Construction activities are complete,

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this standard will be met. The compressors are driven by electric motors that significantly reduce noise. The building containing the compressor will include noise reduction construction materials to further reduce noise. Noise measurements recorded at the existing plant in August 2012 were below 60 decibels at the boundary of the facility.

- c) A Site Plan has been submitted showing Option "A", Option "B" and Option "C" of the location for the expansion. The expansion will either be east of the existing facility or south of the existing facility. There is one building being proposed with the application that will be approximately 200' x 400'.
- d) The closest residential structure to the proposed site is a residence owned by the Fredricks' who sold the property to Kinder Morgan for the purpose of expanding on the existing compressor station/facility.
- e) The compressor site will be fenced with 6 foot chain-link, with three-strand barbed wire across the top. The property that is not utilized by the proposed expansion will be fenced with standard livestock fencing and may be leased back to the Fredricks to be used for grazing livestock.
- f) KM has submitted a Conceptual Stormwater Management Plan which includes conceptual Best Management Practices (BMPs) and reclamation plans for KM in accordance with the Colorado Department of Public Health and Environment (CDPHE).
- g) During construction Kinder Morgan will be using caged trash bins and construction-sized dumpsters supplied by Waste Management.
- h) Kinder Morgan has an Emergency Response Plan in place for the existing Yellow Jacket plant. Emergency services (Lewis-Arriola and Cortez Fire Departments) are aware of the existing compressor plant and will be updated with the location and details of the proposed expansion. The expansion of the compressor plant will have a low potential for fires due to a gravel base around the building and CO₂ not being a flammable product. A wildfire mitigation plan is in place for the undeveloped sections of the 39 acre parcel.
- i) The latest technology in pollution-free lighting will be used. Lights will be turned off at night unless they are needed for the safety of personnel that may be on site during emergency maintenance. Structures will be constructed with non-reflective materials and lighting around the facility will be angled downward to mitigate any impacts to surrounding properties and the traveling public.
- j) Weed Control Plan has been submitted.
- k) The Applicants have requested and the Board of County Commissioners have approved a request to rezone the property heavy industrial.

Agency Responses: None

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BOARD MEETING DATES

Board of County Commissioners: on March 18, 2013, the Board of County Commissioners forwarded the High Impact Permit Application to the Planning and Zoning Commission Board for review.

Planning Commission Review of the Heavy Industrial Rezoning Application on March 28, 2013:

Motion by Commissioner Pock to recommend to the Board of County Commissioners to approve the INDHZ-Heavy Industrial rezoning request and on 39 acres, more or less, based on the following:

- a. The proposed use is in conformity with the Code;
- b. The proposed use shall not generate any significant adverse impacts on other property in the area; and
- c. Public utilities and services are available, or can be made available, to support uses consistent with the proposed zoning.

Contingencies to the Motion: None
 Second by Commissioner Belt.
 Discussion on the Motion: None
 Motion carries and the vote was 3-0.

Comm. Atwater	Comm. Gordanier	Comm. Clayton	Comm. Pock	Comm. Hunter	Comm. Belt
Aye	Absent	Aye	Aye	Absent	Aye

Planning and Zoning Commission Board review of the High Impact Permit Application on March 28, 2013:

Motion by Commissioner Pock to recommend to the Board of County Commissioners to approve the High Impact Permit Application and to move forward with the public hearing process before the Board of County Commissioners.

Contingencies to the Motion: None
 Second by Commissioner Belt
 Discussion on the Motion: None
 Motion carries and the vote was 3-0.

Comm. Atwater	Comm. Gordanier	Comm. Clayton	Comm. Pock	Comm. Hunter	Comm. Belt
Aye	Absent	Recused	Aye	Absent	Aye

BOARD OF COUNTY COMMISSIONERS REVIEW ON APRIL 22, 2013

The Board of County Commissioners, having considered all the evidence submitted by the Applicant(s) hereby approves High Impact Permit No. 13-000005 and the heavy industrial

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(INDHZ) rezoning request for the purpose of expanding on an existing compressor station by the installation of surface compression and other surface facilities to sustain production levels and to maintain CO2 production by lowering the abandonment pressure of the well sites/field pursuant to the information submitted within the High Impact Permit Application, plans, recorded oral comment made by Applicant(s) during the Public Hearing before the Board of County Commissioners on April 22, 2013, and any additional information submitted by the Applicant(s) during said hearing, becoming a part of the conditions of the High Impact Permit issued and contingent upon the following:

1. All local, state and federal permits are obtained.

Some of the facts supporting these findings are set forth within this permit, and additional facts are set forth in the Planning Department's Application file.

Montezuma County Board of County Commissioners:

Steve D. Chappell
Steve D. Chappell

Keenan G. Ertel
Keenan G. Ertel

Larry Don Suckla
Larry Don Suckla

Carol Tullis
Clerk

April 22, 2013
Date

Seal

