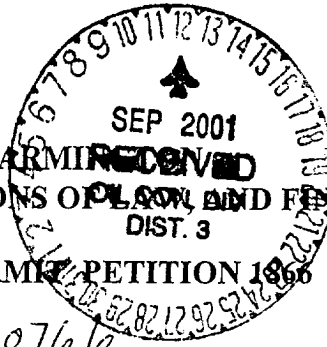


FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
SPECIAL USE PERMIT PETITION 1866



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REQUEST:

30-045-30766

Petition 1866 is a request from Paul C. Thompson representing Calpine Natural Gas Company for a special use permit to drill and operate a natural gas well, the Tiger #19, located on an existing Energen site in the NW/4, NE/4 of Section 27, T30N, R13W.

PUBLIC NOTICE:

- HA*
- A. A notice was published in the Daily Times on Wednesday, August 1, 2001. The property was posted on Tuesday, August 7, 2001. Notification letters were sent by certified mail to 13 owners of property within 100 feet of the site on Monday, August 6, 2001.
 - B. The Planning and Zoning Commission conducted a public hearing on this request on Thursday, August 16, 2001. Mr. Thompson was present representing Calpine Oil and Gas Company. Letters of protest from Melissa Garcia Kyrimis and Ivan P. Sergejev, both property owners in the Las Colinas Subdivision, were entered in to the hearing record as Exhibit #6 and #7 respectively. No one else appeared before the Planning and Zoning Commission in regard to this petition.

SUMMARY OF RELATED FACTS:

A. The Property.

Parcel Size	The property for which the special use permit is sought encompasses approximately 120 acres.
Location	The well location is on an existing pad in the NW/4, NE/4 of Section 27, T30N, R13W on the east side of Glade Road
Physical Characteristics	The site is an undeveloped area of land within Chokecherry Canyon. The well site lies between Glade Road and the Main channel of the wash. The area maybe subject to periodic flooding.
Existing Land Use	Undeveloped
Existing Zoning	RS-2, Suburban Residential
Zoning History	The property was annexed in March 2000. There is no record of any previous zoning action affecting this site.

B. Surrounding Land Use and Zoning.

North	Undeveloped, zoned RS-2
East	Residential, zoned RS-2
South	Residential, zoned RS-2
West	Undeveloped, zoned RS-2

C. Description of Proposed Activity.

To develop the Fruitland Coal resources, Calpine proposes to drill a new hole on the south side of the existing well pad. It is anticipated that in addition to the downhole equipment other production equipment will consist of a separator, a meter run and an above ground storage tank for produced water. Compression facilities will be consolidated at the Tiger #12 gas well located approximately 1/4 mile to the south. The proposed well would be drilled to a depth of approximately 1,800 feet.

FINDINGS:

- A. Calpine Oil and Gas Company holds the right to produce minerals under real property located in the NW/4, NE/4 of Section 4, T29N, R13W, NMPM.
- B. The nearest residence is more than ½ mile from the well site.
- C. The Fruitland Coal well will require compression. Calpine has proposed to utilize an existing compressor at the Tiger #12 site.
- D. A Flood Plain Determination is required to ascertain if flood proofing the storage tanks and other production equipment is required
- E. The proposed well will not, as a result of its location, further reduce the development rights of any adjacent landowner
- F. Calpine Oil and Gas Company stated its intent to apply best available technology in reducing the adverse effects of noise and other environmental factors as required by the City.

COMMISSION ACTION:

Motion by Commissioner Wimsatt, seconded by Commissioner Moffet, to recommend approval of Petition 1866 subject to the following conditions.

- a. The petitioner shall provide the Fire Department with five (5) copies of an approved emergency plan prior to the commencement of the drilling operation.
- b. The prior to issuance of a drilling permit Calpine Oil and Gas Company shall be responsible for determining if the well site is located within a Flood

Hazard Area as defined by the Federal Emergency Management Agency. If such determination is affirmative the petitioner must obtain a Flood Elevation Certificate for construction on the well pad site.

- c. The compression equipment located on the Tiger #12 site shall be fully enclosed within sound abatement structure designed so that the compressor will not at any time cause the ambient noise level to be increased by more than three dB(A) when measured 300 feet from the compressor or one dB(A) over ambient measured at the nearest residence in the event future development occurs in the vicinity of the compressor site. The Chief Code Compliance Officer shall have the authority to direct Calpine Oil and Gas Company or its successor and assign to shut in the well at any time there is a material increase in noise above the approved decibel level. At such time as Calpine or its successor can demonstrate that the increase in noise has been eliminated above this standard, the Chief Code Compliance Officer may authorize the operation of the compression.**
- d. The existing chain link fence shall be repaired or replaced as needed and the entire pad site shall be enclosed as required by city code. The production equipment and ancillary well facilities shall be painted a uniform earthen hue and the operator shall be perpetually required to keep said painting in good repair. Any graffiti shall be repainted within 15 days of discovery. If discovered by or reported to the Code Compliance Division of the City of Farmington, said 15 days shall deemed to commence upon notification by Code Compliance to the operator. The failure to commence repainting may result, at City's option, in action being taken against operator's performance bond, in revocation of the permit in accordance with Section 19-2-3 or in revocation of this Special Use Permit in accordance with Section 27-27-4.**
- e. Any violations of the oil and gas code, the laws of the State of New Mexico, and the rules and regulations applicable to the drilling or operation of oil and gas wells shall be corrected within a reasonable time, not to exceed 15 days from the date the operator is notified of the violation. The failure to cure the violation may cause the permit to be revoked pursuant to Section 19-2-3, or this special use permit to be revoked in accordance with Section 27-27-4. The Chief Code Compliance Officer shall also be authorized to direct that the well be shut in during the period of such repair. If, in the opinion of the Code Compliance Officer, the violation or condition results in a significant safety or environmental hazard.**
- f. A letter confirming compliance with the provisions of all applicable oil, gas and mineral leases and the laws of the State of New Mexico related to owners of surface rights, surface damages and access to be submitted with the permit application to the City Clerk in a form acceptable to the City Attorney.**
- g. Produced water from the well may only be collected during the hours of 8:00 a.m. and 5:00 p.m. If the operator elects to discharge produced groundwater**

into the city's sanitary waste system, the operator must obtain an Industrial Pretreatment Permit from the city and shall be responsible for insuring the discharge is maintained within the levels of the permit.

Ayes: 6 (Commissioners Moffett, Kuchera, Williams, Simpson, Wimsatt and Merrion,)
Nays: 0
Absent: 2 (Commissioners Shields and Kysar)

The motion passed (6-0)

OIL/GAS AND GEOLOGICAL/ENGINEERING HAZARDS ADVISORY COMMISSION ACTION:

The Oil/Gas And Geological/Engineering Hazards Advisory Commission met on Tuesday, August 21 to Consider a request from Paul C. Thompson representing Calpine Natural Gas Company for a special use permit to drill and operate a natural gas well identified as Tiger #19 located in the NW/4, NE/4 of Section 27, T30N, R13W. The Commission was provided copies of the staff report and exhibits presented to the Planning and Zoning Commission.

Upon consideration of the report and recommendations of the Planning and Zoning Commission, a motion was made by Commissioner Simmons, seconded by Commissioner Corbett, to recommend to the City Council approval of Petition No. 1866, subject to the following additional conditions:

- h. The surface casing must be set to a minimum depth of 120 feet and at least 50 feet or a minimum of two 30-foot joints of pipe into bedrock.**
- i. The surface casing and long string must be cemented to the surface.**
- j. All well casing used on this location must be new casing, not used.**
- k. All surface equipment used on this location, including the wellhead, valves, fittings and any other equipment associated with the wellhead must be new.**
- l. Drilling operations shall be limited to daylight hours, provided however that the operator shall not shut down at sundown during any critical operation and shall continue until such critical operation is completed and shall not schedule the start of such operations late in the afternoon.**
- m. Additional protections shall be provided for the wellhead, such as a pipe barricade being constructed around the wellhead, if the location is determined to be in a flood plain.**

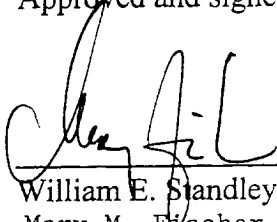
Ayes: 3 (Commissioners Riggs, Simmons and Corbett)
Nays: 0

The motion passed (3-0)

FINAL DECISION AND ACTION BY CITY COUNCIL

On August 28, 2001 the City Council, by a vote of four in favor and none opposed, adopted the findings and recommendation of the Planning and Zoning Commission and the Oil/Gas and Geological/Engineering Hazards Advisory Commission and approved Petition 1866, a request from Calpine Natural Gas, represented by John Thompson to drill and operate the Tiger #19 Fruitland Coal gas well, located adjacent to an existing Energen well, just east of the Glade, using a lined earthen reserve pit as proposed and subject to conditions a. through m. above.

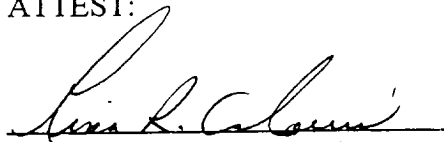
Approved and signed this 28th day of August, 2001.

A handwritten signature in black ink, appearing to read "W. Standley", written over a horizontal line.

William E. Standley, Mayor

Mary M. Fischer, Acting Mayor Pro Tem

ATTEST:

A handwritten signature in black ink, appearing to read "Gina R. Morris", written over a horizontal line.

Gina R. Morris, City Clerk