



**NEBRASKA MODEL COUNTY SPECIAL PERMIT  
OR CONDITIONAL USE PERMIT ORDINANCE FOR CO<sub>2</sub> PIPELINES**

**December 2022**

**ADDITION TO DEFINITIONS SECTION:**

Carbon Dioxide Pipeline (CDP) shall mean a pipeline with an outer diameter of four inches or greater used to transport a gas, liquid, or supercritical fluid comprised of at least fifty percent carbon dioxide (CO<sub>2</sub>) for geologic sequestration, enhanced oil recovery, or other use. A CDP shall include the pipe used to transport carbon dioxide and any structure related to the pipeline and any space, resource, or equipment necessary for such transportation, including but not limited to all related pump or compressor stations, valves, cathodic protection systems, and communication and control systems.

**ADDITION TO SPECIAL PERMIT OR CONDITIONAL USE PERMIT SECTION:**

**[Section #]. Carbon Dioxide Pipeline Special [Conditional Use] Permit**

A Carbon Dioxide Pipeline (CDP) may be allowed by [Special Permit/CUP] in the [AG District] in a route approved by the County upon consideration of the information included in an application for a [Special Permit/CUP] and any other evidence and comments provided by other interested parties, which [Special Permit /CUP] shall include the conditions required by this ordinance.

**[Section #]. Carbon Dioxide Pipeline Permit Application Contents**

The application shall include the information required by this section. Upon receipt of an application, the [County staff] will review the information provided and confirm that the application contains all required information. In the event the application is deficient, [County staff] will reject the application and provide Applicant with a list of deficiencies. Applicant may submit a revised application including the omitted information or request a variance based on evidence that providing such information is infeasible or unreasonable. Applicant will identify any nonpublic information and explain the basis for such designation. If Applicant identifies any nonpublic information, it will provide a public version of any nonpublic documents that redacts nonpublic information.

**a. Ownership and Management.** The application shall include:

1. the name and addresses of the applicant and all affiliated entities including the applicant's organizational parents, subsidiaries, and other affiliates having a management, ownership, or financial interest in the development, construction, or

operation of the CDP, or having ownership of carbon capture, sequestration, or use facilities that are physically connected to the proposed CDP, together with an organizational chart showing the ownership and managerial relationships among all entities;

2. for all entities identified in paragraph 1, a list of the members of the board of directors and a list of the beneficial owners of more than 5 percent of the equity of the company;
3. a list of entities under contract with Applicant or a parent, subsidiary, or affiliate thereof, to provide services related to carbon capture, transportation, sequestration, or use; and
4. an organizational chart showing the all corporate parents, subsidiaries, and affiliates of Applicant, including those that would capture carbon dioxide for transportation on the CDP and those that would sequester or use the transported carbon dioxide.

**b. Application Administrative Information.** The application shall include:

1. an estimate of the taxes to be paid to the County by the CDP owner or operator during each of the first ten years of operation;
2. a list of all known federal, state, and local agencies or authorities with which the applicant must file permit applications or seek other approvals for the proposed facility, including:
  - i. the names of all known federal, state, or local permitting or approving agencies or authorities;
  - ii. the title of each required permit or other approval issued by each authority;
  - iii. the date each application was filed or the projected date of future application filings;
  - iv. the actual date a decision was made on any such application or the anticipated decision dates for applications; and
3. the total fee to be paid to the County for the application as prescribed by Section \_\_\_\_\_, and the amount of the fee submitted with the application; and

4. the signatures and titles of the applicant's officers or executives authorized to sign the application, and the signature of the preparer of the application if prepared by an outside agent.

c. **Project Data.** The application shall include:

1. for the segment of the CDP within the County, a description of the nature and location of the CDP and its major components, including its planned use, estimated cost, estimated date of commencement of construction, duration of construction, planned in service date, estimated years of physical life, and estimated years of economic life;
2. for the entire CDP system, a description of the nature and location of the CDP outside of County, including its planned use, estimated cost, estimated date of commencement of construction and duration of construction, planned in service date, estimated years of physical life, and estimated years of economic life;
3. the estimated metric tons of carbon dioxide to be transported by the CDP in each of the first 10 years of operation;
4. the initial average annual and daily design capacities at commencement of operation in metric tons and standard cubic feet, and the ultimate average annual and daily design capacities assuming sufficient pumping horsepower is installed to operate at maximum operating pressure, in metric tons and standard cubic feet;
5. the specifications for the pipe types to be installed within the county, including their diameters, pipe wall thicknesses, pipe steel specifications, and identification of potential and contracted pipe suppliers together with the execution dates of any such pipe supply contracts;
6. the locations and descriptions of valves to be installed within the county, if any, and the locations and descriptions of the nearest valves upstream and downstream from the County, including valve diameters, ratings, and whether they are manual, operator remote controlled, or automatic;
7. a description of any pumps and pump stations to be installed within the County, if any, including their maximum capacities, maximum power output in horsepower, efficiency, allowable maximum and minimum product operating temperature, and electrical energy and power requirements for each pump and for any pumping station when operating at initial and ultimate capacities;

8. a description of any electrical power line construction or upgrades necessary to allow operation of the CDP in the County, and a list of the electrical utility companies that would undertake such construction or upgrades;
9. a description of the designs and locations of crack arrestors to be installed within the County, if any, including their diameters, wall thicknesses, materials, and safety benefits, and a discussion of the rationale used to select locations;
10. the estimated maximum and minimum operating temperatures within the County annually and by month and a study of the impact of pipeline temperature on soil temperature, erosion, productivity, and agricultural operations; and
11. the percentage of chemical constituents in the product the CDP is designed to transport, including the percentages of carbon dioxide and all other substances, and a materials safety data sheet for the product composition anticipated at the commencement of operation, as well as a discussion of any anticipated changes in composition during the economic life of the CDP.

d. **Proposed Route.** The application shall include:

1. a description of the proposed route of the CDP within the County, including detailed maps of the route and all CDP facilities within the County overlaid on a parcel plat map, a satellite imagery map, a topographic map, a soil type map, and a water and wetland resource map, together with the GIS data used to produce such maps;
2. a list of all parcels within the County subject to an easement or right-of-way permit for the proposed route of the CDP, including contact information for all owners of such parcels, and for each parcel a statement of whether or not a voluntary easement or right-of-way permit has been executed at the time of the application;
3. a list of addresses of all occupied structures within two (2) miles of the CDP together with contact information for the owners and lessees of such structures; and
4. a statement of the reasons for the selection of the proposed route through the county and a description of alternative routes through the county or the state considered by the Applicant.

e. **Economic and Financial Data.** The Application shall include:

1. the estimated number of full-time equivalent workers, whether directly employed or contracted, that will be present within the County during the construction phase and the number who will be residents of the County during the operating life of the CDP.
  2. a list of expected carbon capture facilities that will supply or ship carbon dioxide product for transportation on the CDP during the first five calendar years of operation, showing the name, location, type, and owner of each such facility, the dates and durations of the contracts between Applicant and carbon capture facilities, and the quantities of carbon dioxide expected to be transported from each such facility on the CDP; and
  3. a list of the entities that will receive carbon dioxide from the CDP during the first five calendar years of operation, showing the name, location, type, and owner of each such facility, the dates and durations of the contracts with each receiving facility, and the quantities of carbon dioxide product expected to be transported to each such facility.
- f. **Indemnification.** The Application shall contain a proposed indemnification permit condition with the following terms:
1. The applicant, its heirs, assigns, and successors shall indemnify, defend, and hold harmless County and any property owners whose land is subject to easements or right-of-way agreements from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorneys' and experts' fees incurred by County and/or such property owners in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of the pipeline and/or related facilities, and the products contained transferred through, related or spilled from said pipeline and appurtenant facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any law, including all applicable environmental laws.
  2. The indemnification shall not apply to the County or to a CDP Landowner, respectively, when and to the extent that the County or a CDP Landowner intentionally or recklessly damages the CDP Pipeline.
  3. No property owner or tenant or contractor of a property owner shall be held responsible for a leak or rupture of a CDP that occurs as a result of normal agricultural activities.

4. No property owner or tenant or contractor of a property owner shall be held responsible for a leak or rupture of a CDP where the owner or operator of the CPD fails to maintain required warning signs.
  5. The indemnification shall not relieve a property owner, or tenant, agent, or contractor of such property owner, from their obligation to comply with state one-call notification requirements and any amendments thereto or relieve them of liability for their failure to do so.
- g. **Pipeline Safety:** The Application shall contain a discussion of Applicant's plans to comply with federal pipeline safety standards, or if no federal standards are applicable to the CDP, a plan to comply with any industry standards that may be applicable.
1. If a CDP is subject safety standards adopted under the federal Pipeline Safety Act, the Application shall include information demonstrating that applicant will comply with all such safety standards. An Application shall include a general description of all CDP components installed in the county, together with a description of the component's compliance with federal safety standards, and attach any engineering studies prepared by the applicant to ensure its compliance with applicable safety standards. When a CDP is subject to safety standards adopted under the federal Pipeline Safety Act, the county shall not adopt conditions that regulate the Applicant with regard to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of the CDP. The County may consider the safety information required herein for the purpose of understanding the unavoidable risks to public health and welfare resulting from operation of the CDP, and for the purpose of county emergency planning and preparation.
  2. In the event the safety of the CDP is not subject to the jurisdiction of the federal Pipeline Safety Act or state law safety standards, an application shall provide copies of all industry standards related to the design, materials, construction, equipment, operation, and maintenance applicable to the CDP; a description of all CDP components installed in the County together with a description of the component's compliance with applicable standards; a description of all construction activities together with a description of how these activities will comply with applicable industry standards; and a description of all operation and maintenance activities together with a description of how these activities will comply with applicable industry standards. The county may determine if the CDP will adequately comply with such industry standards and may condition a special permit to require such additional safety standards as are determined to be necessary and reasonable by the county.

- h. **Environmental Impact Assessment:** The application shall include an assessment of impacts of construction and operation on state or federal threatened or endangered species, environmentally sensitive lands and waters such as wetlands, native prairie and grasslands, rivers, streams, and lakes, and public parks, schools, and similar resources and amenities.
- i. **Proposed Construction Mitigation and Reclamation Plan:** The application shall include a proposed Construction, Mitigation and Reclamation Plan (CMRP) containing the following conditions:

  - 1. If the CDP passes within a distance of between one hundred and one (101) feet to two hundred and fifty (250) of any occupied residence or operational commercial structure, then applicant shall implement the following:

    - i. To the extent feasible, the applicant shall coordinate construction work schedules with affected residential and business owners prior to the start of construction in the area of the residences or businesses.
    - ii. Applicant shall install temporary safety fencing to control access and minimize hazards associated with an open trench and heavy equipment in a residential area.
    - iii. Applicant shall notify affected residents and business owners no less than twenty-four (24) hours in advance of any scheduled disruption of utilities and limit the duration of such disruption.
    - iv. Except where practicably infeasible, final grading and topsoil replacement, installation of permanent erosion control structures and repair of drainage tiles, fencing, and other structures shall be completed within ten (10) days after backfilling the trench or after any subsequent repair work. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond applicant's control prevent compliance with this timeframe, temporary erosion controls and appropriate mitigating measures shall be maintained until conditions allow completion of cleanup and reclamation.
  - 2. Applicant shall maintain access to all residences and businesses at all times, except for periods when it is infeasible to do so or except as otherwise agreed between the applicant and impacted residents and business owners. Such periods shall be restricted to the minimum duration possible and shall be coordinated with affected residents and business owners, to the extent possible.

3. Should a water well, or water supply, or aquifer be damaged (diminishment in quantity or quality) by CDP construction or operations, applicant shall immediately provide a comparable water supply to the owner of the well and the water well shall be restored or replaced at applicant's expense.
4. Applicant shall promptly remove all construction related debris and material which is not an integral part of the CDP. Such material to be removed includes all litter generated by applicant's employees, agents, contractors, or invitees, including construction crews. Following the completion of applicant's construction activities, applicant shall keep the CDP right-of-way clean and free of all trash and litter which may have been produced or caused by applicant or its employees, agents, contractors or invitees or its operations on the property. Applicant shall not bury or burn any trash, debris or foreign material of any nature within its right-of-way.
5. Following the completion of the CDP construction, applicant will restore the area disturbed by construction to the maximum extent practicable to its original preconstruction topsoil, vegetation, elevation, and contour.
6. Applicant shall, unless otherwise requested by a property owner, abide by all guidelines and recommendations of the local or regional field office of the United States Natural Resources Conservation Service or the CMRP, whichever is more stringent, regarding the removal, storage, and replacement of top soil and other soil horizons.
7. At a minimum, applicant shall remove and segregate topsoil and other soil horizons from the trench and segregate all soils by type. Following the construction and installation of each section of the CDP, the soil shall be replaced by type, to the extent feasible, as near as practicable to its original location and condition. Topsoil deficiency shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the property. Following backfill and after completion of installation of all pipeline equipment, applicant shall decompact the soil in accordance with the recommendations of the United States Natural Resources Conservation Service.
8. Applicant shall be financially responsible for all construction-related reclamation and mitigation expenses.
9. Applicant shall commence reclamation of the area through which a CDP is constructed as soon as reasonably practicable after construction.
10. Applicant shall complete final grading, topsoil replacement, installation of erosion control structures, seeding, and mulching within thirty days after backfill except



when weather conditions, extenuating circumstances including landowner preference of delay due to personal or agricultural land use, or unforeseen developments do not permit the work to be done within such thirty-day period.

11. Applicant shall ensure that all reclamation and mitigation actions, including, but not limited to, choice of seed mixes, method of reseeding, and weed and erosion control measures and monitoring, is conducted in accordance with the Federal Seed Act, 7 USC 1551 et seq., state law, and the Noxious Weed Control Act, United States Natural Resources Conservation Service guidance, and the CMRP, in consultation with landowners.
  12. Applicant shall ensure that genetically appropriate and locally adapted native plant materials and seeds are used to reseed pasture and prairie lands based on site characteristics and surrounding vegetation as determined by a pre-reclamation site inventory.
  13. Applicant shall ensure that mulch is installed as required by site contours, seeding methods, or weather conditions or when requested by a landowner.
  14. Applicant's obligation for reclamation, mitigation, and maintenance of the CDP right-of-way shall continue until the pipeline is abandoned and permanently withdrawn from service and it has fully complied with its abandonment mitigation plan.
  15. Applicant must install and maintain adequate warning signs for its buried pipeline that identify all road crossings, crossings into and out of fields, and turns in the pipeline of more than 5 degrees.
  16. Applicant shall provide all landowners whose land is subject to an easement for the CDP with a map of the pipeline location on their land at least once every five years.
  17. Applicant shall record all easements for the CDP and provide a map showing the as-built location of the CDP with the County Recorder and all emergency response agencies within the County.
  18. Applicant shall provide fencing for all above-ground facilities.
- j. **Proposed Template Landowner Construction and Operation Agreement.** The Applicant shall include a proposed template Landowner Construction and Operation Agreement as the basis for an agreement between each CDP Landowners and the Applicant before the start of construction. The purpose of such agreement is to ensure that CDP Landowners have an opportunity to require reasonable parcel-specific

mitigation. The template Landowner Construction and Operation Agreement is subject to approval by the [board/commission] upon such conditions as it determines to be necessary to protect the welfare of the citizens, businesses, land, and water within the County. Upon mutual agreement, a CDP Landowner and the Applicant may modify the terms of the Construction and Operation Agreement. Disputes between the CDP Landowner and Applicant regarding the terms of a Construction and Operation Agreement are within the exclusive jurisdiction of the [board], with appeal to the [commission/board]. The Template Construction and Operation Agreement shall at a minimum include conditions for the following terms:

1. 14-day notice prior to the start of construction;
2. options for access routes, including identification of private and new access roads that will be used or required during construction;
3. options for staking, fencing, and site delineation and access control to ensure landowner and resident safety and commercial access;
4. options for utility and private water supply disruption timing;
5. identification of soil types and horizons;
6. use of soil compaction prevention measures such as construction matting to limit soil compaction to the maximum extent feasible;
7. options for trenching and soil removal, stockpiling, replacement, fill, and decompaction;
8. tree removal, replacement, compensation, and limitations to avoid damage to windbreaks, shelterbelts, and forested areas;
9. minimization of wetland and waterway impacts through setbacks and other measures that ensure downstream water quality;
10. disposal of rocks;
11. wet weather construction suspension when construction may cause damage to agricultural lands and roads;
12. soil erosion and sedimentation control measures that address control measures for each project phase and identify plans for grading, construction and drainage of roads and construction areas;

13. identification, protection, and maintenance of records of drainage structures and systems, including but not limited to the sub-meter location of all crossed drainage systems and their types, and construction impacts and modifications, including provision of a copy of all drainage information to the CDP Landowner;
14. livestock protection and access;
15. use, crossing, maintenance, and repair of private roads to ensure access to lands and businesses during and after construction and restoration to at least their pre-construction condition;
16. surveys for and protection of discovered and unanticipated discovery of archaeological, cultural, paleontological, and historical resources and gravesites;
17. protection of wildlife and protection and restoration of wildlife habitat;
18. winterization options;
19. completion of final grading and topsoil replacement and installation of permanent erosion control structures in non-residential areas within 20 days after backfilling the trench and within 10 days in residential areas unless impractical due to weather;
20. a comprehensive re-vegetation plan that uses native plant species to maintain and ensure adequate erosion control and measures to minimize the area of surface disturbance;
21. use of herbicides and pesticides;
22. removal of construction debris, and solid and hazardous waste in accordance with all applicable local, state and federal regulations;
23. an agreement to repair or compensate a CDP Landowner, lessee, or business for all real and personal property damaged by the CDP owner or operator during construction and any diminishment of water quality or quantity that results from construction activities;
24. an agreement to compensate the CDP Landowner for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses;
25. an agreement to alert the CDP Landowner in the event of a rupture within 1 mile of the CDP Landowner's residence or business, to provide a carbon dioxide alarm

system to all of the CDP Landowner's occupied residences and businesses within 1 mile of the CDP, and to provide the CDP Landowner with an evacuation plan for all occupied residents and businesses within 1 mile of the CDP;

26. an agreement to maintain the right-of-way and to mitigate, reclaim, and restore a CDP Landowner's property following damage caused by use of the right-of-way during operation and decommissioning of the CDP;
27. an agreement that the CDP Landowner shall not be responsible for a pipeline leak or rupture that occurs as a result of his/her normal farming practices over the top of or near the pipeline;
28. an agreement that the CDP owner or operator shall pay commercially reasonable costs and indemnify and hold the landowner harmless for any loss, damage, claim or action resulting from the CDP owner's or operator's use of the easement, except to the extent such loss, damage claim or action results from the gross negligence or willful misconduct of the landowner or its agents; and
29. [other as desired by the County].

k. **Proposed Abandonment Plan:** The application shall include a proposed abandoned pipeline mitigation plan describing the methods, procedures and cost of removing the CDP and all related supporting infrastructure after the pipeline has been abandoned and permanently removed from operation. The abandoned pipeline mitigation plan shall include the following conditions:

1. A notice of abandonment providing that within 90 days of completion of all physical steps necessary to permanently remove the CDP from operation, the CDP operator or owner shall notify the County, municipalities within the County, and all owners of land who own property subject to an easement or right-of-way agreement in the County, that the CDP has been abandoned, which notice shall also fully describe the rights of such owners of land to require removal or other reasonable mitigation actions.
2. In the event the CDP owner or operator fails to give notice of abandonment, the CDP shall be deemed to be abandoned within the County if the CDP does not provide transportation services for twenty-four (24) consecutive months. At any time after such period, upon discovery of non-use, the County shall provide by certified mail a written Notice of Abandonment to the owner and operator of the CDP and also to each property owner whose property is subject to an easement or right-of-way agreement for the CDP, at the landowner address recorded in the County Treasurers Office. The CDP owner or operator shall have the right to respond to the Notice of Abandonment within sixty (60) days from the date of

receipt of such notice to present evidence that it has not abandoned the CDP, including evidence of a future intended use. The County shall review any such response and determine whether or not the CDP has been abandoned. If it is determined the Pipeline has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of the withdrawal shall be provided to CDP owner or operator. If, after review of the CDP owner or operator's response, the County determines that the CDP has been abandoned or discontinued, notice of such finding shall be provided by certified mail to the CDP owner or operator and to each property owner whose property is subject to an easement or right-of-way agreement for the CDP.

3. A draft abandoned pipeline mitigation plan prepared in cooperation with CDP Landowners that describes the abandoned pipeline mitigation process, identifies mitigation requirements for each parcel with the County, estimates the total cost of mitigation in the County, and discusses financial assurance options to ensure the availability of financial resources needed for mitigation after the CDP has been abandoned.
4. A commitment to provide a bond or equivalent enforceable financial assurance instrument sufficient to guarantee removal and mitigation of the CDP upon abandonment. The County shall approve the amount and terms of such financial assurance instrument as being necessary to protect the public interest.
5. Upon a CDP owner or operator providing notice of abandonment, or upon issuance of a final decision by the County that a CDP is abandoned due to non-use, the abandoned pipe steel and all underground components shall be removed within one year of decommissioning or revocation of the special permit.
6. Property owners of land subject to a CDP easement may enter into an agreement with the CDP owner to abandon some or all underground CDP components in-place and for other mitigation requirements, including but not limited to filling abandoned in-place pipe under private roadways with cement to prevent roadway collapse, segmenting and plugging the pipe to prevent water drainage, and conducting depth of cover and erosion surveys to assess remaining depth of cover and potential future impacts of the abandoned underground pipe on agricultural operations.
7. In the event that the CDP owner or operator fails to initiate removal or other required mitigation within 180 days of its notice of abandonment or a notice of abandonment issued by the County, any owner of property subject to an easement or right-of-way agreement for the CDP may remove or otherwise mitigate the abandoned pipeline on such landowner's property and seek compensation for the expenses of these activities from the financial assurance instrument provided to

ensure implementation of the plan. If such funds are not sufficient, a landowner may seek recovery of funds from the current and past owners of the abandoned CDP.

1. **Proposed County Pipeline Rupture Emergency Response Plan:** The application shall include a proposed draft county and municipal Pipeline Rupture Emergency Response plan to aid in emergency agency response to a potential full-bore rupture of the CDP. The applicant shall coordinate development of this proposed plan with county, municipal, and state emergency response agencies. This proposed county Pipeline Rupture Emergency Response Plan shall at a minimum include:
  1. An estimate of the maximum worst-case discharge volume of carbon dioxide that could be released given pipeline size, emergency valve locations, and other appropriate factors.
  2. An estimate of the size of the danger zone on either side of the pipeline route based on the maximum distance that released CO<sub>2</sub> could travel from the pipeline's centerline from a rupture in the county at concentrations that are immediately dangerous to life and health (IDLH) (an IDLH of 4 percent or 40,000 parts per million), given a range of weather conditions and topography. The distance estimate shall be based on state-of-the-art computer modeling that at a minimum takes into account amounts of CO<sub>2</sub> and hazardous materials released, release rate, the volume of material ejected by pump or compressor operation before their shutdown and valve closure, the amount of material that would vent to the atmosphere between emergency valves, weather, topography, and the location of structures.
  3. An estimate of the concentration of CO<sub>2</sub> at which internal combustion engine motor vehicles may not operate.
  4. A list of local emergency response agencies that the CDP operator must notify immediately in the event of a rupture.
  5. A list of CDP operator emergency response personnel contacts for use by county and municipal emergency response personnel.
  6. A list and map of occupied residential, business, public, and other structures within the danger zone, and a plan for annual updates of this list and map.
  7. A telephonic and electronic emergency alert system for individuals who live and operate businesses within the danger zone that provides them with alerts to evacuate in the event of a rupture.

8. Cost-free distribution and replacement of carbon dioxide detectors with alarms to occupied residences and businesses within the danger zone.
  9. An evacuation plan for each occupied residence and business within the danger zone that avoids travel toward the pipeline.
  10. A plan for county and municipal first responders to assist with evacuations.
  11. An annual reminder of evacuation routes for occupied residences and businesses provided to landowners, business owners, and operators of commercial and public facilities.
  12. A list of roadways that pass within the danger zone, and a plan to barricade impacted roadways to prevent vehicles and pedestrians from entering the danger zone.
  13. A list of recommended emergency response equipment and training needed by county and municipal emergency response personnel and a commitment to provide such equipment and training to county and municipal agencies.
  14. A draft of the CDP operator's federally mandated emergency response plan, and to ensure adequate coordination between local emergency response and operator emergency response, a description of how the proposed county emergency response plan would coordinate with applicant's draft emergency response plan.
- m. **Proposed Noise Abatement Plan:** The application shall contain a proposed noise abatement plan that includes the following conditions:
1. No CDP pump or compressor station shall be located as to cause an exceedance of the following noise level standard. The noise level shall be measured at the closest exterior wall of any dwelling located on the property. If a pump or compressor station violates a noise standard on a dwelling, constructed after the CDP is approved, then the CDP becomes a non-conforming use. The noise level shall have a forty-two (42) dBA maximum ten (10) minute Leq for all hours of the day and night, or a three (3) dBA maximum ten (10) minute Leq above background level as determined by a pre-construction noise study.
  2. Each application shall include a professional third-party pre-construction noise study which includes all property within at least one mile of a pump or compressor station and must be able to demonstrate compliance with the noise standards in paragraph 2. The protocol and methodology for such studies shall be submitted to the County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst-

case scenarios for noise propagation. The complete results and full study report shall be submitted to the County Health Department for review and approval.

3. Prior to the commencement of construction, pre-construction noise monitoring shall be conducted to determine ambient sound levels in accordance with procedures acceptable to the County Health Department.
  4. Post-construction noise level measurements shall be performed in accordance with procedures acceptable to the County Health Department within one year of completion of construction to determine if the permittee is in compliance with this title and the terms of its special permit. Noise level measurements shall be taken by third party professional acousticians or engineering firms specializing in noise measurements and in accordance with procedures approved by the County Health Department and shall be performed at the expense of the holder of the Applicant. Any report, information or documentation produced in accordance with such study or measurements shall be provided to the County Health Department and shall be a public document subject to state public record laws.
  5. All noise complaints regarding the operation of any CDP pump or compressor station shall be referred to the County [Commission/Board]. The County [Commission/Board] shall determine if noise monitoring in addition to that required under the paragraph above shall be required to determine whether a violation has occurred. If the [Commission/Board] determines that such noise monitoring shall be required, it shall be done at the expense of the Applicant in accordance with procedures and by third party professional acousticians or engineering firms specializing in noise measurement approved by the County Health Department. The results of such monitoring shall be provided directly from the party or parties conducting the monitoring to the County Health Department for review and reporting to the [Commission/Board].
- n. **Proposed Road Protection Plan:** The Application shall include a proposed road mitigation plan that includes the following conditions:
1. Prior to the commencement of construction of any CDP, the Applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction. This agreement shall ensure the appropriate and timely maintenance of all county roads pursuant in accordance with state law
  2. Applicant shall complete a county road and right-of-way application for each county, township, or municipal road or street and other public infrastructure to be crossed or used for the purposes of constructing, operating, or maintaining the CDP.



3. Applicant shall, in coordination with the County and other appropriate jurisdictions, conduct a pre-construction survey of roadways and other public infrastructure that may be used or impacted by construction, either as primary or alternative routes. Such survey shall include photographs and written descriptions of the condition of potentially impacted public infrastructure and identify all applicable weight and size limits.
  4. Applicant shall, at its sole expense, restore roads, streets, bridges and other impacted public infrastructure to at least its pre-construction condition.
  5. After construction, County shall inspect all restored infrastructure. Where such restoration is insufficient, County shall require additional restoration so that the infrastructure is restored to at least its pre-construction condition.
- o. **Proposed Cultural Resources Protection Plan.** The Applicant shall provide a proposed Cultural Resources Protection Plan reviewed and approved by the State Historical Preservation Office and any affected Tribes.
- p. **Proposed Public Inquiry and Complaint Plan:** The Application shall include a proposed Public Inquiry and Complaint Plan that includes the following:
1. a publicly available telephone number for an employee or contractor of the Applicant who is responsible for responding to public inquiries or complaints throughout the application process, construction, and operation of the CDP;
  2. a description of how the Applicant will respond to inquiries and complaints submitted by county residents and businesses; and
  3. a requirement for submission by the Applicant to the County of a monthly report describing any inquiries and complaints received from county residents or businesses, together with a description of the actions taken by Applicant to respond to such inquiries and complaints and a description of the efforts taken to resolve any complaints.
  4. Creation and maintenance of a website that makes such monthly reports available to the public.

**[Section #]. Carbon Dioxide Pipeline Permit Conditions**

In the event the [commission/board] finds the proposed CDP to be in the public interest and grants a [conditional use/special permit], the [commission/board] shall include such conditions in the permit that it deems to be in the public interest, including at a minimum, the following conditions:

- a. **Route Approval.** The permit shall select and clearly identify a County-approved route that minimizes construction and operational impacts on and risks to county residents and businesses, and complies with the following setbacks:
1. Single-Family Homes. For occupied single-family homes, the center line of the CDP and the property line of a pump or compressor station shall be setback a minimum of 2,500 feet from the home.
  2. Operating Small Businesses. For commercial properties containing businesses with fewer than 10 employees, the center line of the CDP and the property line of a pump or compressor station shall be setback a minimum of 2,500 feet from the business.
  3. Structures Containing 10 or More Persons. For residential, commercial, or industrial structures or facilities that typically contain 10 or more persons, the center line of the CDP and the property line of a pump or compressor station shall be setback a minimum of 1 mile from such high occupancy structure.
  4. High Consequence Areas. For structures containing 10 or more persons with limited mobility, such as nursing homes and hospitals, and for structures with permitted occupancies of 100 or more persons, such as schools, churches, shopping, and entertainment facilities, the center line of the CDP and the property line of a pump or compressor station shall be setback a minimum of 2 miles from such high occupancy structure or facility.
  5. Livestock Containment Buildings and Husbandry Areas. For confined livestock buildings or open livestock husbandry areas of no more than 5 acres, typically containing 100 or more animals, the center line of the CDP and the property line of a pump or compressor station shall be setback a minimum of 1,000 feet from the livestock building or open livestock husbandry area.
  6. Setback Modification. The Planning and Zoning Board may increase the setback for high consequence areas or decrease or increase one or more of the other setbacks when requested by the County emergency response organization; or when provided with computational fluid dynamic computer modeling and analysis demonstrating that a greater or lesser setback will ensure the safety of residents and County emergency response personnel.
  7. Setback Waiver. A CDP Landowner owning a property with a single-family home, an operating small business, or a livestock containment building or open livestock husbandry area may enter into a signed written agreement with the Applicant to waive the required setback to a minimum of 300 feet.

- b. **Required Plans and Template Agreements.** The permit shall include and require implementation of and compliance with the following County-approved plans and template agreement:
- i. Construction Mitigation and Restoration Plan;
  - ii. Template Construction and Operation Agreement;
  - iii. Abandonment Plan;
  - iv. Noise Abatement Plan;
  - v. Road Protection Plan;
  - vi. Cultural Resources Plan;
  - vii. Public Inquiry and Complaint Plan; and
  - viii. Any other plans determined to be in the public interest or required by this or other county ordinance.
- c. **Inspectors and Public Liaison Officer.** The permit shall include the following conditions:
- 1. **Applicant Inspectors.** The Applicant shall incorporate mitigation and environmental compliance inspectors into its Construction Mitigation and Reclamation Plan who shall monitor compliance with the CMRP and provide weekly information reports to the owner or operator and the County identifying construction status, all known compliance failures, and all known compliance issues raised by residents and businesses within the County.
  - 2. **County Mitigation Compliance Inspection.** The Applicant shall agree to include the cost of a County mitigation compliance inspector within its CDP permit fee, and allow such County inspector full access to the CDP construction site for the purpose of monitoring compliance with County permit conditions. The Applicant shall agree to provide information in response to reasonable requests by such County inspector. Any affected person may file a complaint with the County Inspector regarding alleged failures by the Applicant to comply with County permit requirements. The County inspector shall investigate the complaint and make a determination on its merits, and if a complaint has merit direct the CDP applicant to comply with applicable permit conditions. A County inspector decision may be appealed to the [County agency].

**3. Public Liaison Officer.** Applicant shall provide a public liaison officer, approved by the County, to facilitate the exchange of information between applicant, including its contractors, and landowners, local communities and residents, and to promptly resolve complaints and problems that may develop for landowners, local communities and residents as a result of construction of the CDP. Applicant shall file with the County its proposed public liaison officer's credentials for approval by the County prior to the commencement of construction. After the public liaison officer has been approved by the County, the public liaison officer may not be removed by Applicant without the approval of the County. The public liaison officer shall be afforded immediate access to Applicant's on-site project manager, its executive project manager and to contractors' on-site managers. The Applicant shall provide contact information for the public liaison officer to all landowners crossed by the Project and to law enforcement agencies and local governments in the vicinity of the Project. The public liaison officer's contact information shall be provided to landowners in each subsequent written communication with them. If the County determines that the public liaison officer has not been adequately performing the duties set forth for the position, the County may, upon notice to Applicant and the public liaison officer, take action to remove the public liaison officer in cooperation with other counties and state agencies. Until one year following completion of construction of the CDP, including reclamation, within the County, Applicant's public liaison officer shall report monthly to the County on the status of the CDP construction. The report shall detail problems encountered and complaints received. For the period of three years following completion of construction, Applicant's public liaison officer shall report to the County annually regarding post-construction landowner and other complaints, the status of road repair and reconstruction and land and crop restoration and any problems or issues occurring during the course of the year.

**d. Public Information and Progress Reporting.** The permit shall require that the Applicant implement and keep an up-dated web site covering the planning and implementation of construction and commencement of operations in the County as an informational medium for the public. Until construction of the CDP, including reclamation, is completed within the County, Applicant shall submit monthly progress reports to the County that summarize:

1. the status of land acquisition and route finalization;
2. the status of construction;
3. the status of environmental control activities;

4. emergency response preparation and planning activities by Applicant and local emergency response agencies;
5. implementation of the other measures required by County permit conditions;
6. the overall percent of physical completion of the project; and
7. any route or design changes.

**[Section #] Setback Variance.**

- a. **Variance Requirements.** With exception of setbacks from high consequence areas, the developer of a CDP may apply for a variance from one or more of the foregoing setbacks. The application for variance must include the following:
  1. computational fluid dynamic computer modeling showing the dispersion of a plume of carbon dioxide following a worst-case rupture of the proposed CDP, considering such rupture in both typical and still-air weather conditions in topography typical in the County;
  2. data and analysis demonstrating that the CDP is proposed to be constructed a sufficient distance from occupied structures so that carbon dioxide concentrations in or near occupied structures will not intoxicate, asphyxiate, or otherwise put harm the health of the humans or livestock therein; and
  3. a discussion explaining the reasons that the County setback is not practicable.
- b. **Public Participation in Variance.** Parties whose properties and wellbeing are potentially impacted by a variance may provide the Planning and Zoning Board with comment on an application for variance, including but not limited to data and analysis demonstrating that a variance would put them at risk from a worst-case discharge.

**[Section #] County Pipeline Rupture Emergency Response Plan Approval.** The county shall review the draft County Pipeline Rupture Emergency Response Plan provided by the Applicant, make any changes deemed to be in the public interest, and forward such plan to the County emergency response agency for its consideration, approval, and integration into the County's emergency response plan.

**[Section #] Schedule of Fees, Charges, and Expenses.** At the time of filing an application an applicant shall deposit with the County an initial amount of funds expected to be sufficient to pay for the County's estimated cost of investigating, reviewing, processing, inspecting, and serving notice. The amount shall be deposited with the County treasurer and credited to a sub-fund within the designated revenue fund and shall be disbursed on vouchers approved by the County

for the actual costs. The initial fee shall be [example: \$50,000] per mile. The County shall refund Applicant for any funds not required for processing the application within 30 days of the County's decision on the application. In the event the initial fee is not adequate to pay for County's permit review and implementation efforts, County may require that Applicant deposit such amount as may be necessary to pay such costs.

**[Section #] Severability and Separability:** Should any portion of this act be deemed unlawful for any reason or conflict with any existing state or federal law, that fact shall not affect any other portion or section of this act and any unaffected sections or portions of this act shall stand in effect.

**[Section #] Effective Date:** This regulation shall take effect and be in force from and after the date of adoption by the County.