

Santa Fe County, New Mexico Ordinance No. _____ of 2008

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS AND NATURAL ENVIRONMENT OF SANTA FE COUNTY BY BANNING CORPORATIONS FROM ENGAGING IN MINING WITHIN THE COUNTY; BY BANNING CORPORATE OWNERSHIP OF LAND AND MINERAL ESTATES USED FOR MINING WITHIN THE COUNTY; BY BANNING PERSONS FROM USING CORPORATIONS TO ENGAGE IN MINING; BY PROHIBITING CHEMICAL AND RADIOACTIVE BODILY TRESPASS WITHIN THE COUNTY; BY BANNING THE EXERCISE OF CERTAIN POWERS BY MINING CORPORATIONS; BY RECOGNIZING THE RIGHTS OF PEOPLE, ECOSYSTEMS, AND NATURAL COMMUNITIES; AND BY PROVIDING FOR ENFORCEMENT OF THOSE RIGHTS

Section 1—Name

This Ordinance shall be known and may be cited as the "Santa Fe County Democratic Self-Government Ordinance Prohibiting Corporate Mining and Chemical Trespass."

Section 2—Authority

This Ordinance is enacted pursuant to the inherent, inalienable, and fundamental right of the residents of the County of Santa Fe to self-government, and by authority recognized to be possessed by the people of Santa Fe County by all relevant Federal and State laws, including, without limitation, the following:

The Declaration of Independence, which declares that the people of Santa Fe County are born with "certain unalienable rights" and that governments are instituted among people to secure those rights.

The New Mexico Constitution, Article 2, Section 2, which declares that "all political power is vested in and derived from the people: all government right originates with the people, is founded upon their will and is instituted solely for their good."

The New Mexico Constitution, Article 2, Section 3, which declares that "The people of the state have the sole and exclusive right to govern themselves as a free, sovereign and independent state."

The New Mexico Constitution, Article 2, Section 4, which declares that "All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness."

The New Mexico Constitution, Article 2, Section 5, which includes "The rights, privileges and immunities, civil, political and religious of New Mexico by the Treaty of Guadalupe Hidalgo shall be preserved inviolate."

Section 3—Findings and Purpose

In support of the enactment of this Ordinance, the Board of County Commissioners of Santa Fe County, on behalf of the people of the County, finds and declares that:

Corporations engaged in mining, oil and gas production, as well as other extractive industries in New Mexico, have damaged and harmed—and continue to damage and harm—people's lives, properties, livelihoods, their pursuit of happiness, and their quality of life.

Corporations engaged in the extractive industries have also damaged and harmed—and continue to damage and harm—ecosystems and natural communities. These activities, and the undemocratic decision-making that enables them, promote the destruction of habitats, water systems, and healthful soil and air that are essential for the survival and well-being of human and natural communities, for both present and future generations.

Damages and harms to residents and ecosystems, particularly from oil and gas activities, include chemical pollution of groundwater with acids, corrosion inhibitors, surfactants, biocides, organo-metallic cross linkers,

solvents, and other toxins through stimulation (e.g., hydraulic fracturing); introduction of toxins to the soil, water, and air through pit spills, evaporation, and other means, including the release of H₂S (hydrogen sulfide) gas and heavy metals such as magnesium, barium, chromium, strontium, radium, lead, arsenic, manganese, iron, antimony, and calcium; disruption of human endocrine systems from nonylphenol ethoxylates, polycyclic aromatics, and phthalates, and other harms caused by chemical and radioactive trespass. Damages and harms to residents, natural communities, and ecosystems from ore, gas, and oil extraction and transportation also include explosions, land subsidence, loss and contamination of water, property devaluation, devastation of natural features, and destruction of complex natural communities, hydrological systems, and other ecosystems.

The Board of County Commissioners of Santa Fe County has recognized and acted upon the “imminent danger” and necessity “for the protection of the public health and safety of the County” by enacting the emergency Ordinance 2008-003, which declares in Section 3: “During the effective period of this ordinance no new application, nor processing of any existing and filed application, nor issuance of any applicable permit, for zoning and subdivision approval, special use permit, development permit, extraction permit, conditional use permit, special use permit, special exception, non-conforming use, area or use variance, grading, or building permit related to drilling extraction of oil, natural gas, or geo-thermal energy, shall be accepted or processed by the County, its staff, departments, commissions, and/or the Board of County Commissioners....”

Measures presented in Ordinance 2008-003, which attempt to manage, regulate, or contain potential harm from mining and other extractive industries after the effective period, cannot assure adequate protection for the residents of the County from such potential harm.

The Board of County Commissioners, in the name of the people of Santa Fe County, finds that corporate mining, oil and gas exploration, drilling, and production—backed by laws that empower small numbers of corporate directors and managers to override the wishes and values of majorities of residents—destroy the authority and ability of people within Santa Fe County to govern their communities democratically.

As a community in the path of mining corporations seeking oil, gas, sand, gravel, precious metals, gems, and many other extractive products from under people’s homes and within people’s communities, the people of Santa Fe County find it necessary to take action to prevent “a catastrophic impact upon the public health, safety, fiscal and economic, environmental, historic-cultural and archaeological, infrastructure and public service provision and protection of property rights.” As we do so, we call for changes in corporate laws and constitutional interpretations regarding legal privileges conferred upon a corporate few, so that people in communities across this nation can take logical steps toward assuring energy needs without denying the rights of the people, communities, and nature, and subjecting them to long-term destructions.

In order to protect the health, safety, and welfare of the residents of Santa Fe County, the soil, groundwater and surface water, cultural heritage, the environment and its flora and fauna, rural quality of life, and democratic self-government within Santa Fe County, the County and its people find it necessary to ban corporations from engaging in mining, oil and gas exploration, drilling, and production, and any other extractive industry within the County, and to ban corporate ownership of land and mineral estates used for mining, oil and gas exploration, drilling, and production, or any other extractive industry. The Board of County Commissioners, for the people, also finds it necessary to assert its inherent power, authority, and right of self-government against competing claims to “rights” asserted by corporations engaged in mining, oil and gas exploration, drilling, or production, or any other extractive industry, and to restore stewardship over land and minerals within Santa Fe County to the people, and remove it from the control of privileged minorities using corporations to mine.

Section 4—Interpretation

Anyone interpreting, implementing, or applying this Ordinance shall give priority to the findings and purposes stated in Sections 2 and 3 over such accounting and business terms characterized as “economy,” “efficiency,” “national security,” and “scheduling factors.”

Section 5—Definitions

The following terms shall have the meanings defined in this section wherever they are used in this Ordinance.

Cause damage to natural communities and ecosystems: This term and equivalent terms shall include but not be limited to alteration, removal, destruction, eradication, or other actions inflicted upon natural communities and ecosystems, in whole or in part, that bring about the cessation of the ability of natural communities and ecosystems to exist and flourish independent of human intervention. The term and equivalent terms shall also include the deposition of toxic substances or potentially toxic substances, manufactured chemicals and toxins, genetically engineered life forms, and radioactive substances and their progeny, whether synthetic or of altered or engineered natural origin, within, upon, or adjacent to human and natural communities and ecosystems in Santa Fe County.

Corporation: Any corporation organized under the laws of any state of the United States or under the laws of any country. The term shall also include any limited partnership, limited liability partnership, business trust, or limited liability company organized under the laws of any state of the United States or under the laws of any country, and any other business entity that possesses State-conferred limited liability attributes for its owners, directors, officers, and/or managers. The term shall also include any business entity in which one or more owners or partners is a corporation or other entity in which owners, directors, officers, and/or managers possess limited liability attributes.

Culpable Parties: Persons owning or managing corporations that engage in mining activities, including but not limited to those that inject or introduce toxic or potentially toxic chemicals or substances, including, but not limited to, radiation, into the earth, air, or water of the County that are detected at any level within the body of any resident of the County.

Deposition: The placement of a toxic substance or potentially toxic substance within the body of a person. The act of deposition shall be assumed if a toxic substance or potentially toxic substance is detected within the body of a person.

Ecosystem: The term shall include but not be limited to wetlands, streams, rivers, aquifers, and other water systems, as well as all naturally occurring habitats that sustain wildlife, flora and fauna, or soil-dwelling or aquatic organisms.

Exist and flourish: The term shall include but not be limited to the ability of natural communities and ecosystems to sustain and continue to exercise natural tendencies to promote life, reproduction, nonsynthetic interactions, and interdependencies among proliferating and diverse organisms; the term shall also include the ability of natural communities and ecosystems to establish and sustain indefinitely the natural processes and evolutionary tendencies that promote well-being among flora, fauna, aquatic life, and the ecosystems upon which their mutual benefit depends.

Extractive industry: As used in this Ordinance, the term shall refer to any commercial activity in which mineral resources of any kind are extracted from the ground.

Genetically engineered life forms: Organisms in which genetic material or inherited genetic material has been directly altered through recombinant DNA technology, genetic modification, genetic manipulation (GM), or gene splicing. The term shall not refer to traditional breeding where the organism's genes are manipulated indirectly.

Hazardous substance: Waste, garbage, refuse, or sludge from an industrial or other waste-water treatment plant; sludge from a water supply treatment plant or air pollution control facility; and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operations, and from community activities; or a combination of the above, which, because of its quantity, concentration, or physical, chemical, radioactive, or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or increase in morbidity in either an individual or the total population; or (2) pose a substantial present or potential hazard to human health or the environment.

Mineral estate: Any interest held in subsurface mineral or fossil fuel resources, which shall include but not be limited to interests held in coal, uranium, natural gas, and oil.

Mining: As used in this Ordinance, the term shall refer to any commercial activity in which mineral resources intended for energy production, including coal and uranium, or fossil fuel resources, including natural gas and oil, are extracted from the ground.

Mining corporation: Any corporation engaged in, or planning to engage in, mining activities.

Natural community: Wildlife, flora, fauna, soil-dwelling and aquatic organisms, as well as humans and human communities that have established sustainable interdependencies within a proliferating and diverse matrix of organisms, within a natural ecosystem.

NMED: The New Mexico Environment Department.

Ordinance: The Santa Fe County Democratic Self-Government Ordinance Prohibiting Corporate Mining and Chemical Trespass.

Person: A natural person or an association of natural persons that does not qualify as a corporation under this Ordinance.

Substantially owned or controlled: A person, corporation, or other entity substantially owns or controls another person, corporation, or other entity if it has the ability to evade the intent of this Ordinance by using that person, corporation, or other entity to conduct mining operations within Santa Fe County.

Sustainable interdependencies: Coexistence of human and nonhuman organisms and communities, where human health and survival can be maintained and where human activities do not cause damage to natural communities and ecosystems.

Toxic substances and potentially toxic substances: The phrase shall include chemicals or chemical compounds, sludges and waste, radioactive ores, mine tailings, millings, waste liquors and radioactive progeny, particulate matter and gases that have been found to cause adverse effects to animals, humans, or ecosystems, including those chemicals, chemical compounds, sources of radiation, and all other substances deemed to be mutagenic, neurotoxic, carcinogenic, teratogenic, reproductive, or developmental toxicants. The phrase shall specifically include but shall not be limited to chlorinated solvents, polychlorinated biphenyls, organophosphate pesticides, organochlorine pesticides, carbamate insecticides, polybrominated diphenyl ethers (PBDEs), polychlorinated dioxins and dibenzofurans, pyrethroid pesticides, polynuclear aromatic hydrocarbons, cyanide, arsenic, cadmium, chromium, lead, mercury, asbestos, petroleum products, and industrial solvents. The phrase shall also refer to nonylphenol ethoxylates, polycyclic aromatics, phthalates, ethylene glycol monobutyl ether, 2-(2-methoxyethoxy) ethanol, or any other toxic chemical or hazardous substance identified by the people of Santa Fe County by resolution as subject to this Ordinance.

Trespass: As used within this Ordinance, the deposition of toxic or potentially toxic chemicals or a genetically modified organism within a human body, natural community, or ecosystem.

Section 6—Statements of Law—The Rights and Responsibilities of Santa Fe County Residents and Communities

Section 6.1. Right to Self-Government. All residents of Santa Fe County possess the fundamental and inalienable right to a form of governance where they live which recognizes that all power is inherent in the people, that all free governments are founded on the people's authority and consent, and that corporate entities and their directors and managers shall not enjoy special privileges or powers under the law which make community majorities subordinate to them, nor shall any class of people enjoy such privileges or powers.

Section 6.2. Right to a Healthy Environment. All residents of Santa Fe County possess a fundamental and inalienable right to a healthy environment, which includes the right to unpolluted air, water, soils, flora, and fauna.

Section 6.3. Right to Self. All residents of Santa Fe County possess a fundamental and inalienable right to the integrity of their bodies, and to be free from unwanted invasions of their bodies by manufactured chemicals and toxins, genetically engineered life forms, and radioactive substances and their progeny, as well as a right to privacy of their bodies against involuntary biometric surveillance, searches and inspections, or denial of medical treatment.

Section 6.4. Right to Livelihood and Home. All residents of Santa Fe County possess a fundamental and inalienable right to their livelihood, homes, and land, and a right to enjoy those homes and land uncompromised by the removal of materials from below.

Section 6.5. Right to Cultural Heritage. All residents of Santa Fe County possess a fundamental and inalienable right to their communities' cultural heritage within the County. Residents' right to their own histories shall include a right to the preservation of historic buildings, unaltered rural historic districts and landscapes, and other structures, relationships, and lands that residents of Santa Fe County consider important to the preservation of their cultural heritage.

Section 6.6. Right to Water. All residents of Santa Fe County possess a fundamental and inalienable right to sustainably access, use, consume, and preserve all water sources which could provide water necessary to sustain life within the County.

Section 6.7. Rights of Natural Communities. Natural communities and ecosystems, including but not limited to flora and fauna, wetlands, streams, rivers, aquifers, and other water systems, possess inalienable and fundamental rights to exist and flourish within the County of Santa Fe.

Section 6.8. People as Sovereign. The County of Santa Fe shall be the governing authority responsible to, and governed by, the residents of the County. Use of the "Santa Fe County" municipal corporation by the sovereign people of the County to make law shall not be construed to limit or surrender the sovereign authority or immunities of the people to a municipal corporation that is subordinate to them in all respects at all times. The people at all times enjoy and retain an inalienable and inalienable right to self-governance in the community where they reside.

Section 6.9. People's Responsibility to Protect. The residents of Santa Fe County recognize and assume their responsibility to protect themselves, future generations, and the natural communities and ecosystems within the County that at risk of harm or destruction due to mining and other extractive industries.

Section 7—Statements of Law—Scope of Corporate Powers Within Santa Fe County

Section 7.1. Prohibition of Corporate Mining. It shall be unlawful for any corporation to engage in mining activities within the County of Santa Fe.

Section 7.2. Prohibition of Corporate Enablement. It shall be unlawful for any person to assist a corporation to engage in mining activities within Santa Fe County.

Section 7.3. Prohibition of Corporate Enablement. It shall be unlawful for any director, officer, owner, or manager of a corporation to use a corporation to engage in mining activities within Santa Fe County.

Section 7.4. Prohibition of Corporate Legal Protections. Within Santa Fe County, corporations shall not be "persons" under the United States or New Mexico Constitutions, or under the laws of the United States, New Mexico, or Santa Fe County, and so shall not have the rights of persons under those constitutions and laws. It shall be unlawful for any class of individuals upon whom the state has indirectly bestowed those rights—through the conferral of rights upon their corporations—to assert those rights.

Section 7.5. Prohibition of Corporate Legal Protections. Within Santa Fe County, no corporation shall be afforded the privileges, powers, and protections of the Contracts Clause or Commerce Clause of the United States Constitution, or of similar provisions within the New Mexico Constitution.

Section 7.6. Prohibition of Corporate Legal Protections. Within Santa Fe County, no corporation shall be afforded the privileges, powers, and protections of the First Amendment or the Fifth Amendment to the United States Constitution, or of similar provisions within the New Mexico Constitution.

Section 7.7. Future Lost Profits. Within Santa Fe County, corporate claims to “future lost profits” shall not be considered property interests under the law, and thus, shall not be recoverable by corporations seeking those damages.

Section 7.8. Corporate Violation of Rights of Natural Communities and Ecosystems. It shall be unlawful for any corporation or its directors, officers, owners, or managers to interfere with the rights of natural communities and ecosystems to exist and flourish, or to cause damage to those natural communities and ecosystems.

Section 7.9. Prohibition on Corporate Participation in Elections. It shall be unlawful for any corporation—or the corporation’s directors, officers, owners, or managers operating in their corporate capacities—to transfer any monies, services, products, or any other thing of value, to persons serving as candidates for elected or appointed offices within the County.

Section 7.10. Prohibition on Corporate Communications. It shall be unlawful for any corporation—or the corporation’s directors, officers, owners, or managers operating in their corporate capacities—to contact, or to communicate with, any resident of Santa Fe County concerning any issue related to the substance or enforcement of this Ordinance.

Section 7.11. Prohibition on Corporate Ownership of Mineral Estates. It shall be unlawful for any corporation engaging in mining activities, or planning to engage in mining activities, to purchase or lease of any land or mineral estates within the County after the effective date of this Ordinance. Mining corporations holding existing titles or leases to land to be used for surface mining, or holding existing titles or leases to minerals and other resources to be extracted during mining operations, shall divest those titles within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals or other resources within Santa Fe County. Persons and entities holding title to surface estates shall possess the right of first refusal to purchase title to minerals and other resources beneath those estates. Titles to those mineral estates shall be available for purchase at the same price that the titles were originally purchased at the time of original severance from the surface estate. Mineral estates not sold to persons or entities holding title to the surface estate must be conveyed to other persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals and other resources within Santa Fe County, or within sixty (60) days of adoption of this Ordinance, if permit applications have already been filed, or permits issued based on such application. Titles to land to be used for surface mining must be conveyed to persons, or to entities that do not qualify as mining corporations under this Ordinance, within sixty (60) days of submitting a permit application to any State agency seeking a permit to extract minerals or other resources within Santa Fe County or within sixty (60) days of adoption of this Ordinance, if permit applications have already been filed, or permits issued based on such application.

Section 7.12. Strict Corporate Liability. It shall be unlawful for corporations to engage in mining in a neighboring municipality in a manner which causes harm to the health, safety, and welfare of the residents of Santa Fe County, and/or to the ecosystems and natural communities within the County. Persons using corporations to engage in that mining activity shall be strictly liable for those harms.

Section 7.13. Bodily Trespass. The deposition of toxic substances or potentially toxic substances within any ecosystem and/or the body of any resident ecosystem of the County is declared a form of trespass, and is hereby prohibited. No corporation or syndicate shall engage in the production, extraction, generation, disposal, distribution, use, and/or sale of toxic substances and potentially toxic substances within the County.

Section 7.14. Culpable Parties. Persons owning or managing corporations that engage in mining activities resulting in the deposition of toxic substances and potentially toxic substances detected within the body of any resident of the County shall be deemed culpable parties, along with the corporation itself, for the recovery of trespass damages, compensatory damages, punitive damages, and the instatement of permanent injunctive relief. If more than one corporation manufactured or generated or introduced the detected toxic or potentially toxic substance, persons owning and managing those corporations, along with the corporations themselves, shall be held jointly and severally liable for those damages, in addition to being subject to injunctive relief.

Section 7.15. Obligation to Provide Information. Corporations that engage in mining activities that result in the deposition of toxic substances and potentially toxic substances detected within an ecosystem and/or the body of a County resident shall provide information about the production, extraction, generation, disposal, distribution, use, and/or sale of those toxic substances and potentially toxic substances to the municipality sufficient for a determination by the municipality of the culpability of that particular corporation.

Section 7.16. Government's Duty to Protect. It shall be the duty of the County to protect the right of County residents and natural communities to be free from chemical trespass under the provisions of this Ordinance, and to obtain damages for any violation of that right. If the presence of toxic and/or potentially toxic substances is detected within an ecosystem and/or the body of any County resident, the municipality shall initiate litigation to recover trespass, compensatory, and punitive damages—and permanent injunctive relief—from all culpable parties. If a significant number of County residents have been similarly trespassed against, the municipality shall select representative plaintiffs and file a class action lawsuit on behalf of all County residents and ecosystems to recover trespass, compensatory, and punitive damages—and permanent injunctive relief—from all culpable parties.

Section 7.17. Liability for Deposition of Toxic Substances. Persons who engage in mining activities that result in the deposition of toxic substances and potentially toxic substances shall be strictly liable for the deposition of those substances into any ecosystem and/or the bodies of any resident of the County. Culpable parties shall be deemed strictly liable if one of their toxic or potentially toxic substances or chemical compounds is discovered within any ecosystem and/or the body of a County resident. The municipality's showing of the existence of that toxic or potentially toxic substance within any ecosystem and/or the body of a resident living in the County, and the municipality's showing that the Defendant(s) are responsible for the production, extraction, generation, disposal, distribution, use, and/or sale of that substance, shall constitute a prime facie showing of causation under a strict liability standard. Current and future damages resulting from the culpable parties' trespass shall be assumed, and the burden of proof shall shift to the culpable parties for a showing that the toxic and/or potentially toxic substances could not cause harm or contribute to causing harm, either alone or in combination with other factors, or that the culpable parties are not responsible for the trespass of that particular substance into any ecosystem and/or the body of residents of the County.

Section 7.18. Neighboring Jurisdictions. Corporations and persons using corporations to engage in mining in a neighboring municipality, county, or state shall be strictly liable for all harms caused to the health, safety, and welfare of the residents of the County from those activities, and for all harms caused to ecosystems and natural communities within the County.

Section 7.19. Testing for Toxic Substances. The County of Santa Fe shall select a laboratory with expertise in the testing for toxic substances and potentially toxic substances and toxic chemical compounds, including but not limited to those toxic substances listed in Section 5 of this Ordinance. The County shall provide financial resources for the first ten (10) residents who request to be tested for the presence of toxic substances and potentially toxic substances and chemical compounds within their bodies, and make all reasonable efforts to provide financial resources for the testing of additional residents.

Section 7.20. Governmental Liability. It shall be unlawful for any permit, license, privilege, or charter issued by any State or Federal regulatory agency, commission, or board, to any person or any corporation operating under a State-issued charter—or any director, officer, owner, or manager of a corporation operating under a State-issued charter—to violate the provisions of this Ordinance or deprive any Santa Fe County resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the New Mexico

Constitution, the United States Constitution, or other laws. Accordingly, such permit, license, privilege, or charter shall not be deemed valid within the County of Santa Fe.

Section 7.21. Governmental Agents. It shall be unlawful for any employee, agent, or representative of any State or Federal regulatory agency, commission, or board to issue a permit, license, privilege, or charter to any person or any corporation operating under a State charter—or to any director, officer, owner, or manager of a corporation operating under a State-issued charter—that would violate the provisions of this Ordinance, or deprive any resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the New Mexico Constitution, the United States Constitution, or other laws.

Section 7.22. Governmental Agent Liability. Any governmental agent violating the preceding section of this Ordinance shall be liable to any parties injured by the agent's actions and shall be responsible for payment of compensatory and punitive damages and all costs of litigation, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to the County of Santa Fe for restoration of those natural communities and ecosystems.

Section 8—Administration

This Ordinance shall be administered by Santa Fe County.

Section 9—Enforcement

Section 9.1. Santa Fe County shall enforce this Ordinance by an action brought before a court of competent jurisdiction for the enforcement of summary offenses under the New Mexico Rules of Criminal Procedure.

Section 9.2. Any person, corporation, or other entity that violates any provision of this Ordinance shall be subject to a fine of three hundred dollars (\$300) or imprisonment for ninety (90) days, or both the fine and imprisonment. In addition, any person, corporation, or other entity that is convicted of chemical trespass violations pursuant to this ordinance shall be subject to a fine of five thousand dollars (\$5,000) for the improper and illegal disposal of hazardous materials or waste.

Section 9.3. A separate offense shall arise for each day or portion thereof in which a violation occurs and for each section of this Ordinance that is found to be violated.

Section 9.4. Santa Fe County may also enforce this Ordinance through an action in equity brought in a court of competent jurisdiction. In such an action, Santa Fe County shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 9.5. All monies collected for violation of this Ordinance shall be paid to the Treasurer of Santa Fe County.

Section 9.6. Any person, corporation, or other entity that violates, or is convicted of violating, this Ordinance two or more times shall be permanently prohibited from doing business within the County of Santa Fe. This prohibition applies to that person's, corporation's, or other entity's parent, sister, and successor companies, subsidiaries, and alter egos; and to any person, corporation, or other entity substantially owned or controlled by the person, corporation, or other entity (including its officers, directors, or owners) that twice violates this Ordinance, and to any person, corporation, or other entity that substantially owns or controls the person, corporation, or other entity that twice violates this Ordinance.

Section 9.7. Any County resident shall have the authority to enforce this Ordinance through an action in equity brought in a court of competent jurisdiction. In such an action, the resident shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

Section 10—Civil Rights Enforcement

Section 10.1. Any person acting under the authority of a permit issued by the New Mexico Environment Department or other State agency, any corporation operating under a State charter or certificate of authority to do business, or any director, officer, owner, or manager of a corporation operating under a State charter or certificate of authority to do business, who deprives any County resident, natural community, or ecosystem of any rights, privileges, or immunities secured by this Ordinance, the New Mexico Constitution, the United States Constitution, or other laws, shall be liable to the party injured and shall be responsible for payment of compensatory and punitive damages and all costs of litigation to satisfy that liability, including, without limitation, expert and attorney's fees. Compensatory and punitive damages paid to remedy the violation of the rights of natural communities and ecosystems shall be paid to Santa Fe County for restoration of those natural communities and ecosystems.

Section 10.2. Any County resident shall have standing and authority to bring an action under this Ordinance's civil rights provisions, or under State and Federal civil rights laws, for violations of the rights of natural communities, ecosystems, and County residents, as recognized by this Ordinance.

Section 11—Effective Date and Existing NMED Permit Holders

This Ordinance shall be effective immediately, at which point the Ordinance shall apply to any and all mining corporations, mining corporation employees, directors, officers, and governmental agents in Santa Fe County, making decisions affecting Santa Fe County, regardless of the date of the applicable NMED permits.

Section 12—People's Right to Self-Government

The foundation for the making and adoption of this law is the people's fundamental and inalienable right to govern themselves, and thereby secure their rights to life, liberty, property, and pursuit of happiness. Any attempts to use County, State, or Federal levels of government—judicial, legislative, or executive—to preempt, amend, alter, or overturn this Ordinance or parts of this Ordinance, or to intimidate the people of Santa Fe County or their elected officials, shall require the people of Santa Fe County to hold public meetings that explore the adoption of other measures that expand local control and the ability of residents to protect their fundamental and inalienable right to self-government. Such consideration may include actions to separate the municipality from the other levels of government used to preempt, amend, alter, or overturn the provisions of this Ordinance or other levels of government used to intimidate the people of Santa Fe County or their elected officials.

Section 13—Severability

The provisions of this Ordinance are severable. If any court of competent jurisdiction decides that any section, clause, sentence, part, or provision of this Ordinance is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the Ordinance. The people of Santa Fe County hereby declare that in the event of such a decision, and the determination that the court's ruling is legitimate, it would have enacted this Ordinance even without the section, clause, sentence, part, or provision that the court decides is illegal, invalid, or unconstitutional.

Section 14—Repealer

All inconsistent provisions of prior ordinances adopted by the County of Santa Fe are hereby repealed, but only to the extent necessary to remedy the inconsistency.

ENACTED AND ORDAINED this ___ day of _____, 2008, by the people of Santa Fe County, as represented by the County Commissioners.