

MAY 25, 2010

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## TENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on May 25, 2010, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Edward H. Norden called the meeting to order at 9:30 A.M.

Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Larry Lasha	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Absent

Also present Bill Giordano, Planning and Zoning Director; George Sugars, County Manager, and Tina Taylor, Deputy Clerk.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

### APPROVAL OF AGENDA

**Commissioner Stiehl** moved to approve the Agenda as presented. Commissioner Lasha seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

### CONSENT AGENDA

**Commissioner Lasha** moved to approve the Consent Agenda as presented. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

1. Approval of Minutes May 11, 2010
2. Approval of Bills May 25, 2010 /\$511,612.97
3. LIQUOR LICENSES
4. SCHEDULE PUBLIC HEARINGS
5. Adoption of Resolution #27, Series of 2010, Site Development Plan Number SDP 09-002 All About Storage

### ADMINISTRATIVE/INFORMATIONAL

1. Administrative and Elected Officials

**Commissioner Stiehl** stated there will be a Conservation Easement Workshop on May 26, 2010 that will be held at the Abbey at Stansbeck Hall from 5:00 P.M. to 7:00 P.M. It is for people who are interested in conservation easements or want to know what the status is in the change in regulations over the last couple of years. It will be presented by the Palmer Land Trust and San Isabel Land Protection Trust.

**Commissioner Lasha** said he wanted to compliment the communities and thanked the people who have made the activities happen that we have had recently.

**Commissioner Norden** stated the first weekend of June will be the Western Heritage Days sponsored by the Cañon City Chamber of Commerce at the Holy Cross Abbey. There will food and entertainment of historical reenactments. On June 7<sup>th</sup> through 11<sup>th</sup> the community will be hosting some 500 hundred Wild Land Firefighters from not only Colorado but also some neighboring states. They will be having training sessions and will be headquartering at the Quality Inn.

The Commissioners have met with staff from Congresswomen Diana DeGette's office in relation to the wilderness bill and how the legislation might affect targeted wilderness area in Fremont County. This was followed two weeks later with a meeting with various different groups of state holders from the area including the Forest Service to have further discussion about the Board of Commissioners concerns about wilderness designations in Fremont County but also some of the citizens concerns that we have heard about some

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areas that may not be particularly good choices for wilderness. The Congress women's office at the Commissioner's request is trying to schedule a meeting in which Congress Women DeGette would come to Cañon City and have a meeting so that citizens can have an opportunity to speak to her directly as to their concerns about wilderness designations.

## 2. Citizens Not Scheduled

**Mary Henderson** stated there were several issues she wanted to discuss regarding Copper Gulch Road, also known as CR 28. Her main concern was designating it as a flood way. FEMA does not show that. It is listed as Zone A. She sent the Commissioners a packet which included her conversations and responses from FEMA, Don Moore, Mike Cox and the County Attorney. She stated that she is not able to buy flood insurance.

## NEW BUSINESS

### 2010/2011 COLORADO WORKS MEMORANDUM OF UNDERSTANDING (M.O.U.)

**Commissioner Norden** stated that this is the program that we need Board authorization for the Chairman's signature for the Colorado Works Program and the Colorado Child Care Assistance Program for the period of July 1, 2010 through June 30, 2011.

**Commissioner Lasha** moved to authorize the Chairman to sign the Colorado Works Program of Understanding for 2010 through 2011. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

### AWARD BID TO COLORADO MACHINERY FOR TWO (2) JOHN DEERE MOTOR GRADERS, IN THE AMOUNT OF \$343,221.00.

### AWARD BID TO COLORADO SPRINGS DODGE FOR FOUR (4) DODGE 3/4 TON TRUCKS, IN THE AMOUNT OF \$119,940.00

**County Manager Sugar** said that we took bids on motor graders and ¾ ton pickups. We are requesting to award bids for two (2) John Deere motor graders. They will be John Deere motor graders 8-70GP Series. One will have a snow wing. They involve two (2) trade-ins of our 1991 Cat 140G motor graders. With the trade the cost is \$343,221.00 with Colorado Machinery the Colorado supplier of John Deere Motor graders.

We also received bids for ¾ ton trucks. We recommend awarding four (4) ¾ ton diesel trucks with a long bed purchased from Colorado Springs Dodge. The amount is \$119,940.00.

We received bids for the pickup trucks from six (6) dealers and for the motor graders there were two (2) dealers.

Director of Road and Bridge Tony Adamic stated that the trade in value on the motor graders was a good dollar amount of \$127,000. The graders have over sixteen thousand (16,000) hours on them.

**Commissioner Stiehl** stated that we are trading in 1991 graders and it does speak well for our maintenance facilities in that we have been able to have them last that long and that we are getting good money for them. There is a \$470,000.00 investment that we are making in two (2) graders just so you can get an idea of the expenses that we have. That is one of things that we are trying to control with our reorganization of our now Dept. of Transportation and that is how much equipment we need and how we can make it efficiently used throughout the county. Director Adamic stated 700 hours to 800 hour per machine and we are going to be able up that by cutting usage of our fleet back to eight (8) graders and hopefully we can get up 1,000 to 1200 hours per year. Commissioner Stiehl stated it looks like your department is saving about \$230,000.00 in not having to purchase an extra grader. Commissioner Lasha stated that he was glad they were going to the heavier pickup which allows some flexibility for pulling as a prime mover for a decon trailer and other things that we had limitation on to help in emergency situations in the county. All the pickups will be used back into Road and Bridge. I know District 2 has 200,000 plus miles on theirs and we certainly get the use out of our equipment thanks to the shop. Commissioner Norden stated that the funds for the purchase of this equipment

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comes from the certificates that the Board issued as part of the finance package with the energy audit improvements with Ennovate and the equipment finance portion.

**Commissioner Lasha** moved to approve the award of the bid to Colorado Machinery for two (2) John Deere motor graders in the amount of \$343,221.00 and the award of the bid to Colorado Springs Dodge for four (4) ¾ ton Dodge pickups for \$198,940.00. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**REQUEST: EXTENSION OF ZC 09-001 THOMPSON**

Request approval of a **six month extension of the Thompson Zone Change (from the Industrial Zone District to the Business Zone District) through November 10, 2010 to complete the contingencies**, by Lonny Thompson, for property which is *located at the northeast corner of U.S. Highway 50 and K Street, in the Penrose Area*. The expiration date was May 10, 2010. The applicant is working through probate trying to clean up the deed issues and ownership.

REPRESENTATIVE: Matt Koch, Cornerstone Land Surveying, LLC

**Matt Koch** stated that the main issue that they are working on is cleaning up the deed. We would like to request a six (6) month extension.

Planning and Zoning Director Giordano said the department has no objection.

**Commissioner Lasha** moved to approve the extension of six (6) months to ZC 09-001 Thompson for the completion of the contingencies. Commissioner Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**REQUEST: REFUND FOR NC 10-001 GRAND LODGE (ODD FELLOWS) NON-CONFORMING USE**

Request approval of a **refund of the \$350 Non-Conforming Use application fee for their recreation area in the Copper Gulch region**, by the Independent Order of Odd Fellows and Rebekahs.

REPRESENTATIVE: Eugene R. Heckard, Chairman I.O.O.F.  
Recreation Committee

**Eugene Heckard** stated that the camp ground they have was opened up for the community when they had the Iron Spring Copper Mountain fire. They couldn't use it because they didn't have bathroom facilities. We are now putting in a septic system. We would appreciate it if you would reimburse the \$350.00 application fee. They have a fifteen hundred (1,500) gallon water tank that is available to the firemen when ever they need it. It is also open any time for an emergency for anybody in that area.

**Commissioner Stiehl** moved to approve the request for a \$350.00 refund for their application fee in the Copper Gulch Area. Commissioner Lasha seconded the motion. He stated that he spent several days at the command post of the Iron Mountain fire and that offer of assistance to firefighters was greatly appreciated. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Norden** closed the Public Session and opened the Public Hearing.

**PUBLIC HEARING**

**REQUEST: CUP 10-001 NORTHFIELD COAL LOADOUT**

Request approval of a **Conditional Use Permit, Department file #CUP 10-001 Northfield Coal Loadout, by Northfield Partners, LLC, to allow for the operation of a railroad loadout, which will include stockpiles of coal, the use of bulldozers, front-end loaders, and/or conveyors for the loading of the railroad cars**. The property is owned by Daniel, Betty & Marie Adamic and is located *0.8 miles east of the intersection of County Roads 11A & 79, on the south-southeast side and north-northeast side of County Road #79, and west of the railroad track, west of the City of Florence*. The property consists of thirty-five (35) acres which is located in the Agricultural Living Zone District. This area is still under permit CUP 98-3 Energy Fuels Coal, Inc. - Southfield

Mine - Permit Extension for reclamation - expires 5/14/2017. The new permit will replace the existing permit.

REPRESENTATIVE: Angela Bellantoni, Environmental Alternatives, Inc.

**Commissioner Norden** stated that the coal mine operation was approved a couple of years ago and also included in the CUP was a separate application for possible rail loadout for the coal.

**Angela Bellantoni** stated she is representing Northfield Partners and the project is the Northfield loadout. Ms. Bellantoni introduced Scott Linheart of Northfield Partners, Al Weaver of Weaver Engineering, Barry Carroll an MSHA specialist, Dan Peter, Mining Manager Coordinator, and Franklin Lloyd of Rock N Rail. She stated the initial coal mine permit was approved February 27, 2007. We are required here today, in the event that rail transportation was pursued because the site is not contiguous to the actual mine site. Ms. Bellantoni stated what transportation was permitted with the permit and the transportation study that had been completed and the roads and intersections were included in the study. In March, 2009 we had to request an extension because of economic conditions and it was granted without any conditions being added. Ms. Bellantoni showed where the loadout would be and is currently permitted under the current Division of Reclamation Mining and Safety under Energy Fuels Coal. Our proposal is for eleven (11) acres. The CUP for the area was done in 1998 and has historically been a loadout facility. First it was for the Dorchester Mine and then under Energy Fuels. At one time this area stored up to 400 thousand tons of coal, affected more than 25 acres and they used loaders to load the train. This area has been reclaimed and we will not be using it. Our area will be eleven (11) acres with 10,000 to 12,000 tons stored at one time, enough to load one train. Ms. Bellantoni stated the proposed operation would utilize approximately two (2) to three (3) coal hauling trucks that would originate at the coal mine, proceed down CR 79 and enter on Hall road and dump the coal down an enclosed conveyor that would convey it to a stacker tube. There is a conveyor underneath the stock pile and the coal would go to coal loading bins to the train cars. The conveyors are enclosed and underground. Northfield will alert travelers in the area with signs that there is a train being loaded and CR 79 will be temporarily closed. A concern that came up during the Planning Commission meeting was emergency response. Ms. Bellantoni contacted Fire Chief McKinnon. He stated that emergency vehicles do not use CR 79 to reach emergencies west of this area. The only time they use the CR79 is when the emergency is on the road such as a grass fires or if a car has gone off the road.

Regarding Item M of the proposed recommendations and comments of the Planning Commission: Documentation as to compliance with the requirements of the County Engineer's letter of March 9<sup>th</sup> regarding improvements of CR 11A to CR 79. We would like to have the same condition that is in the previous permit. We would like to have the flexibility that if our engineers decided that the road needs to be constructed differently, we can do it. We want to make sure that it meets the standards of MSHA. We could like to have the language the same as in the CUP 06-003 which said that the design plans of the offsite improvements shall be reviewed and accepted by the county reviewing engineers. We did not have the statement regarding participating financially. That implies that Northfield is going to actually give you a check for whatever is necessary. There is also another mine operating that is using that road and they are allowed 100 trucks a day out of their site.

Ms. Bellantoni stated in regard to the sewage disposal, trash and potable water source for the employees originates at the mine site and that is where the sanitation facilities are at. The loadout site is not an eight (8) hour a day or a consecutive use site. It is intermittent. Planning and Zoning Director stated that they need to submit a letter to our Health Department and see what they request. That will be what we will require.

Ms. Bellantoni stated in conclusion the goal of Northfield is to be one hundred percent ready to sell coal when the economic demand arises regardless of where it is local or further away which would need the loadout facility.

**Planning and Zoning Director Giordano** stated the administrative requirements of posting of the property, notification all property owners within five hundred feet (500'), additional notifications and publication have taken place. From the Planning Commission meeting of April 6<sup>th</sup> there was a list of Conditions A through T. The Commission has issued the permit for the life of the use which was issued for the coal mine. Condition B,

C, D, & E are basically requirements of conformance to plans. Condition F gives them temporary cessation of the mine for up to two (2) year. Condition H is the same time frame of Monday through Saturday 7 A.M. through 7 P.M. Conditions L limits the number of trucks trips on the roadway to eighty (80). Conditions O through T are standard.

Under Recommended Contingencies we required that the existing reclamation plan be included into the new mining reclamation plan.

Under Waiver Request: .5.2.6 is the buffering of perimeter boundary of the property. Being that this property is all vacant and mostly industrial they are asking that it be waived and the Board does have the authority to do this. Regarding the Surfacing, Lighting and Landscaping is especially for the parking area and there are three (3) spaces. Director Giordano stated during the Planning Commission meeting there was a lot of discussion about CR 79 being blocked. They stated they have to notify emergency services. As Ms. Bellantoni stated that they would also be putting up of road signs for road closures. The Planning Commission did recommend unanimous approval.

**Commissioner Norden** inquired of Northfield always knows when Rock N Rail cars will be on the track to block CR 79. Franklin Lloyd of Rock N Rail stated they would have at least 24 hours notice. Ms. Bellantoni stated that the train would be loaded and gone within twelve (12) to sixteen (16) hours. There will be mine manager who will be responsible for posting of the signs and emergency services notifications. Ms. Bellantoni states they could have two (2) signs with one being a warning of the anticipated closure and the actual road closure.

Commissioner Norden inquired why Western Power Administration would come into play. Commissioner Stiehl stated that they were interested in the area as corridor in the future for power lines.

**Randy Roberts** stated that he was not opposed the coal loadout for its economic value. His family has owned property closed to the area for decades and raises alfalfa on the irrigated acreage next to the tracks. The irrigation ditch runs along the railroad tracks. His main concern was noise and coal dust. His parent's house is located by the railroad track and the train while loading will block their entrance from Elm St. off HWY 115. Commission Lasha inquired is they have another entrance. Mr. Roberts stated yes. They have a back access between the CFI and Fremont Ditch.

**Charles Overton** stated that his concern that he was under the impression the coal pile during the loadout was going to be kept wet. He was worried about the possibilities of an explosion. Also if not kept wet would cause coal dust to blow on the alfalfa fields and also into Florence.

**Gary Zak** said after reviewing the Fremont County Zoning Resolution he finds that they provide not provision for a commercial entity to request the closure of public highways. We only have law that allows blocking of an intersection for safety reasons and not for commercial needs. He does not support the section in the CUP that is for prolonged road closures. He feels that allowing Northfield to close CR 79 for a train schedule turns the control of a public road over to a private entity.

**Douglas Gleason** stated he owned 128 acres directly to the east of the railroad. He bought it for his retirement. He would like to see a time limited put on the life of use of the mine.

**Ms. Bellantoni** clarified the water sources. The portable water will be located at the coal mine. There is dust suppressant, a health dust plan by the Colorado Dept. of Public Health and Environment and MSHA does have provisions for handling and treating coal. Commissioner Norden asked if she would go over how they will manage the dust control and how much dust may be possible during the loading process. Ms. Bellantoni stated that all the conveyors are covered and underground from the loadout site to the train. All moving of the coal is covered. Water is used in the mining process so it comes out wet as well.

Commissioner Stiehl stated that the explosive problem would only be in enclosed spaces. Most of what you have done for dust mitigation will probably eliminate a large portion of it. The point where dust would be occurring would be the actual dumping of the coal from the truck into the loading area and dust off the pile as it rest. Mr. Gary Carroll stated that he has dealt extensively with MSHA at the South Hill Mine for over fifteen (15) years. It is a federal agency. He outlined how the coal is sprayed with water during the mining and while it is being transferred from one conveyor belt to another. At the loadout, MSHA also requires at the conveyor belt a water spray system and a methane monitoring system.

EMSHA also requires anyone who is working there wear a respirator able dust pump for an eight (8) hour period to monitor dust. Commissioner Stiehl stated that MSHA is then the agency that will be controlling the dust.

Commissioner Stiehl said the car loading bins are not included in the CUP. Ms. Bellantoni stated it is a railroad easement and they have an agreement with them. Commissioner Stiehl inquired who the regulator was for that. Mr. Lloyd of Rock N Rail stated that it falls under the federal government guidelines which work with MSHA.

Commissioner Norden inquired about road closure. Mr. Lloyd stated that county road and access road for loading of trains make special circumstances based upon the volume of traffic. Commissioner Norden inquired about alternative routes suggested by Mr. Zack. Commissioner Lasha said the alternative route in Mr. Zack's letter were for a railroad to the mine site or conveyor from the mine to the railroad. Ms. Bellantoni stated the old Chandler Line easement that goes to the south of the facility is abandoned. A brand new right-of-way would have to be established. To do a conveyor we would have to get permission from all the property owners between the railroad and coal mine site which would include crossing over or under CR 11A. County Attorney Jackson stated that there is a statute that specifically authorizes road closures for certain things but that is not the only way a road can be closed. Under your general powers you have the authority for all of your roads. We are talking about two (2) days a month up to eighteen (18) hours which is the request. You balance that with traffic flow and other considerations including emergency services.

**Commissioner Stiehl** stated that the CUP is for a maximum of eighteen (18) hours for the loadout and if it is exceeded they would be in violation. Sanitation facilities will be important during the loadout. We will want approval by our Board of Health for the sanitation facilities you have during the loadout for the personnel working there during that time. Commissioner Stiehl replied to Mr. Zack suggestion regarding alternative routes. The FRA guidelines apply if there are no other reasonable alternative routes and there are. Commissioner Stiehl stated that he is opposed to the life of the mine as a time limit. Even with a time limit it does not prevent the operator from applying for a renewal of his permit. Ms. Bellantoni stated that they estimated that there is twelve (12) to fifteen (15) years worth of reserves currently secured at Northfield and this loadout coincides with that.

**Commissioner Norden** closed the Public Hearing and returned to Regular Session.

**Commissioner Lasha** inquired what the security and lighting looked like when there is not loadout. Ms. Bellantoni stated the trucks are used during the day and temporary lighting if the area is used after hours. Security of the site is fenced. In the event that there seems to be extra activity on the site we may need to have gates.

Commissioner Lasha inquired about the two blinking lights on the closure for CR79, CR 11, Houston and First Street. What will the signs look like? Ms. Bellantoni stated that they anticipate as they get closer to finalization they are open to suggestions for what signage will be. Commissioner Norden stated that a flip up sign would be good for the warning that the closure is coming. For the actual closure something in the edge of the roadway. Commissioner Lasha said they should call the dispatcher, Florence City Manager and Sheriff Beicker when the closure is to take place for emergency services.

**Commissioner Norden** inquired about enforcement of the CUP. Director Giordano stated is would be determined by the violation. If there is a violation we can rescind or revoke their permit. Ms. Bellantoni stated that the mine manager will have a coal loading procedure. Commissioner Norden stated the most critical aspect of approval is the notification and consistency is doing so. Lack of that consistency will create problems for all of us. County Attorney Jackson stated that in an event of a violation we can do anything from modifying the conditions to revoking the permit.

Commissioner Stiehl stated regarding the road maintenance that our county regulation do not allow other operators to maintain our roads other than ourselves or contractors that we hire. When you fashion your agreement with the road foremen make sure is that it understood who is going to do the work. If anybody is going to do work in our rights-of-way we require a street cut permit. If this looks like it is going to be on going maintenance and the county road foremen agrees that you can run your own blade across it

that would probably require specific permission and not require a road permit every time you are going to run your grader.

**Commissioner Lasha** moved to approved **Resolution #28, Series 2010 CUP 10-001** Northfield Coal Loadout by Northfield Partners, LLC with the Conditions A through T with Contingencies #1, #3, #5 and #6 with the additional language on signage of closure. Director Giordano stated he made notes for language of the signs, documentation to the Historical Preservation and a copy of the contract with the railroad. County Attorney Jackson stated the signage is to be posted twenty-four (24) hours in advance of the road closure. Commissioner Lasha stated regarding Notifications are #1 through #13 with #12. Energy Fuels Corporation and #13 Federal Bureau of Prisons. The Buffering, Lighting and Landscaping waived. Director Giordano said the documentation is an accepted plan for notification. We changed #6 to the dispatcher. We want documentation and enforcement included. Commissioner Lasha stated the Sheriff and City of Florence are to be included also because they do the notifications for the emergency personnel. Commissioner Stiehl stated the Planning Commission recommended deleting 4, 5, and 6 from Condition M and is that included in your motion. Commissioner Lasha stated yes. Ms. Bellantoni stated they want Recommended Contingencies 1, 2, and 3 deleted and have language that would allow them to do more if their mining engineer expert suggested more road construction improvements than were required. County Attorney Jackson stated the conditions are the minimum requirements and if they want to do higher standards we will accept that. If it is left open then the county could require pavement in the future. Ms. Bellantoni said then leave it as is. Commissioner Lasha stated if their engineer wants something beyond that, certainly communications would be open with the County. County Attorney Jackson stated the County is not going to deal in an alternate proposal for an adequate road to be a substantial change. Ms. Bellantoni stated they want the March 9, 2010 County Engineer's letter deleted. Commissioner Norden stated then they want it stated as "documentation as with the plans with requirements of the County reviewing engineer. The improvements to the CR 11A to the side wall CR 79 are 1, 2, and 3. Ms. Bellantoni stated yes. Commissioner Norden said that cancels out Contingency #1. Commissioner Norden inquired where the signage issue would be put. Director Giordano stated it would probably be one of the conditions. Commissioner Stiehl inquired about the Historical Society notification. We are still waiting for a reply and we will not add any additional contingencies. Director Giordano noted that it needed to be included as a condition and will ask for documentation from the Historical Society as compliance with any of their requirements.

Commissioner Lasha said he accepts that change in his motion. Commission Stiehl seconded the motion. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

#### **RECOMMENDED CONDITIONS**

- A. Conditional Use Permit shall be issued for life of the use. (*Approximately 15 years after startup of the Northfield Coal Mine*).
- B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Conditional Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department of Planning and Zoning prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners. As per the application the applicant has requested temporary cessation for up to two (2) years.
- G. If a Conditional Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation (*truck delivery of coal to loadout site*) will be limited to 7am to 7pm Monday through Saturday.
- I. Days and hours of loading of railroad cars will not be limited.
- J. All truck loads of material transported from the mine site to the loadout site shall comply with applicable Colorado Revised Statutes.
- K. The on-site roadway(s) must have sufficient gravel surfacing and adequate maintenance to insure that mud is not tracked onto County Road #79 as required by Reviewing Engineer's letter dated March 16, 2010.
- L. The number of haul truck trips shall not exceed eighty (80) daily trips. (*A trip is considered as a single or one direction vehicle movement with either the origin or the destination exiting or entering the subject property*).
- M. Documentation of approval by the County Reviewing Engineer of the Design Plans for off-site road improvements.
- N. Documentation that the applicant has complied with the following requirements of the County Engineer in his letters dated March 9, 2010 and March 16, 2010, regarding improvement and maintenance of County Road 79 and:
  - 1. Develop an agreement with the County to participate financially in re-grading the gravel surfacing when, in the County's opinion; the condition of the road requires it, and adding dust suppressant annually, prior to operation.
  - 2. Develop an agreement with the County to participate financially in replacement of the Class 6 road base and gravel surfacing as needed, prior to operation.

- O. Documentation as to satisfactory progress or completion of all required improvements in relation to CUP 06-003 Northfield Coal Mine conditional use permit, prior to operation.
- P. Compliance with any requirements of the Colorado Division of Wildlife.
- Q. Provide a copy of the following permits, licenses or the like, prior to mining or upon renewal: *(If not required provide documentation from the listed entity that the following is not required, prior to mining and use of loadout.)*
  - 1. Colorado Department of Natural Resources - Division of Reclamation, Mining and Safety-Mining permit amendment.
  - 2. Colorado Department of Public Health & Environment - Fugitive Dust Permit and Plan.
  - 3. Colorado Department of Public Health & Environment - Air Pollution Emission Notice(s) (APEN)
  - 4. Colorado Department of Public Health & Environment - Stormwater Discharge Permit and Plan.
  - 5. United States Department of Labor, Mine Safety & Health Administration (MSHA) ID Number.
- R. Applicant shall provide to the Department documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan; further the applicant shall implement and maintain the plan.
- S. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- T. Only the named party on the permit shall be allowed to operate this Conditional Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Conditional Use Permit must agree to abide by all terms and conditions of this Conditional Use Permit and shall be required to be named on this Conditional Use Permit as additional parties who are bound by the terms and conditions of this Conditional Use Permit.
- U. A Conditional Use Permit shall not be modified in any way without Department approval for Minor Modifications or Board approval of Major Modifications in accordance with Section 8.2 of the Fremont County Zoning Resolution (*complete reapplication*).
- V. Applicant shall provide two road closure warning signs, locations and wording to be determined by the County, prior to operation. Applicant shall post the road closure signs at least twenty-four (24) hours prior to the time of road closure and shall maintain the signs in place at all times when the road is closed for rail loading of coal.
- W. Documentation of compliance with any requirements from the Colorado Historical Society, Office of Archaeology and Historic Preservation, prior to operation.
- X. Applicant shall provide a copy of the contract with Rock & Rail for the use of the railroad for loading, prior to operation.
- Y. Documentation as to acceptance by the Florence Dispatch Center and the Fremont County Sheriff's Office of a Notification Plan for Emergency Services. The Notification Plan shall be in place prior to operation and shall include, at a minimum, advance notice to the Florence Dispatch Center, and the Fremont County Sheriff's Office, and a provision that notification shall occur prior to any loading operation.

**RECOMMENDED CONTINGENCIES:**

If approval of this application is considered by the Planning Commission the Department would suggest that the approval recommendation be made contingent upon, at a minimum, the following items being provided to the Department, by the applicant, within six (6) months (*no extensions except through regulatory process*) after approval of the application by the Board of County Commissioners:

1. Documentation that the applicant has complied with the requirements of the County Engineer in his letter dated March 9, 2010 and March 16, 2010, excepting those addressed in the above conditions.
2. Documentation from Fremont County Environmental Health Office as to compliance with sewage disposal proposal, trash and potable water source.
3. Documentation from the Colorado Department of Natural Resources-Division of Reclamation, Mining and Safety that-the existing reclamation commitment is included into the new mining reclamation plan.
4. Notification of emergency services of any road closures.

**Commissioner Norden** adjourned the meeting at 11:50 A.M.

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County Clerk