

November 23<sup>rd</sup>, 2010

**TWENTY SECOND MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on November 23<sup>rd</sup>, 2010, 615 Macon Avenue, room LL3, Fremont County Administration Building, Canon 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	Present

Also present: Bill Giordano, Planning and Zoning Director; George Sugars, County Manager; and Jody Blausler of the County Clerks Office.

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

**APPROVAL OF AGENDA**

**Commissioner Norden** added item #5 the Petition for Abatement or Refund of Taxes for Mark Brown, and item #6 the Petition for Abatement or Refund of Taxes for Foxworth-Galbraith under New Business items on the Agenda. Commissioner Stiehl moved to approve the amended agenda, 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. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials

**Norma Hatfield, County Clerk** presented a plaque to Cheryl Potter in recognition of her 26 years of employment with the Fremont County Clerk and Records Office. Norma said it will be so hard to have Cheryl retire as she has been such a dedicated employee. Norma read the certificate signed by the Fremont County Commissioners and presented it to Cheryl along with a globe. Norma thanked Cheryl for all of her hard work through out her career.

**George Sugars, County Manager** announced the Administration Building will be closed on Thursday, November 25<sup>th</sup> for the Thanksgiving Holiday. George said all County Public Offices will be closed on Friday, November 26<sup>th</sup> as well. He noted the extended hours for the Administration Building are 7:30 A.M. to 5:00 P.M. Monday through Thursday.

**Commissioner Norden** had invited Dave Boden of Brookside to come by the meeting but Dave was not able to attend. Norden wanted to acknowledge Daves comments for the Board meeting. Dave wanted to extend his appreciation on behalf of the Brookside Town Board for work the County Department of Transportation crews did outside of the new Brookside Town Hall. Dave was impressed with the crew and how much work they had done on the parking lot. Dave was particularly impressed with the work Al Ediger had done to the parking lot. Commissioner Norden mentioned Commissioner Lasha had arranged for this work to be done. Commissioner Lasha extended his appreciation to the Road and Bridge Department for helping out. Norden noted a formal dedication for the New Brookside Town Hall will be scheduled soon.

2. Citizens not scheduled:

**Nancy Seger** thanked the Board for installing the cattle guard on Delilah Peak Road. Commissioner Norden said he would pass the Thanks on to the Department of Transportation.

November 23<sup>rd</sup>, 2010

**OLD BUSINESS**

**1) REQUEST CUP 10-003 TAYLOR RANCH EXPLORATION/BLACK RANGE MINERALS COLORADO, LLC 1<sup>ST</sup> AMENDMENT**

**This application was continued from the September 14, 2010, September 28, 2010, and November 9, 2010 Board of County Commissioners Meetings.**

The request is for approval of a Conditional Use Permit, Department file #CUP10-003 Taylor Ranch Exploration/Black Range Minerals Colorado LLC, 1<sup>st</sup> Amendment to allow for expansion of mineral exploration area by Black Range Minerals Colorado, LLC (BRM), for property which is leased from various property owners. The property is located south of Fremont County Road #2 and west of County Roads #21 and #21A, in the Tallahassee Area. The proposed operation is anticipated to be completed within an eight year time frame. There will be no more than six to eight active drill sites at any given time. The existing Conditional Use Permit file #08-001, Resolution #47 Series of 2008 was recorded on July 14, 2008. If this application is approved it will replace the existing Conditional Use Permit. The property included in this amendment will consist of 2,210 acres combined with the previous acreage of approximately 8,169 acres for a total acreage of 10,379 acres. All properties are zoned Agricultural Forestry.

**Commissioner Norden** said the Board had several conversations with their hydrologist Bruce Smith regarding the proposed conditions of the amendment. The Board had decided to draft conditions of the approval first before voting on the amendment. Norden said the Commissioners have a proposed Resolution drafted by the County Attorney. Commissioner Lasha said there was a lot of input from the public during the two public hearings and comment periods, and their concerns have been addressed. Lasha said there are 34 proposed conditions of the amendment. Commissioner Lasha moved to adopt Resolution #56; CUP 10-003 Taylor Ranch Exploration/black Range Minerals Colorado, LLC 1<sup>st</sup> Amendment with 34 conditions (A-HH) and the waiving of surfacing, lighting and landscaping. Commissioner Norden seconded the motion. Norden asked if the applicant, Ben Vallerine wished to speak at this time.

**Ben Vallerine** asked what the process would be to get a condition changed if needed.

Commissioner Norden asked Bill Giordano if there is a time limit on an amendment to request a change. Bill said there is an application that they request under an application fee for a change of condition. Bill said they would need to provide documentation and justification for the condition they are requesting to amend and there is a fee for this request. Ben asked if it has to go through the same process of approval. Bill said it is the same process and has to be brought before the Board for approval. Ben said the condition for the well monitoring program may need slightly changed in the future. Ben suggested if BRM continues to focus on South T Bar, they may for example wish to sample more wells around the South T Bar area, and less wells to the far north. Ben said they did not want to have to go thru the entire process of the Planning Commission, the Board of Commissioners, and three to four months of waiting for a minor amendment. Commissioner Norden said if BRM wanted to challenge a specific condition at this time for an amendment by any one on the Board he would afford Ben the opportunity to do so now. Ben asked if Condition "O" for sampling wells twice per year could be changed to sample once a year per their original request in Exhibit 53.1. Commissioner Stiehl said as the drafted amendment is now, they did not agree with only once per year. Stiehl noted the full monolyte list would be required in one sample, and a reduced analyte list would be required in the other sample. Stiehl stated the County Hydrologist agreed reduced parameters could be used, if sampling was done semi-annually. Ben proposed as a compromise to sample the wells within a half mile buffer semi-annually and the wells from one-half mile to a mile from the CUP boundary to be sampled annually. Commissioner Stiehl stated that would not allow for good hydrologic data as opposed to convenience. Commissioner Lasha said he understands the cost involved with the wells, but safe water is the main concern. Lasha supports condition "O" as written with testing to be done twice per year. Commissioner Norden had read BRM's request as well as the letter from Bruce Smith dated October 22<sup>nd</sup> and feels a baseline needs to be established for at least two to three years with semi-annual testing being done. Commissioner Norden made a motion to amend condition "O" that the condition require three years of semi-annual monitoring prior to the applicant being allowed to go to annual testing. Commissioner Norden stated his motion died for lack of a second; therefore the original motion is before us. Ben commented the state DRMS is doing an inspection today as they had received a complaint from the Tallahassee community. Ben said three members of the DRMS are meeting with his staff at 10:00 A.M. today and will be doing an inspection of Taylor Soda Springs. Commissioner Stiehl noted through out this process they have tried to address the concerns of the citizens and have gone beyond DRMS requirements in drafting the conditions. Stiehl said he does not understand BRM's resistance to the monitoring program.

**November 23<sup>rd</sup>, 2010**

Stiehl was concerned with the artesian well BRM did not address as quickly as they should have during last year's exploration but he is pleased in general with the over all conditions of the amendment. Commissioner Norden noted the Board is guided by Bruce Smith and his expertise in determining what conditions should apply.

Norden referred to the last Board meeting two weeks ago when Mr. Valerine commented on being able to negotiate the conditions. Norden assured the people there were no negotiations. Norden stated the language in the motion allowed for the applicant to be able to comment through their attorney with our legal staff. He said that is how those communications took place; there were no negotiations between the Board and the applicant. Commissioner Norden noted this is an application amendment for exploration and the conditions set out in this amendment may be considered unprecedented for prospecting and exploration. Norden believes with guidance from Bruce Smith and Susan Wyman the hydrologist for the applicant, that BRM is taking unprecedented steps to address baseline monitoring. Norden acknowledged the efforts BRM is making with the rather stringent conditions of the water monitoring program. Norden is interested in seeing some preservation of historical data. He referenced item "HH" which states the applicant shall provide all non-confidential data regarding hydrology, water quality, radiological analysis, analytical results of the monitoring program, and other similar information to the County to enable preservation of the data. Had this been in place in the 1970's, Norden said the County would have benefited from this data. Norden said this is an attempt to document that data and preserve it as well. Commissioner Stiehl pointed out he has seven volumes of data from BRM in his office that was almost thrown out. Stiehl noted this data will now also be preserved. Upon Vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, nay. The motion carried. Commissioner Lasha distributed copies of the resolution with all of the conditions to those who wanted it.

See attachment A Resolution #56 for all conditions.

## **2) PROPOSED 3<sup>RD</sup> AMENDMENT TO THE FREMONT COUNTY ZONING RESOLUTION**

**This request for approval of a proposed amendment was tabled from the July 13, 2010, October 12, 2010, and October 26, 2010 Board of County Commissioners Meetings.**

If approved the amendment would add the following regulations to the Zoning Resolution:

1. Small Wind Energy System
2. Add Contractor's Yard or Building as a Special Review Use in the Agricultural Forestry, Agricultural Farming & Ranching and Agricultural Living Zone Districts.
3. Add Contractor's Yard or Building as an accessory use in Home Occupation II or III.

**Commissioner Norden** said there had been excellent public comment at the October 26, 2010 Board meeting. Commissioner Stiehl feels the Board has a pretty good handle on the small wind energy systems, but the contractor's yard issue has turned into a much more complex issue than anticipated.

**John Zajkowski** of Penrose asked if he could address the Board regarding the proposed 3<sup>rd</sup> Amendment. John was represented by Sheila Bergamo at the meeting on October 26<sup>th</sup> 2010 as he was working out of town and not able to attend the meeting. He submitted a letter to the Board from him and one of his neighbors. John would like the Board to realize that one size does not fit all and suggested a contractor's yard be based on how much land one owns. Commissioner Norden reminded John the Public Hearing had been closed but he should know the Board understands four acres in Penrose is different than four acres in Lincoln Park or four acres in Copper Gulch. Norden assured John that scaffolding and the space required to store it had been discussed as well. Norden said the Board will publicize this item that will be back on the agenda for the March 8<sup>th</sup>, 2011 meeting. Commissioner Lasha explained to John the Board is trying to solve problems, not create more by having an Amendment to the Resolution. Lasha said this is why the Board is being so cautious with this issue as it affects so many people. Commissioner Stiehl moved to table the proposed 3<sup>rd</sup> Amendment to the Fremont Zoning Resolution until the March 8<sup>th</sup>, 2011 Board of County Commissioners Meeting. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

November 23<sup>rd</sup>, 2010

**NEW BUSINESS**

1. Consideration to appoint Lisa Wood to the Fremont County Heritage Commission for the Seat vacated by Roberta Millers resignation.

**Commissioner Norden** stated under the bylaws different seats on the Heritage Commission represent different areas of the County and Roberta Millers resignation earlier this year was for the Florence area seat. Norden had communication from Lisa Wood expressing her continued interest in being on the Heritage Commission. Commissioner Norden moved to approve the appointment of Lisa Wood to the Fremont County Heritage Commission for the balance of Roberta Millers term. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

2. Appointment of Fairs and Shows Board Members.

**Commissioner Norden** read the letter from Ralph Kunselman, President of Fremont Fairs and Shows Board that indicates Marie Adams, Tom Young, and Kathleen Shoemaker wish to continue in their same capacity as members of the organization. Norden noted the Fremont Fairs and Shows Association would like the Board to keep the application process open so that they may continue to seek additional members. Commissioner Lasha moved to approve the Appointments of Marie Adams, Tom Young, and Kathleen Shoemaker to the Fremont Fairs and Shows Association and continue to take more applicants. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

3. Appointment of Fair Board Members

**Commissioner Norden** said the communication from Delores Comstock, president of the Fremont County Fair Board, indicates Debbie Chess, Virginia Haynes, Marsha Bouchard, and Ralph Kunselman would like to be reappointed. Delores also communicated the Board would like to recommend Todd Saymanski fill the seat vacated by Barbara Carochi. Commissioner Lasha moved to approve the Appointment of Debbie Chess, Virginia Haynes, Marsha Bouchard, Ralph Kunselman, and Todd Saymanski as the Fremont County Fair Board Members. Norden said he had received a letter late yesterday afternoon from Melissa Cape which he read to the Board. Norden noted they will have to get confirmation from the Fair Board for Melissa Cape, and this can be put on the agenda for the next meeting. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

4. Upper Arkansas Area Council of Governments Agreement for Recycling Program for 2011.

**George Sugars** recommended the Board of Commissioners approve the Recycling Program with the Upper Arkansas Area Council of Governments for 2011 and the Chairman to sign the Agreement. Commissioner Stiehl mentioned Fremont County had entered into this program with the Upper Arkansas Area Council of Governments a few years ago. Stiehl said the County agreed to contribute \$1.50 per population member which comes from the tipping fees the County receives from landfills. Mike explained each year the \$1.50 amount is reduced by previous year's receipts of recyclable sales. He said commodity prices are down this year, and we are not able to take plastic. Stiehl noted we can still take paper, cardboard, and glass and we have been able to reduce the cost by \$14,000 while helping the environment. Commissioner Norden read part of the letter from Beth Lenz stating the cost of the Regional Recycling Program in 2011 will be \$22,526.48. This amount reflects a \$14,311.62 reduction that was generated by the sale of materials collected in 2010. The actual sale of materials amount will be calculated at the end of this calendar year. Norden noted they are also asking for designation of Fremont County's Commissioner Director to the Advisory Board of the recycling program. Commissioner Stiehl agreed to continue as the Advisory Board member. Commissioner Lasha moved to approve the Upper Arkansas Area Council of Government Recycling Program for 2011 with Commissioner Stiehl to serve as the Advisory member. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**November 23<sup>rd</sup>, 2010**

5. Petition for Abatement for Refund of Taxes for Mark N. Brown.

**Stacey Seifert**, County Assessor explained the first request for Mark Brown who was not present today to represent himself. The first parcel is 2.39 acres on 111 County Road 157 Schedule #99404877R001. The actual value for 2009 was reduced from \$71,000 to \$65,000. Mr. Brown wants an additional reduction down to \$2,892 which was the value in 2008 due to a coding error which grossly under valued the property for several years. Commissioner Stiehl asked Stacey if the reduction in 2009 was during the protest. Stacey replied no, he did not protest the value as there were some issues with deeds and ownership on the parcels around his. Mr. Brown did not come in until after January 1<sup>st</sup>, 2010. Stacey said there was a reduction and an abatement done in 2009 and as it was not a large reduction Mr. Brown wants another one done. She said the current value on that property is \$27,500 per acre and the land is useable, accessible, and does border the river. It is not valued as high as other parcels along the river as the river access from this lot is very steep. Stacey noted Mr. Brown sold the two adjoining properties, one to the east, and one to the west. The one to the east is 6.74 acres and was sold for \$300,000 which is \$44,500 per acre. Mr. Brown sold the one to the west which is 13.72 acres for \$585,900 which is \$42,700 per acre. She said Mr. Brown had submitted a 1 acre property across the highway that sold for \$50,000. She believes the property is valued correctly and would recommend a denial of any further reduction.

Commissioner Norden noted this Abatement was originally scheduled for 2:00 today for the Board of Commissioners to review and Mr. Brown had been notified of that scheduled time if he wanted to appear before the Board. Stacey said Mr. Brown had informed Denise of the Commissioners office he would be out of town today, and not appearing before the Board, therefore he mailed in his information to be presented today. Norden said if Mr. Brown would happen to appear at 2:00 today, they would re-open the hearing. Stacey suggested the Board just hear the case for Mr. Brown now and hold their decision until 2:00 today in case Mr. Brown would appear. Commissioner Lasha agreed the Board should hear the information now and reconvene at 2:00 to make a decision. This will be Resolution #57. Commissioner Norden said they will pass on this decision until 2:00 P.M.

**Stacey Seifert** explained the second request for Mark Brown which will be Resolution #58. This is his personal residence located at 42140 Highway 50 and is schedule #99924528-R. It was valued at \$234,359 for 2009 and Mr. Brown is requesting the value be reduced to \$200,000. Stacey is requesting a denial as the property is valued correctly for 2009. She said one of the sales he submitted was for a commercial property in 2002. The second sale did not occur until 2009 so it does not qualify as a comparable sale, it was also a bank foreclosure sale. The information he submitted subsequent to this petition is pictures and a request for an additional reduction due to the fire on 8 mile hill. That is a reduction that will be made based on a percentage of damage to the land and structures on his property and will be prorated from the beginning of the year until the date of the fire. Commissioner Norden noted this petition was not received until March 25, 2010 and the Board will pass on this decision until 2:00 P.M. as well.

6. Petition for Abatement for Refund of Taxes for Foxworth-Galbraith Lumber Company

**Stacey Seifert** explained the first request for Foxworth-Galbraith. She noted both of these petitions have been negotiated and agreed upon through their agent; Harold Licht. There is a signed agency agreement in the packet. This is schedule #11032655 located at 1630 Main Street. Resolution #59. Seifert said these were filed in a timely manner for 2007 and 2008 and it was her problem the petitions did not come before the Board until now. The property was valued at \$641,076 in 2007 and 2008. She is recommending it be reduced to \$484,000 which would result in a refund of taxes. The refund would be \$3,133.15 for 2007 and \$3,159.45 for 2008. This amount is based on comparable sales in the area and the condition of the property. Commissioner Stiehl moved to approve Resolution #59 for Foxworth-Galbraith schedule #11032655 for Refund of Taxes for the year 2007 in the amount \$3,133.15 and for the year 2008 in the amount of \$3,159.45. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

**Stacey Seifert** explained the second request for Foxworth-Galbraith schedule #11028730 the lot across the street from the store that used to have a large storage building on it. Foxworth-Galbraith sold that building to a contractor for \$8,000 to be demolished and removed. The \$8,000 did not include a removal fee. This check was written in August 2007 and the applicant did not realize the building was not gone. The demolition permit was not pulled until April 2008.

**November 23<sup>rd</sup>, 2010**

They are requesting the value be changed to \$108,623 for 2007 and \$100,623 for 2008. Stacey said they have agreed to the adjusted amounts of \$200,000 for 2007 and \$150,000 for 2008. This results in a refund for 2007 of \$2,066.90 and a refund for 2008 for \$3,089.96 Commissioner Norden moved to approve the Refund of Taxes for \$2,066.90 for 2007 and \$3,089.96 for 2008. as Resolution #60. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.**

**Proposed 2011 Fremont County Budget**

**Commissioner Norden** called the public hearing to order at 10:07 A.M.

**George Sugars and Dana Angel**, the County Finance Manager gave a presentation of the proposed 2011 budget. George said the difference in this presentation, and the one at the previous Board meeting is in the District Attorneys budget. Sugars noted after meeting with the other four Counties in the District the District Attorneys budget would be decreased by 0.8% which is a decrease for Fremont County of \$6,845 that will be found in the General Fund. He said otherwise it is the same budget presented two weeks ago. George stated the 2011 budget strategy is to manage revenue reduction, preserve services for citizens, and provide a fiscally responsible County budget. The General fund was decreased by the \$6,845 from the District Attorneys budget to \$10,503,864. The projected expenditures are \$36,657,117 for 2011.

Projected revenues are \$36,059,659 which means reserves will need to be used in the amount of \$597,458 for 2011. This will leave a projected reserve amount of \$554,465 for 2011. The goal for General fund reserves is at least \$1,000,000. For 2011 the County will restore their match to the employee retirement (CCOERA) 401 (a) fund to a rate of 3%. An increase of 9% for health insurance is also projected. Sugars said the number of paid Holidays has been reduced from 88 hours to 60 hours for 2011, which is the same as 2010. Commissioner Norden asked if any citizens wished to address the Board regarding the proposed 2011 budget.

**Public Comments:**

**Anita Mitton** said she is trying to understand the County budget. She asked if the sales tax statistics for the year showed how much revenue was brought in from the sale of medical marijuana. Anita had read an article that stated Colorado had gained \$2.2 million dollars in revenue from the sale of medical marijuana and wondered if Fremont County knew what the portion of revenue was for medical marijuana sales. Commissioner Norden asked Dana if he knew the amount of revenues from medical marijuana sales or tourism. Norden said the information the County gets back from the Department of Revenue is broken out by various vendors and he thought this was confidential information. Dana said they can report sales by category without reporting a particular vendor. Dana stated he needs to get with Department of Revenue to see what specific code is used for tracking the sale of medical marijuana and what Revenue has been generated for Fremont County. Commissioner Norden said the Board would like to see the break down from the Department of Revenue as well.

**Commissioner Norden** closed the Public Hearing at 10:18 A.M. Norden said the carryover amount of \$547,000 is projected to end in 2010. He noted the department heads and elected officials run their budgets responsibly and are frugal through the year. They use realistic numbers and leave money on the table to improve the bottom line. Commissioner Stiehl agreed with Nordens statement. Stiehl noted only one citizen was present to speak about the budget and he would like to see more people participate. Stiehl commented TABOR came into effect in 1992 and a lot of people believe it would prevent tax increases which is not true. Stiehl said TABOR allows the public to vote on any increase of taxes, rather than the elected officials raising taxes. He said it is important for people to understand our budget issues so if an item is brought before the tax payers they will be knowledgeable about bond issues, etc. George Sugars recommended the 2011 Budget be put on the agenda for the December 14<sup>th</sup>, 2010 Board of Commissioners meeting for adoption by the Board.

**Commissioner Norden** recessed the meeting at 11:03 A.M. to reconvene at 2:00 P.M.

**November 23<sup>rd</sup>, 2010**

**Commissioner Norden** called the meeting back to order at 2:05 P.M. Norden noted for the record that Mr. Brown did not appear before the Board. Commissioner Norden noted that Mr. Brown did not submit any argument or other documentation besides the original petition. Commissioner Lasha moved to approve Resolution #57 to deny the Petition for Abatement for Refund of Taxes for Mark Brown per the Assessors recommendation. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

**Commissioner Norden** moved to approve Resolution #58 to deny the Petition for Abatement for Refund of Taxes for Mark Brown per the Assessors recommendation the property is valued correctly. Commissioner Lasha seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

**Commissioner Norden** adjourned the meeting at 2:09 P.M.

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Clerk and Recorder

**ATTACHMENT A****RESOLUTION NO. 56  
Series of 2010****RESOLUTION FOR CONDITIONAL USE PERMIT  
FILE NUMBER CUP 10-003  
TAYLOR RANCH EXPLORATION- BLACK RANGE MINERALS COLORADO, LLC  
FIRST AMENDMENT**

WHEREAS, Taylor Ranch Exploration/Black Range Minerals Colorado, LLC (hereafter "Applicant" or "Black Range") has made application for approval of a major modification of a Conditional Use Permit: C.U.P. 08-001 Taylor Ranch Exploration/Black Range Minerals Colorado, LLC, pursuant to Sections 8.2 and 8.2.12 of the Zoning Resolution of Fremont County to expand the area of exploration for minerals, particularly uranium, to include certain property located in the South T-Bar development, in addition to the Taylor Ranch property. Said application has been designated as file **#CUP 10-003 Taylor Ranch Exploration-Black Range Minerals Colorado, LLC, First Amendment**; and

WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its **August 3, 2010 and September 7**, regular meetings and recommended the denial of such application; and

WHEREAS, a notice containing the specific request, proposed use, location of the public hearing, telephone number of the Department of Planning and Zoning (hereafter "Department") and a site plan and vicinity map were mailed at least fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel; and to appropriate agencies, in accordance with regulations; and

WHEREAS, a notice containing the specific request, proposed use, location of the public hearing, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, a minimum of fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on **September 14, 2010, and September 28, 2010**, at which times comments and evidence were considered, including all materials contained as part of the application and which were in the county's file concerning the application; and

WHEREAS, the Board received and considered additional public comment, in written form, from September 28, 2010 through October 12, 2010; and

WHEREAS, the Board has received written input, consultation and advice from its independent hydrogeologist, Bruce Smith of Western Water and Land, Inc.; and

WHEREAS, the Board believes that the approval of the application for a modification of CUP 08-001, to include additional properties located in the South T-Bar Development (Tallahassee area of the County) is appropriate and sufficiently supported by the evidence before the Board.

**FINDINGS OF THE BOARD OF COMMISSIONERS**

1. This approval of the conditional use permit is specifically contingent upon conditions and contingencies imposed by the Board and the findings are based upon the compliance by Black Range Minerals, Colorado, LLC with all conditions of the CUP. The conditions of the permit are responsive to the concerns expressed by individual members of the Fremont County Planning Commission and also the concerns expressed by residents in the Tallahassee area.
2. The procedural requirements of the Fremont County Zoning Resolution (FCZR or Zoning Resolution) have been met and the application is complete.
3. The record before the Board of Commissioners consists of:

- a. Complete record, briefs, and final district court order from Case Number 08 CV 230, Division I, District Court, Fremont County, Colorado, entitled TALLAHASSEE AREA COMMUNITY, INC. a Non-profit Colorado Corporation and KAY and JIM HAWKLEE, ROBERT and KELLY ROTH, MATTHEW and LORRAINE HERZING, VIRGIL and PEGGY BURKE, NANCY and RICHARD SEGER and PAMELA STRECKER; Plaintiffs v. FREMONT COUNTY BOARD OF COMMISSIONERS and BLACK RANGE MINERALS, LLC, a Colorado Limited Liability Company, Defendants.
- b. Complete file of CUP 08-001 Taylor Ranch Exploration/ Black Range Minerals Colorado, LLC dating from July 8, 2008 to the date of final approval of this Resolution, as maintained by the Fremont County Department of Planning and Zoning.
- c. Complete Application for CUP 10-003, verbal and written public comment, Minutes of the Proceedings before the Fremont County Planning Commission, documents, presentations and information received by the Board of Commissioners and the Department of Planning and Zoning through the public hearing process.

4. The present application was appropriately submitted and processed as a major modification of CUP 08-001, pursuant to Sections 8.2 and 8.2.12 of the Zoning Resolution of Fremont County.

5. The proposed use is in accordance with the provisions of the Zoning Resolution. The requested use is uranium ore exploration. FCZR 1.5.103 defines mining to include exploring for or recovering minerals, sand and gravel, whether above or below ground. The property is zoned in the Agricultural Forestry Zone District which allows mining, subject to the issuance of a Conditional Use Permit. FCZR 4.1.3.2.

6. The proposed use is in accordance with the provisions of the Fremont County Master Plan dated January, 2002. (FCMP or Master Plan). In support of this finding, the Board of Commissioners notes that the District Court for Fremont County, in its Order of April 9, 2010, held that the Fremont County Master Plan is a general guide replete with often competing factors to be weighed and considered by the Board. The court further held that mining is a permitted activity in the Master Plan Mountain District, provided the land is reclaimed pursuant to a plan approved by the state and that such a use is consistent with an area that is largely owned by public agencies that manage the land for multiple uses including mining activity. The change in location requested in this application for modification of an existing CUP is adjacent to the Taylor Ranch Property permitted by CUP 08-001, in the Tallahassee area of Fremont County and also located in the Master Plan Mountain District.

7. The location of the proposed use is compatible and harmonious with the surrounding neighborhood. Mineral and uranium ore exploration has historically occurred in and around this area of the county. This proposal for exploration requires a balancing of property rights, as the mineral rights are severed from the surface rights with respect to some, but not all surrounding property owners. The property owners in the South T Bar Development are those who will be immediately and directly impacted, and the Board notes that there has been considerable support for the request for CUP modification from many South T-Bar residents and landowners. The proposed use is temporary in nature and complete surface reclamation will be performed on all areas where exploration/drilling occurs. Although there are residences in the general area, it is sparsely, not densely, populated with most residences located on parcels of 35 acres or more in size.

8. The proposed use will not have detrimental effects on property values.

a. In CUP 08-001, the Board found that the exploratory drilling operations of Black Range Minerals would not have detrimental effects on property values and this finding was upheld by the District Court, Fremont County, in its April 9, 2010 Order.

b. The Board finds that the proposed modification proposes the inclusion of additional lands for an exploration drilling operation that is essentially the same type of activity approved by this Board in CUP 08-001.

c. The Board has considered the fact that property values may be higher for properties where the surface rights and mineral rights are vested in a single owner.

d. The Board is aware and acknowledges that the economic downturn in Fremont County and across the nation continues to detrimentally affect property values. The Board is unable to directly attribute any decrease in value of any particular property to the Black Range proposal as opposed to the weakened economy.

e. If exploration results in a discovery that actual mining operations are not feasible, any detrimental effect on property values would be mitigated.

f. In evaluating the issue of potential detrimental effects on property values, the Board has balanced the competing interests of property owners and finds that the proposed operation, if conducted in accordance with the conditions imposed hereunder, will have no detrimental effect on property values in the Tallahassee area, and will not affect property values county-wide.

9. The proposed use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions. The continued use of portable toilets is reasonable and no other sanitation issues exist. The Board is satisfied that there will be no overburdening of utilities or other adverse environmental influences of this type.

10. The site is served by roads of sufficient capacity to carry the traffic generated by the proposed use and the proposed use will not result in undue traffic congestion or traffic hazards. The number of employees is small and Black Range has indicated that transporting drilling rigs will not be a regular, daily occurrence throughout the duration of the project. The use of Fremont County Road #21 is appropriate. The road has proven to be adequate for use by water well drillers, home building and movement of construction equipment and other development activities in the area.

11. The site is clearly of sufficient size to accommodate the proposed use and no credible evidence or comment to the contrary has been presented.

12. The experience gained from CUP 08-001 has resulted in the production of baseline data, necessary for assessment of potential impacts and concerns regarding the protection of surface and ground water in the Tallahassee area. Continuing with the water monitoring programs will provide valuable information regarding the surface and ground water systems in the area, thereby assisting the residents and landowners with decisions regarding their water supplies.

13. The water monitoring process of Black Range has been examined and guided by Bruce Smith of Western Water and Land, Inc., who has provided an objective analysis and consultation to the Board.

14. The request of Black Range for modification of the days and hours of operation is reasonable and appropriate.

15. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety, and welfare of the inhabitants of the County, and will not cause significant air, water, noise, or other pollution. The conditions imposed as a part of this Conditional Use Permit will address hours and days of operations, control of noise, dust, traffic, wildlife habitat, weeds, ground and surface water concerns and other potential problems. The drilling process and reclamation plan has been approved by the Colorado Division of Reclamation, Mining and Safety, including the method for abandonment of the holes drilled and resurfacing the mud pits. The State of Colorado has recently adopted new legislation and rules/regulations regarding uranium exploration, which are more protective of water resources. Black Range Minerals, Colorado LLC, has presented credible information regarding surface water and groundwater issues and has offered a monitoring plan for domestic water wells, which is not a requirement of the application process. The Board is persuaded that the caution with which the exploration and reclamation will be conducted meets the standards currently imposed by the Division Reclamation, Mining and Safety.

16. The domestic water supply monitoring program serves two key purposes: 1) to provide baseline water quality at each of the sampled wells and 2) to potentially evaluate any impact to water quality from the drilling of upgradient exploration holes drilled prior to issuance of the CUP, a key concern among residents in the area. The county recognizes that the domestic water monitoring program initiated by Black Range in the Taylor Ranch Project area in August 2008 is voluntary and was not required by the state or county. The county encourages Black

Range to continue to work with residents within the one-mile buffer of the project boundary in monitoring their water supply.

17. It is reasonable to begin groundwater and surface-water baseline information sampling prior to commencing exploration drilling to support domestic water-supply protection in the South T-Bar Ranch area. The purpose of the baseline information is to obtain baseline water-quality conditions and monitor for potential contamination due to BRM exploration activities.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF FREMONT THAT THE FOLLOWING CONDITIONS ARE HEREBY APPROVED AND ADOPTED AND SHALL BE IMPOSED AS CONDITIONS APPLICABLE TO BLACK RANGE MINERALS COLORADO, LLC, UNDER CUP 10-003:**

- A. The term of the Conditional Use Permit shall be for an eight (8) year term.
- B. The Department of Planning and Zoning (“Department”) shall review the permit annually in November, or more frequently if required or appropriate, to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations.
- C. 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. 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. Applicant shall obtain and keep in effect all other necessary permits, licenses or the like required by any other governmental agency and as otherwise may be required by Fremont County. The revocation, suspension or expiration of any such other necessary permits, licenses or the like may in the discretion of the Board result in the revocation, suspension or termination of the permit authorized hereunder, as the case may be.
- F. The applicant shall be entitled to conduct operations pursuant to this permit seven days a week from 7:00 a.m. to 7:00 p.m., except that in each calendar year it shall be allowed an aggregate of not more than 90 days per calendar year when it may conduct operations overnight. Further, in the case of emergency, the applicant may operate at any hour to ameliorate, mitigate or resolve such emergency. Applicant shall be required to report, on a quarterly basis, the number of days on which it conducted operations after hours.
- G. 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 conditional 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 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. So long as applicant continues with exploration activities related to the land covered by this permit, including such activities as exploration drilling, baseline studies, water monitoring operations or reclamation activities under this permit, it shall not be deemed to be abandoned, discontinued, terminated or in a state of cessation.
- H. The applicant shall notify the Department prior to commencing any exploration drilling (but not including water monitoring drilling) which is to occur outside the proposed area of exploration as identified within the CUP boundaries and shown on the site plan drawing. Applicant shall not conduct any exploratory drilling within 600 feet of an existing, lawfully permitted water well, absent the consent of the water well owner.
- I. The applicant shall maintain legal water rights or other lawful, adequate source of water, for the duration of any exploration drilling activities or consumptive use under this permit. During times it intends to conduct drilling activities or consumptive use of water,

the applicant shall keep in effect and provide copies of the following documents to the Department:

1. Documentation as to the water source and right of use of any on-site or off-site water rights to be used in the exploration drilling operation;
  2. Written notice of any changes to the water source and documentation as to right of use;
  3. All updated leases or newly acquired leases for any water to be used in the exploration drilling operation;
  4. If water is not drawn out of North Tallahassee Creek within the CUP boundary as detailed in the letter dated May 20, 2008, a copy of which was provided to the Department, between the applicant and the Colorado Division of Water Resources ("DWR"), applicant will give written notice to the Department as to the location of where water will be drawn from the source or hauled from off-site, to enable the county to determine if it will create an impact through increased truck traffic on County roads. In addition written notice specifying any changes is required. If water is to be drawn from a source along a County right-of-way such activity must have prior approval from the Fremont County Department of Transportation (FCDOT), which may result in additional requirements or conditions.
  5. Any modifications from the original representations and any changes may result in additional conditions being imposed.
- J. The applicant shall reimburse the County a total amount not to exceed \$45,000 in the aggregate over a three year period, and \$5,000 each year thereafter for the duration of the CUP, commencing on the effective date of the issuance of this permit by the County for all professional fees associated with the County's use of its independent hydrogeologist or firm (the "Independent Consultant"), to review, and make comment and recommendations as to the adequacy of the applicant's surface water and groundwater baseline monitoring program. Applicant shall be credited with any amounts already expended for the Independent Consultant under the conditions of CUP 08-001. The Independent Consultant shall be an individual or a firm with extensive experience and understanding of drilling, mineral exploration, permitting and baseline hydrogeologic studies. The applicant's reimbursement of the Independent Consultant's fees shall include, but not be limited to, those fees associated with the Independent Consultant's: (a) discussions with applicant's water consultants regarding the baseline water monitoring program to be submitted to State agencies, (b) review of applicant's baseline water monitoring program to confirm that applicant is complying with the baseline monitoring plan that is approved by the Division of Reclamation, Mining and Safety ("DRMS") and/or CDPHE, (c) review of reports generated from the baseline data gathered by the applicant to confirm applicant has collected that data and prepared its reports in conformance with the State agency approved baseline water monitoring program and in compliance with industry best practices for administrating such baseline monitoring programs, and (d) preparing and submitting reports to the Department of its review of applicant's work associated with items (a), (b) and (c). County may, in its discretion, request the Independent Consultant to assist and advise concerning other matters contemplated within the scope of this CUP, but under no circumstance shall applicant be held responsible or liable for consulting costs in excess of the amounts set forth herein. It is understood that Applicant intends to prepare at an appropriate time as determined by Applicant, or has prepared, a baseline monitoring program that may be subject to approval by Colorado State agencies, including DRMS and CDPHE. The County recognizes that these agencies have primary jurisdiction over the applicant's monitoring programs. In addition, the Colorado Division of Water Resources oversees the permitting of monitoring wells. The applicant shall submit copies to the County and the Independent Consultant of all State agency approved water monitoring related filings and otherwise keep the Independent Consultant abreast with the applicant's efforts concerning its baseline water monitoring program. The Independent Consultant shall be notified of any proposed changes to the baseline hydrologic monitoring plan.
- K. The applicant shall have a geologist convey to the driller the exploration drill well plugging and sealing requirements necessary to meet the standards established by the State and agreed upon in the applicant's approved notice of intent to prospect ("NOI"). In addition, for each drill hole the geologist will provide to the driller any specific plugging and sealing requirements that may be required for that hole based on the geologist's

knowledge of that hole. The geologist shall provide written documentation to the Department that all prospecting drill holes have been plugged, sealed and capped in accordance with the DRMS approved NOI for the applicant's exploration drilling activities. This information will be submitted in the form of a written quarterly report from the applicant's geologist to the Department, noting the number and general location of all prospecting holes that have been drilled and the number of plugged, sealed and capped prospecting drill holes. The Applicant shall provide the Department with a copy of all DRMS inspections, within 20 days after receipt by Applicant.

- L. All drilling fluid (mud) pits associated with drilling operations in uranium-mineralized geologic units shall meet the following requirements:
1. A drilling fluid sample will be collected from one of every five mud pits constructed annually at boreholes, test holes, or monitoring well holes that intercept uranium-mineralized geologic units.
  2. Temporary fencing, minimum height of 4 feet, will be installed around mud pits to mitigate against livestock and wildlife entry. Alternative forms of wildlife protection may be used, if approved by the county.
  3. Should the analysis of one or more drilling fluid samples and the condition of the mud pits indicate that there is a risk of contamination to water in the area, the County reserves the right to modify this condition (following notice and an opportunity to be heard) to require lining of the mud pits with impermeable liner material for mud pits which are located within 600 feet of a private domestic water supply well, perennial stream or spring.
- M. Any newly proposed surface-water monitoring station or domestic water well (any station or well not previously established or sampled under the approved plan) must be sampled for the parameters listed in the approved plans (as modified by Whetstone Associates Technical Memos dated April 30, 2010 and May 4, 2010, submitted as Exhibit 53.1 to the CUP 10-003 Application) for at least two sampling events. The two sampling events shall occur within one 12-month period and include a Spring (preferably April-June) event and a Fall (preferably October-December) event. Black Range may continue sampling at this frequency or may request a reduction after the two-event sampling and analysis requirement has been met. Any new samples Black Range may take for other purposes such as "grab samples", drilling fluid samples, rock samples or any other sample not taken as part of surface or domestic well monitoring program will not be required to be analyzed according to the requirements described in this condition.
- N. Black Range shall analyze for and report gross alpha (not corrected for uranium and radon) and gross beta at all surface-water monitoring stations and will submit these same samples for analysis of the radionuclides Ra-226, Th228, Th320, and Th232 in surface water samples having gross alpha values greater than 30 pCi/L and for Ra-228 in surface water samples having gross beta values greater than 25 pCi/L. This will be procedurally guided by a progressive radiochemistry screening radiological analysis program through the contracted analytical laboratory.
- O. Unless individual well owners agree otherwise, Black Range shall continue the semi-annual domestic water-supply monitoring program, as originally proposed under CUP 08-001, with the modifications (not including than the frequency of the sampling) stated in the two Whetstone Associates Technical Memos submitted with the CUP10-003 Application as Exhibit 53.1. The Spring (April-June) event sampling parameters may be limited to contaminants of concern and indicator parameters. Contaminants of concern shall include uranium, gross alpha, and gross beta, sodium, chloride, and bicarbonate. Field parameters should also be collected.
- P. Black Range will continue with the domestic well sampling program throughout exploration but may cease sampling 2 years after its last drilling activity. If Black Range elects to resume drilling, it must complete one round of domestic well sampling prior to the re-commencement of drilling activity.
- Q. Black Range may remove the Cotopaxi and Delilah Peak wells from the domestic water-supply monitoring program (WP# 220542, 234359, 215777, 224604, 210858, and 268224) as proposed. If additional exploration boreholes are drilled in the northern portion of the project area and outside the Exploration Target Area, the County may request the Delilah Peak wells to be re-admitted to the monitoring program.

- R. Black Range shall confirm to the county the number of residents who have agreed to have their water supply monitored as part of Black Range's Domestic Water Supply Monitoring Program.
- S. In the event that Black Range decides to install monitoring wells to support hydrologic studies or for other purposes for the South T-Bar Ranch area or any other areas within the project boundary, it shall prepare and submit for county review, a monitoring well plan. This plan shall be consistent in the level of detail as presented in the original Taylor Ranch Project Baseline Hydrologic Monitoring Plan (CUP 08-001). The county does not require Black Range to construct any proposed monitoring well for purposes of exploration under this permit.
- T. Applicant shall be allowed to revise the monitoring station locations, sampling and monitoring frequency and analytical parameters as requested in the technical memorandums dated April 30, 2010 and May 4, 2010, which set forth the surface-water and domestic well monitoring locations for the South T-Bar area subject to conditions in this CUP.
- U. Applicant shall comply with any requirements of the Fremont County Weed Control officer, if applicable.
- V. Except in the case of emergency or the existence of hazardous or life threatening conditions, ingress and egress to the site by drilling equipment and other related heavy truck exploration traffic will be limited to the use of Fremont County Roads #2, #9A and/or Fremont County Road #21. Personal vehicles may enter the areas using roads # 2, #9A, #21, or #26. The installation and servicing of portable toilets may occur by use of Fremont County Roads #2, #9A, #21 or #26, as appropriate for the area of active operations.
- W. If dust pollution on those portions of Fremont County Roads adjacent to and as they enter the areas of exploration becomes an unreasonable problem due to increased exploration drilling heavy equipment traffic or other related heavy truck exploration traffic then the applicant may be required by the County Road Foreman to apply an adequate dust suppressant on the affected portions of those County roads.
- X. If lighting is to be used after sunset in the prospecting operations, Black Range is required to use lighting directed to avoid casting light onto other properties.
- Y. The applicant, operator, etc. shall comply with all applicable requirements of the Colorado Division of Wildlife, as per letter dated May 6, 2008, and any subsequent recommendations and provide written documentation that applicant has attended any required classes recommended by the Division of Wildlife.
- Z. Prior to the commencement of the regulated or notification activity, the Applicant shall provide to the Department a copy of the following permits, licenses, notification forms, or the like, if required for its operations:
1. Colorado Department of Public Health and Environment, Water Quality Control Division for submission of SWMP form before commencing operations to confirm that an SWMP is on file at the site.
  2. DRMS:
    - (a) Current NOI and any ongoing modifications;
    - (b) Approval of groundwater sampling analysis plan when initiating or conducting this program.
  3. Fremont County Flood Prevention Damage Permit if drilling is to occur in any FEMA designated flood hazard area.
  4. DWR, before drilling or completing monitoring wells:
    - (a) Monitoring well permit before drilling;
    - (b) Monitoring well permit at well completion.

5. There is no requirement by any State or Federal agency for filing of the Spill Prevention Control and Countermeasures Plan (“SPCC”) for an aboveground storage tank. At such time as applicant elects to install the diesel aboveground storage tank described in its CUP application within the CUP site, the SPCC report must be on file at the site and a copy provided to the County and containment/cleanup equipment must be on site as outlined in the SPCC report (in the event of a reportable spill.)
- AA. The applicant shall conform its Storm Water Management Plan (“SWMP”) to the requirements of CDPHE, which has jurisdiction of SWMP. Applicant’s SWMP will consist of a combination of silt fences, berms and roughening of surfaces depending on the slope of the specific drill site. Silt fences, to the extent used as part of a SWMP, shall be inspected every two weeks and after every significant precipitation or snow melt event that creates runoff at the site.
- BB. If applicant intends to transfer this conditional use permit to a third party or transfer any other Federal, State or county permits or licenses held by applicant to operate on the lands included in this permit, such transfers shall be in compliance with applicable Federal, State and Fremont County laws and regulations. All persons, entities or others requesting Board approval to operate under this Conditional Use Permit, or as a transferee of applicant, 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 or the transferee who are bound by the terms and conditions of this Conditional Use Permit.
- CC. The County to the extent allowed by its Zoning Resolution shall retain the right to modify any condition of the permit, if the actual exploration drilling operation demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modifications 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.
- DD. The applicant shall be considered the operator under this permit. Only the applicant or contractors or agents authorized by applicant shall be allowed to conduct activities pursuant to this Conditional Use Permit. Applicant shall be responsible for all activities conducted by its contractors or agents.
- EE. Applicant shall provide a copy of the fire safety plan for operations on site to the Tallahassee Volunteer Fire Department (TVFD).
- FF. Any documentation submitted by applicant that is designated as confidential by applicant and which is required to be held as confidential pursuant to state law and/or regulations implemented by DRMS, shall be held as a confidential document by Fremont County and shall not be considered or treated as a public record absent the express written consent of Applicant.
- GG. Applicant shall maintain a complete Materials and Safety Data Sheet (MSDS) file for all chemicals brought on site. The MSDS file shall be available for on-site inspection.
- HH. Applicant shall provide all non-confidential data regarding hydrology, water quality, radiological analysis, analytical results of the monitoring program, and other similar information to the County to enable preservation of the data and analysis as records available for public examination, inspection and copying. This information and data shall be provided to the county at the completion or termination of the CUP, unless the data and information becomes part of the public record through other means pursued by Black Range.

**WAIVER REQUESTS:** Waivers of the following have been requested and are granted:

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**5.3.2 Surfacing:** Surfacing for all business, commercial or industrial off-street parking areas shall be graded and surfaced to control dust and provide proper drainage. Spaces shall be asphalt or concrete surface unless waived by the Board. If asphalt or concrete, spaces shall be clearly marked. Curbs or barriers shall be installed to prevent parking vehicles from extending over any lot lines.

**5.3.3 Lighting:** All off-street business, commercial or industrial parking spaces may be required to be adequately lighted to protect the safety of the individual using the area. Said lighting shall not cast any glare on the surrounding properties.

**5.3.4 Landscaping:** All parking spaces (areas) used for business, commercial or industrial uses may be required to provide appropriate vegetation designed to break up the expanse of the parking area.

BE IT FURTHER RESOLVED that all applicable provisions of the Fremont County Zoning Resolution, particularly Section 8.2, shall apply to all activities conducted pursuant to this permit and shall govern the process for enforcement, violations and other issues arising under the permit.

Commissioner \_\_\_\_\_ moved the adoption of the foregoing Resolution with a second by Commissioner \_\_\_\_\_.

Larry Lasha	<u>AYE</u>	NAY	ABSTAIN
Edward H. Norden	<u>AYE</u>	NAY	ABSTAIN
Michael J. Stiehl	AYE	<u>NAY</u>	ABSTAIN

The Resolution was declared to be duly adopted.

Date: \_\_\_\_\_

\_\_\_\_\_

Attest: \_\_\_\_\_

Chairman

Clerk to the Board