AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Authorization for Enforcement Action; Construction

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Requested enforcement action of construction without permits at 1134 Cove Road

Fiscal Impact:

Submitted by: Crystal Lambert **Submitter's Email Address:** clambert@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 7/15/2016 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 7/15/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10

Agenda Date: 7/19/2016

Revised April 2015

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360 FAX: (970) 641-8585
Website: www.gunnisoncounty.org/planning.html
Email: planning@gunnisoncounty.org

To: Board of County Commissioners

From: Community Development Department

Date: July 13, 2016

Re: **Requested enforcement action of construction without permits at 1134 Cove Road**

Purpose of request:

Staff is requesting authorization for the County Attorney to take all necessary enforcement action, including litigation, as described in Article 16 of the Land Use Resolution, Article 16 of the On-site Wastewater Treatment System Regulations, and the 2009 International Building Code as it relates to Timothy Coakley and his property, 1134 Cove Road and legally described as Site 62 Masden Lake Fork Cove, for a residence being erected without a building permit and connection to an old septic tank without a septic permit.

Background:

On April 29, 2016, the Community Development Department received an application from Mr. Coakley for a building permit to construct a 3 bedroom single family residence at 1134 Cove Road. On May 2, 2016, Mr. Coakley was contacted by staff and requested to submit information regarding the existing septic system on the parcel. Mr. Coakley could not provide detailed information about the septic system but did explain that it was installed in the 1980s by the previous owner of the parcel under a Gunnison County septic permit. Staff explained to Mr. Coakley that proof of septic system adequacy, in accordance with the minimum requirements of the Gunnison County OWTS Regulations, for the proposed residence would need to be shown. Mr. Coakley refused to provide any additional information.

The original septic permit was located by staff in historical files. The permit was issued in 1986 to accommodate a cabin which was not built. The existing septic system does not appear to be adequate for Mr. Coakley's proposed 3 bedroom residence. On May 11, 2016 staff sent Mr. Coakley a letter requesting additional building and septic information. Staff also called Mr. Coakley ahead of him receiving the letter to explain what information was needed and to go over options. During this phone call Mr. Coakley indicated that he was going to build without permitting. Post Office records show that the letter was refused.

On June 28, 2016, construction work at Mr. Coakley's property was observed by staff. A drive-by of the property was initiated after a permit status inquiry was made by a local contractor. On June 30, 2016 a Stop Work Order and Notice of Violation was issued to Mr. Coakley and sent certified return receipt. Post Office records show that Mr. Coakley has been given notice that a certified letter from Gunnison County is waiting for him but he has not picked up the letter. Please see attached Stop Work Order/Notice of Violation.

On July 13, 2016, Community Development Department staff observed that construction on Mr. Coakley's parcel is active and progressing. Please see attached photographs.

The Community Development Department has not received any of the items requested in the Stop Work Order/Notice of Violation nor has there been any communication from the property owner despite staff attempts to communicate with the owner.

In summary, the property owner is in violation of the Gunnison County Building Code, the Gunnison County OWTS Regulations and also a Stop Work Order.

Gunnison County
COLORADO

Gunnison County Community Development Department
Offices of Planning, Building and Environmental Health
Phone: (970)641–0360 · Fax: (970)641–8585

May 11, 2016

Timothy and Kristin Coakley
946 25 5/8 Road
Grand Junction, CO 81505

RE: Building permit application for 1134 Cove Road, (BP-16-00096)

Dear Timothy and Kristin Coakley,

The Gunnison County Community Development Department has reviewed your application for a one-family dwelling at Site 62 Masden Lake Fork Cove. The proposal includes the utilization of an existing septic system that was installed, under Gunnison County permit #821, issued in 1986. Information provided on the permit indicates that the system consists of a 1,000 plastic septic tank, cast-iron sewer and effluent piping, and approximately 600 square feet of soil treatment area.

The recorded soil data provides an average percolation rate of 48 minutes per inch. Given the historical soils data and the proposed 3 bedroom dwelling, the minimum soil treatment area would be greater than the existing 600 square feet. The existing field is not adequate to accommodate your proposed three bedroom one-family dwelling.

Additionally, the *Gunnison County OWTS Regulations, Section 6-101: General Requirements for Components of All Systems* prohibits the use of cast iron pipe in on-site wastewater treatment systems.

The *Gunnison County OWTS Regulations, Section 6-103: Requirements for Septic Tanks* allows for plastic septic tanks, provided that, among other items, they are structurally sound and support external forces, all seams and connections are sealed to be watertight, and have a minimum of two compartments. The condition of the existing septic tank would need to be investigated to determine if it is adequate.

The *2009 International Residential Code (IRC)*, Section R105.3.1: *Action on application*, requires that the building official issue a building permit for a proposed structure if the proposed work conforms to the requirements of the IRC and laws and ordinances, including the Gunnison County OWTS Regulations, as applicable. Section 101.3 Intent of the 2009 IRC, states that the purpose of the code is to establish minimum requirements to safeguard the public safety, health and general welfare through, among other things, sanitation. Without adequate sanitation in

Blackstock Government Center 221 N. Wisconsin St. Ste. D · Gunnison, CO 81230
Planning: (970)641-0360 Environmental Health: (970)641-5105 Building: (970)641-1011 Fax: (970)641-8585

accordance with the Gunnison County OWTS Regulations, the granting of your building permit would be in violation of the 2009 International Residential Code. Therefore, your application for a building permit would be denied under the current proposal to utilize the existing on-site wastewater treatment system on the parcel.

One option available to you is to apply for a septic alteration permit for your existing system. Exact sizing of a soil treatment area (field) will depend on the media type chosen. Our septic information packet has a list of licensed septic professionals, many of whom are also soils technicians, who can assist in the design alterations and evaluation of the existing components. I have included a copy of the septic information and application packet for your review.

Additionally, I have completed the building plan review for your proposed structure. We will need confirmation from your design professional that the structure meets the minimum roof snowload (live load) of 40 psf and wind load of 90mph, 3 second gusts. Also, the REScheck submitted does not reflect your proposed building plans and is not filled out correctly (for example, the construction plans do not call out a slab on grade, the second level is absent from the total square footage, only one wall is called when you will have four walls, etc.). Please keep in mind that REScheck is usually only used for unusual or log structures. Your proposed plans indicate stud walls. If you propose insulation meeting the prescriptive requirement (R-21 walls, R-30 floor over unconditioned space, R-49 roof, for example) then you would not need a REScheck analysis.

Please let me know if you have any questions or would like to discuss the permitting process and requirements for the alteration of an on-site wastewater treatment system. Review

Sincerely,
Crystal Lambert
Gunnison County Building & Environmental Health Official
Cc: Russ Forrest, Community Development Department Director

CERTIFIED MAIL™

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U.S. POSTAGE » PITNEY BOWES

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Gunnison County
COLORADO

Gunnison County
Community Development Department
Offices of Planning, Building
and Environmental Health

Blackstock Government Center
221 N. Wisconsin St. Ste. D
Gunnison, CO 81230

Return to sender - Refused

Timothy & Kristin Cookley
946 25 5/8 Road
Grand Junction, CO 81505

Ref

received 5/23/16

NT XTF R08 DE 1 0005/20/16

RETURN TO SENDER
REFUSED
UNABLE TO FORWARD

BC: 81230243376 *0520-00539-14-04

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Gunnison County
COLORADO

Gunnison County Community Development Department
Offices of Planning, Building and Environmental Health
Phone: (970)641–0360 · Fax: (970)641–8585

STOP WORK ORDER / NOTICE OF VIOLATION

June 30, 2016

Timothy and Kristin Coakley
946 25 5/8Rd
Grand Junction, CO 81505

Dear Property Owners;

This letter is to inform you that construction work at your property, 1134 Cove Road (Site 62 Masden Lake Fork Cove), was observed by Community Development Department staff on June 28, 2016. A drive-by of your property was initiated after a permit status inquiry was made by a local contractor. A conversation with that contractor indicated that you intended to begin construction of your one-family dwelling without a Gunnison County building permit.

On April 29, 2016, the Gunnison County Community Development Department received a building permit application from you for a proposed one-family dwelling on your parcel. After an initial review of your building plan submittal, I contacted you by telephone, on May 2, 2016, to inquire about the septic system you stated on your application as existing. At that time, you explained to me that the system was installed in the 1980s by a previous owner, under a Gunnison County permit, and that you believed the system to be adequate for your proposed construction but were unable to provide any details of the existing system. After that telephone conversation, I began searching through the County septic permit records and located a 1986 waste disposal application for Lot 62 Masden Lake Fork Cove. Your proposed building plans along with the existing septic system you proposed to utilize for wastewater treatment were then reviewed for compliance with the adopted Gunnison County building code (*2009 International Residential Code)*, and the minimum requirements of the *Gunnison County On-site Wastewater Treatment System (OWTS) Regulations.* A letter from me, dated May 11, 2016, identifying and detailing the additional items needed in order to receive a building permit for your proposed construction was sent to you by email on May 12, 2016 to the email address you supplied with your building permit application, dunk1700@gmail.com, and also delivered by certified return receipt to the address you supplied with your building permit application, 946 25 5/8 Road, Grand Junction, CO 81505, on May 12, 2016. The U.S. Postal Service notified the Gunnison County Community Development Department that, on May 17, 2016, you refused receipt of the letter.

Based on the June 28, 2016 site visit, it appears that the work started on your property, Site 62 Masden Lake Fork Cove, does require Gunnison County building and septic permits. Building and septic permits have not been issued for your structure.

It is unlawful for any person to erect or occupy any structure regulated by the *2009 International Building Code* without first submitting an application to the Building Office and obtaining the required permit, therefore I am issuing a Stop Work Order and Notice of Violation as outlined in Sections 114 and 115 of the *2009 International Building Code*.

The International Building Code 2009 Edition; Section 114: *Violations* states the following:

> ***114.1 Unlawful acts.***
> It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.
>
> ***114.2 Notice of violation.***
> The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
>
> ***114.3 Prosecution of violation.***
> If the notice of violation is not complied with promptly, the building official is authorized to request legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.
>
> ***114.4 Violation penalties.***
> Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the

building official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

The International Building Code 2009 Edition; Section 115. *Stop Work Order* states the following:

> ***115.1 Authority.***
> Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.
>
> ***115.2 Issuance.***
> The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.
>
> ***115.3 Unlawful continuance.***
> Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

STOP WORK IMMEDIATELY, and

If your intent is to gain the structure for which you applied for a Gunnison County Building Permit, received by the Community Development Department on April 29, 2016 (BP-16-00096), supply the information identified in the plan review letter to you, dated May 11, 2016, which includes the following:

1) Verification from your design professional, a Colorado licensed professional engineer or architect, that the structure meets the minimum roof live load of 40 psf and wind load of 90mph, 3 second gusts.

2) Compliance with the *2009 International Energy Conservation Code.*

3) Gunnison County Environmental Health Office approval of an On-site Wastewater Treatment System that meets the minimum requirements of the Gunnison County OWTS Regulations is required. You can obtain a copy of the Gunnison County OWTS Regulations on our website at: http://www.gunnisoncounty.org/350/OWTS-Regulations and the OWTS Application and Information Packet at: http://www.gunnisoncounty.org/409/Application-Forms

4) Written scope of work, completed by you explaining what you have done.

If your intent is to gain the structure different than that for which you applied for a Gunnison County Building Permit, received by the Community Development Department on April 29, 2016 (BP-16-00096), supply the following information:

1) A copy of the warranty deed of your property.

2) Site Plan: Include location and distance from lot lines to existing and proposed structures, and well. Any existing easements and rights-of-way, or utilities, such as water lines, sewer lines, power lines (both overhead or buried) and all proposed utility lines for the new structure. Minimum setbacks in Gunnison County are 15 feet from side and rear lot lines, and 25 feet from front lot line.

3) Floor Plan: Include dimensions and uses of each room, and window and door locations and sizes.

4) Foundation Plan: Include detail of size, height, type and reinforcement used in support of the structure.

5) Framing Plan/Cross Section: Include structural makeup of building, including species and grade of lumber, size, and spacing of rafters, joists, studs, construction materials and thickness of walls and roofs. Trusses (beam carrying heavy loads).

6) Document signed and stamped by a Professional Engineer or Architect, licensed in the State of Colorado, which verifies the structural integrity of this building and the 40 pounds per square foot roof live load and 90mph, 3 second gusts, wind load of the structure. Also verifying that the framing and foundation structure was built according to the requirements outlined in the *2009 International Building Code*, and the

2009 International Residential Code, for a residential structure.

7) Written scope of work, completed by you explaining what you have done.

8) Completed building permit application form (available in our office or online at http://www.gunnisoncounty.org/409/Application-Forms).

9) Gunnison County Environmental Health Office approval of an On-site Wastewater Treatment System that meets the minimum requirements of the Gunnison County OWTS Regulations is required. You can obtain a copy of the Gunnison County OWTS Regulations on our website at: http://www.gunnisoncounty.org/350/OWTS-Regulations and the OWTS Application and Information Packet at: http://www.gunnisoncounty.org/409/Application-Forms

You have until July 8, 2016 to either abate the violation by removing the construction or providing the Gunnison County Community Development Department with all of the above numbered items.

If you have any questions, please contact me at (970) 641-0360.

Best regards,

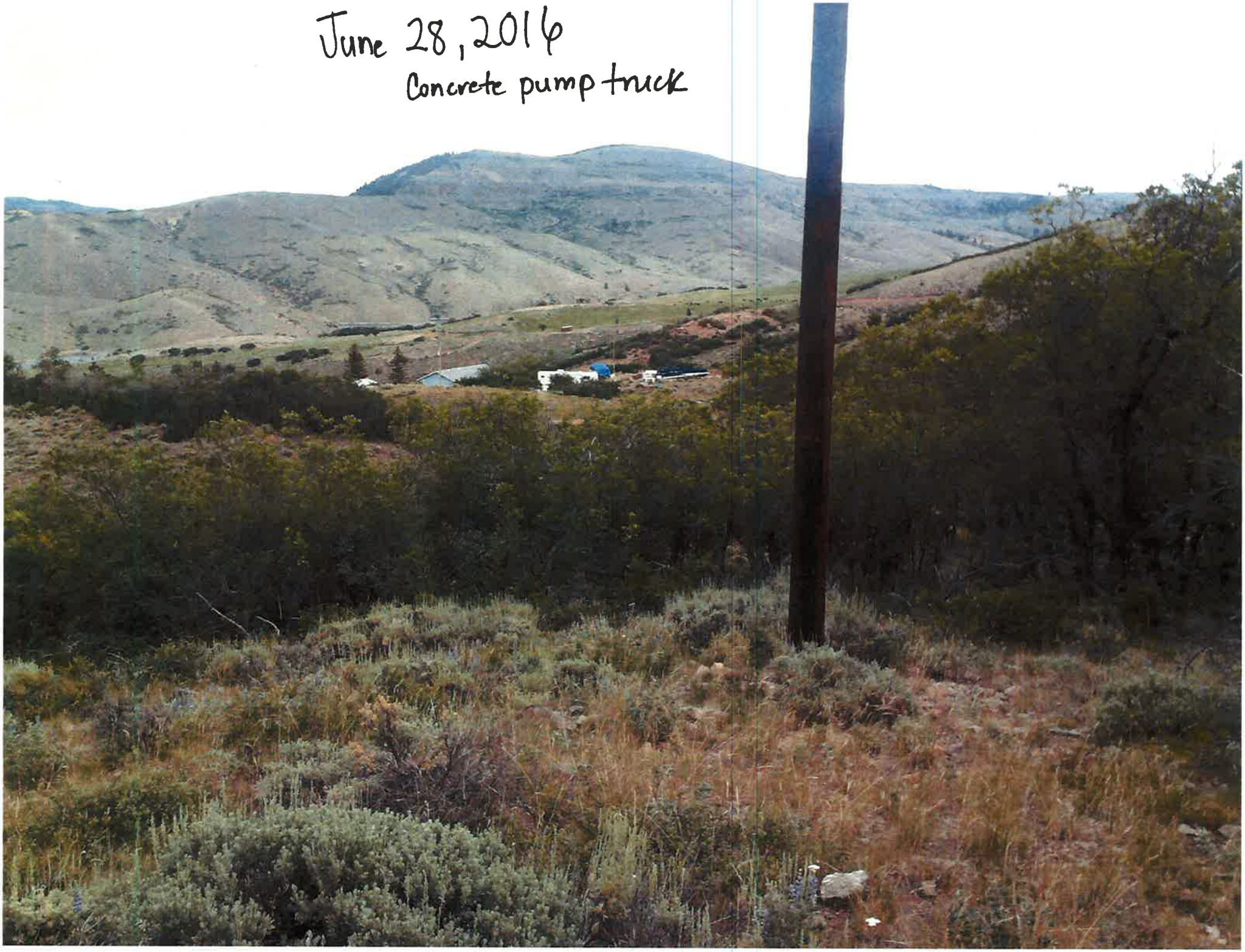
Crystal Lambert

Crystal Lambert
Building and Environmental Health Official
Gunnison County Community Development Department

Cc: Matthew Birnie, County Manager
David Baumgarten, County Attorney
Marlene Crosby, Public Works Director
Russell Forrest, Community Development Director
Neal Starkebaum, Assistant Community Development Director

Encl.

June 28, 2016
Concrete pump truck



July 13, 2016