GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, August 15, 2014

8:45 a.m.

- **Call to order; determine quorum**
- **Approval of Minutes**
- **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.

9:00 a.m. **ITC Resources, LLC**,- **LUC-14-00018**-public hearing/site visit/work session, possible action, request to conduct mineral exploration in southwest Gunnison County. The exploration project will drill nine exploration holes on five drill pads, located on existing surface disturbance at the project site. Total area to be disturbed is approximately .3 acres. Drilling is scheduled for completion this fall.

End of Meeting

- Report of actions taken by BOCC.
- A brief period in which Commission debriefs on the day's processes, etc. No discussion or action on any specific Land Use Change Permit applications will take place at this time.

Adjourn

The Planning Office has each application available for review on the County website. Please use the Permit Database Link-http://gunnisoncounty.org/436/Permit Database. Using the project number, you will be able to view all documents in the application files. Please call the office at 970-641-0360 with any questions.

NOTE: To receive e-mail / mobile device notification of Planning Commission Agendas, etc. Please go to Notify Me on the Gunnison County Web site or use http://gunnisoncounty.org/list.aspx , to sign up for notifications.
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GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
August 15, 2014
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The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Kent Fulton
Vice-Chairman- Jeremy Rubingh
Commissioner- Susan Eskew
Alternate Commissioner-Tom Venard
Alternate Commissioner- Jack Diani

Director of Community Development- Russ Forrest
Assistant Director of Community Development- Neal Starkebaum
Community Development Services Manager- Beth Baker

Others present as listed in text

Absent; Commissioners Warren Wilcox and A.J. Cattles

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With a quorum present Chairman Kent Fulton opened the August 15, 2014, regular meeting of the Gunnison County Planning Commission.

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Moved by; Eskew seconded by Fulton to approve Planning Commission minutes dated August 1, 2014 as submitted. The motion passed unanimously.

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Fulton seated both alternate commissioners Jack Diani and Tom Venard for the duration of the August 15, 2015 Planning Commission meeting.

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ITC RESOURCES,LLC- LUC# 14-00018; The Gunnison County Planning Commission conducted a public hearing, followed by a site visit and work session. They discussed the request to conduct mineral exploration in southwest Gunnison County. The exploration project will drill nine exploration holes on five drill pads, located on existing surface disturbance at the project site. Total area to be disturbed is approximately .3 acres. Drilling is scheduled for completion this fall.

Present representing applicant, ITC Resources LLC: Ken Schaaf

Present representing Gunnison County Community Development staff; Community Development Director, Russ Forrest, Assistant Community Development Director, Neal Starkebaum, and Community Development Services Manager, Beth Baker

Present for the Gunnison County Planning Commission; Commissioners Fulton, Rubingh, Eskew, Diani, and Venard

Both Commissioners Venard and Diani were seated by Chairman Fulton, for this review.

With a quorum present Chairman Kent Fulton opened the public hearing.

Starkebaum noted the public notice was published in the Crested Butte News and the Gunnison Country Times. He explained certified mailings and property posting was not completed pursuant to State statute, confidentiality requirements.

Applicant

Schaaf explained ITC Resources is proposing drilling nine holes off of five sites/pads. They will drill 100 ft. vertical and 145 ft. at an angle.

Schaaf said they will be using three trucks on site; a water truck and two support vehicles. This should result in low noise and site disturbance.

Staff

Starkebaum noted there are specific reclamation requirements for any minor site disturbance that might occur. All cuttings and fluids will be managed and confined to onsite containment. The bore holes will be back filled and capped. There will be no water usage from the site; all water will be trucked to the site. The drilling will be done during daylight hours. The drilling will be completed this fall.

Public Comment

Gunnison Country Times reporter Alan Wartes asked about the containment of wastewater. Schaaf explained there is typically there is very little wastewater; any wastewater will be contained in trucks and taken off site. The water truck has three times the typically needed wastewater capacity. He added they will use portable troughs.

Schaaf also explained the amount of water needed to drill a hole is specific to each hole. He said any mud mixture will dry and then be put back into the bore holes, resulting in very little site disturbance. The holes must be capped before drilling other bore holes.

Starkebaum suggested leaving the public hearing open until the commissioners return from their site visit; they will then place their site visit comments in the public hearing record.

Schaaf said all but one bore hole will be on the road and the remaining hole will be in a previously disturbed area.

Fulton continued the public hearing to until after the site visit today, August 15, 2014, at 11:00 A.M.

Moved by Fulton, seconded by Diani for the Commission to go into executive session for the purpose of conducting a site visit pursuant to Colorado Revised Statutes 24-6-402 (4) (c) and 34-32-113 (3) Prospecting Notice – to review the locational information for the proposed land use change permit application, as identified in CRS 34-32-113 (3). The motion passed unanimously.

The Commission went into executive session at 10:00 a.m. *Executive sessions of the Gunnison County Planning Commission are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

Those present were- Planning Commissioners; Fulton, Rubingh, Eskew, Venard and Diani, County Staff: Director of Community Development Russ Forrest, and Assistant Director of Community Development Neal Starkebaum. Applicants ITC representatives, Kent Schaaf and Trey Shaw.

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A. Chairperson Statement Regarding Executive Session

- Pursuant to C.R.S. 24-6-402(4)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; that I attended all of the above referenced executive session; and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: August 1, 2014

/S/ Kent Fulton, Chairperson
Gunnison County Planning Commission

Fulton asked for the commissioners' site visit comments;

- **Diani -** the site was exactly as expected from Schaaf's description and the application. "It made perfect sense."
- **Eskew-** had been concerned about noise pollution, but noted there was no one around to be disturbed at the site
- **Venard-** was impressed
- **Rubingh**- reiterated Diani's comments and added that two inch bore holes have a minimal impact
- **Fulton-** agreed with Diani and Rubingh and noted there would be minimal impact based on staying on the road

Rubingh noted he had seen Sage-grouse on the way up to the property.

Diani asked when reseeding the disturbed sites would be done. Schaaf explained they have the seed mixture and are ready to reseed immediately following the drilling.

Fulton closed the public hearing at 11:35 A.M.

Fulton opened the work session and the commissioners reviewed the draft decision of approval for LUC-14-00018 ITC Resources LLC application to conduct mineral exploration in southwest Gunnison County.

Moved by; Rubingh seconded by Fulton to approve LUC-14-00018, ITC Resources LLC application to conduct mineral exploration in southwest Gunnison County. The motion passed unanimously.

PROJECT SUMMARY:
The request is for a land use change permit to conduct mineral exploration. The exploration project will drill nine access holes, on five drill sites, located on existing surface disturbance at the project site.
Operational elements include:

- Only one drill site operated at a time.
- All cuttings and fluids will be managed and confined to a containment trough and the core holes backfilled and capped.
- All water will be trucked to the site.
- The drill rig is a rubber tracked vehicle.
- Typically, only a water truck and two support vehicles on site at any time.
- Drilling will be conducted only during daylight hours.
- Total area to be impacted is approximately .3 acres.
- Drilling will be completed this fall.

IMPACT CLASSIFICATION: The application was classified as a Minor Impact Project by Planning staff, pursuant to *Section 6-102: Projects Classified as Minor Impact Projects, O. Small New or Expanded Mining Operation.* A new, or expansion of a mining operation that operates for no more than 180 days per year, produces fewer than 10,000 tons of ore/waste per year and affects no more than two surface acres of land, pursuant to Division 9-400: *Exploration, Extraction and Processing of Minerals and Construction Materials.* The proposed operation will operate less than 180 days per year, produce fewer than 10,000 tons of ore/waste per year, and will not affect more than two surface acres of land. Mining Operation includes exploration.

CONFIDENTIALITY REQUIREMENT:
Pursuant to State law, Colorado Revised Statute 34-32-113 (3) and under the authority of the Colorado Division of Reclamation, Mining and Safety:

> **34-32-113. Prospecting notice - reclamation requirements - rules.** (3) All information provided to the board in a notice of intent to conduct prospecting or a modification of such a notice is a matter of public record subject to the open records act, part 2 of article 72 of title 24, C.R.S., including, in the case of a modification, the original notice of intent; except that information relating to the mineral deposit location, size, or nature and, as determined by the board, other information designated by the operator as proprietary or trade secrets or that would cause substantial harm to the competitive position of the operator shall be protected as confidential information by the board and shall not be a matter of public record in the absence of a written release from the operator or until a finding by the board that reclamation is satisfactory. Such information designated as exempt shall remain confidential until a final determination by the board. The board shall promulgate rules implementing this subsection (3) and shall consider information including the timing of the disclosure of the operator's identity.

Colorado Division of Reclamation, Mining and Safety Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations, Effective September 30, 2010. Rule 5: Prospecting Operations. 5.1.2 Application Requirements. (h) (i):

> Designation of information believed by the applicant to be confidential including information relating to the mineral deposit location, size or nature, and information believed by the applicant to be proprietary or trade secret or that would cause substantial harm to the competitive position of the applicant. The applicant may designate its identity as confidential if the applicant believes that disclosing its identity would cause substantial harm to its competitive position.

The requirements and provisions of Rule 1.3(4)(B) shall apply to any designation as to identity. The applicant shall distinguish in the submittal between those portions of the NOI that are confidential because they relate to mineral deposit location, size or nature and those portions of the NOI the applicant believes are proprietary, trade secret or harmful to its competitive position. Those portions of the NOI that are not designated as confidential will be available as public record.

Section 9-403: Permit Submittal Requirements for Mining Operations. B. DRMS and other Agency Application Contents shall be Accepted. To the maximum extent feasible, information supplied by the applicant within an application submitted to the Colorado Division of Reclamation Mining and Safety (DRMS), and any other state or federal agency, shall be accepted by Gunnison County to meet submittal requirements required by this Section.

The applicant has requested that the information regarding the location of the deposit and any information regarding the deposit be kept confidential. Pursuant to state statute, all information regarding the location of the property, maps of the drilling program or identification of the size or nature of the deposit, etc. shall remain confidential and shall not be released to the public.

SURROUNDING LAND USES:
Private patented mining claims, Bureau of Land Management lands.

PLANS/REPORTS/SUBMITTALS:
Plans, reports, and other submittal documents informing this Decision include, but are not limited to:

- Land Use Change Application, LUC No. 2014-18.

This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

REVIEW AGENCY REFERRAL COMMENTS:
Comments were received from the following agencies:

Gunnison County Wildlife Conservation Coordinator:
Comments from Jim O. Cochran, Gunnison County Wildlife Conservation Coordinator were received in a memo dated July 29, 2014:

> "Because parts of this proposed activity occur within Tier 1 Gunnison Sage-grouse habitat, I consulted with Colorado Parks and Wildlife staff. It was their opinion that an onsite assessment was not necessary for the proposed level of activity, considering existing habitat disturbances. This was in agreement with my assessment.
>
> Based on this analysis, a review of the data available, and the nature of the proposed building envelope change, I find that the proposed activity will not adversely impact Gunnison Sage-grouse or their habitats more than has already occurred. This finding applies only to the proposed activity. Any changes to that activity or new proposed activities must be reviewed on their own merit.
> To avoid and/or minimize the impacts to Gunnison Sage-grouse and their habitats due to the proposed activity, the following conditions will be applied to all permits issued by Gunnison County for activities on this parcel:
>
> 1) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution,* dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.
>
> 2) During the period March 15 to May 15 annually, no exploration activities shall be allowed. This shall include any access to the sites, whether direct exploration is involved or not. No exception for this activity shall be authorized.
>
> 3) Any equipment brought onto the site must be cleaned prior to transport to the site to remove all dirt, plant parts and material that may carry noxious weed seeds onto the property and/or adjacent areas. Noxious weeds shall be those specified as State of Colorado List A, B or C plants. Of particular concern relative to sage-grouse is "cheatgrass", *Bromus tectorum*. Equipment shall be inspected in Gunnison or at a pre-arranged staging area by a representative of Gunnison County.

4) Disturbed areas shall be reseeded with an approved seed mix. CPW and/or NRCS are available to help identify an appropriate seed mix. All reclamation activities, including seed application and final grading must be completed according to NRCS guidance on timing of reclamation plantings at this elevation and latitude.

5) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: http://www.colorado.gov/cs/Satellite?c=Page&cid=1174084048733&pagename=Agriculture-Main/CDAGLayout The Gunnison County Weed Management Program should be contacted (970-641-4393) for additional information and technical assistance.

Additionally, the applicant is advised that the Gunnison Sage-grouse is proposed for listing under the Federal Endangered Species Act (ESA). If the species is listed, the Federal government may require additional mitigation or other actions beyond those found necessary by Gunnison County for activities that may result in "take" of the species, including loss of or impacts to Gunnison Sage-grouse habitat. Gunnison County has not been informed by the Federal government as to whether a separate Federal authorization will be required for this activity if the grouse is listed."

APPLICABLE SECTIONS OF THE *GUNNISON COUNTY LAND USE RESOLUTION:*

Section 11-103: *Development in Areas Subject to Flood Hazards*.
The project area is not within any mapped 100-year flood plains, according to FEMA mapping.

Section 11-104: *Development in Areas Subject to Geologic Hazards*.
The project area is not mapped for geologic hazard areas, according to County mapping. No geologic hazards have been identified or disclosed.

Section 11-105: *Development in Areas Subject to Wildfire Hazards.*
The project is within an area that is mapped as low to moderate for wildfire hazards, according to County mapping.

Section 11-106: *Protection of Wildlife Habitat Areas.*
The project area is within Gunnison Sage-grouse habitat. Comments were received from Jim Cochran, Gunnison County Wildlife Conservation Coordinator, dated July 29, 2014.

Section 11-107: *Protection of Water Quality*.
No drill sites are located within 125 feet of any identified wetland or water body.

Section 11-108: *Standards for Development on Ridgelines.*
Not applicable.

Section 11-109: *Development that Affects Agricultural Lands.*
The project area is not adjacent to agricultural land or within proximity to agricultural lands.

Section 11-110: *Development of Land Beyond Snowplowed Access*.
No snowplowing is contemplated in the application.

Section 11-111: *Development on Inholdings in the National Wilderness.*
The project area is not located on a National Wilderness inholding.

Section 11-112: *Development on Property Above Timberline.*
The project area is not located above timberline.

Section 12-103: *Road System*.
The access is via a developed Burea of Land Management road.

Section 12-107: *Fire Protection*.
The project area is within and will be served by the Gunnison Fire Protection District. The applicant identified that there will

be fire suppression equipment maintained on the drill sites, including but not limited to fire extinguishers.

Section 9-404: Site Location And Setbacks For Mining Operations.

A. Supersedes Locational Standards.

Section 9-404 supersedes locational standards of Section 10-104: *Locational Standards for Commercial, Industrial and Other Non-Residential Development.*

B. Compatibility.

The project is in an undeveloped area. There are no campgrounds, picnic areas, residential areas or other developed sites within the vicinity.

1. C. Use Of Best Management Practices.

2. The applicant will use best management practices in the operations.

D. Setbacks.

l. Setbacks for Mining Operations Other Than Construction Processing Operations. Table 5: Setbacks. (Table)

m. Public Roads. (500')

No sites are within 500' to a public road.

n. Water Body. (500')

No drill pads are within 500' of a water body.

o. Federal Wilderness, National Park (1000')

No wilderness, parks are within 1000' of the use.

p. Dedicated Open Space (1000')

No dedicated open space is within 1000' of the use.

q. Residential Structures (500')

No residential structures are with within 500' of the use.

r. Public and Civic Buildings (1,000')

No public or civic buildings are within 1,000' of the use.

s. Public Cemetery (30')

No Cemeteries are located within 30' of the use.

t. Adjacent Property, Ditch, Road R-O-W (30')

The proposed use meets the 30' setback to adjacent property and there are no ditches.

3. Section 9-405: General Development Standards For Mining Operations.

4. A. Access And Transportation Plan.

The access is via developed BLM roads.

B. Rock Crusher, Asphalt Plant, Cement Batch Plant.

Not applicable.

C. Impacts on Environmental and Cultural Resources.

Surface disturbance will be minimized for the drill pads. The applicant shall report any cultural resource found during operations.

D. Mine Wastes and Hazardous Materials.

No mine wastes or hazardous materials will be generated by the operations.

E. Visual Impacts.

Due to the limited operational time frame, no long-term significant changes to the existing visual impacts of the site are reasonably likely to result.

5.

F. General Operations.

1. Compliance With MSHA.

Not applicable for MSHA. Compliance with OSHA required.

2. Hours Of Operation.

The applicant has noted that the drilling will take place in one shift, from sunrise to sunset.

a. Temporary Operations Outside the Approved Hours of Operations.
Not applicable.

3. **Phasing Of Mining Operations**.
There is no phasing for this operation.

4. **Fire Protection**.
The applicant indicates that they will have on-site fire suppression, including but not limited to fire extinguishers.

5. **Fencing**.
   a. **Safety**.
   No fencing is required.
   b. **Visibility**.
   Not applicable.

6. **Noise.**
   a. **Noise Mitigation Measures**.
   Due to the remote locations, no noise mitigation is required.
   b. **Monitoring**.
   Not applicable.
   c. **Maximum Permissible Noise Levels**.
   The operation is required to comply with the maximum permissible noise levels.
      1. **Warning Devices Exempted**. Devices required by MSHA, or the U.S. Department of Labor, are exempt from this standard.
      2. **Sage Grouse Breeding Area Noise Limits**.
      Exploration activities are not permitted on the site between March 15 and May 15 to avoid disturbance to area Sage-grouse leks.

G. Post-Operational Land Use.

1. **State And Federal Reclamation Requirements**.
Applicable.
6.

2. **County Priorities.**
Not applicable.

3. **Reclamation To Be Completed Pursuant To MLRD Reclamation Plan.**
Applicable, covered by MLRD Division of Reclamation, Mining and Safety.

4. **Revegetation.**
Applicable, as required by the State Division of Reclamation and Mining Safety.

   a. **Three Year Maintenance Required**.
   Not applicable.

Section 9-406: Additional Financial Security.
Not applicable. No blasting is contemplated in the application.

PLANNING COMMISSION MEETING DATES:
The Planning Commission held meetings on the subject project on the following dates:

- August 1, 2014 – Work Session
- August 15, 2014 – Site Visit
- August 15, 2014 – Public Hearing & Work Session

SITE VISIT:
The Commission conducted a site visit on August 15, 2014. The Commission viewed the proposed locations of the drill

pad sites and the surrounding area, and members related that the project description correlated well to the sites they reviewed on the site visit.

PUBLIC HEARING:
The Planning Commission conducted a public hearing on August 15, 2014. At that time Alan Wartes asked about the on-site drilling fluid containment procedures.

All testimony, both written and oral, is hereby incorporated as part of this record of review and evaluation.

FINDINGS:
The Commission finds that:

1. This Permit is limited to activities described within the "Project Summary" of this application, and as depicted in the narrative and on the exhibits and plans as submitted. Expansion or change of this use will require either an application for amendment of this Permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*
•
2. The application is classified as a Minor Impact Project, pursuant to *Section 6-102: Projects Classified as Minor Impact Projects, O. Small New or Expanded Mining Operation* and review of Section 3-111: Classification of Impact. 8034

3. The project site is located within Gunnison Sage-grouse occupied habitat. Comments from Jim O. Cochran, Gunnison County Wildlife Conservation Coordinator, dated July 29, 2014, identify specific mitigation to protect Gunnison Sage-grouse and avoid and/or minimize direct impacts to the grouse and their habitats.

4. The application complies with *Section 9-405: General Development Standards for Mining Operations*. Potential impacts to visual resources and noise generated by the operation are mitigated by the remote location of the drill sites, the temporary timeframe of the exploration project, lack of development in the immediate vicinity and limitations placed on the operations to eliminate or minimize impacts to Sage-grouse and Sage-grouse breeding areas.
•
5. Granting this Land Use Change Permit for this specific land use change does not exempt it from compliance with any applicable Colorado or federal statutory and regulatory requirements. A copy of each applicable permit is required to be submitted to the Community Development Department.
•
6. This review and Decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Department file relative to this application, including all exhibits, references and documents as included therein.
•
7. This Decision is made in reliance on the present and continued existence of all physical features of the property (geological, topographical and vegetative) cited as mitigating a possible conflict with design standards stated in the *Gunnison County Land Use Resolution*.
•
8. Review of this application has considered the impact of this proposed use in the context of cumulative impacts to the environment and the community in the context of its compliance with the *Gunnison County Land Use Resolution*, and all other applicable codes and regulations. Approval of this use is based upon the facts presented and implies no approval of a similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

DECISION:
The Gunnison County Planning Commission has reviewed all of the documentation submitted to the County file, including all exhibits, references and documents included therein. Having reached the above cited Findings, the Planning Commission approves LUC #2014-18, ITC Resources, LLC Exploration Project, as a Minor Impact Project, with the following conditions, and directs that such approval be memorialized by recordation of a Certificate of Minor Impact, with the Office of the Gunnison County Clerk and Recorder:

1. This permit is limited to activities described within the "Project Summary" of this application, and as depicted on the

site plans submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

2. The applicant shall comply with the conditions identified in the memo from Jim O. Cochran, Gunnison County Wildlife Conservation Coordinator, dated July 29, 2014.

3. The applicant shall employ best management practices for erosion and sedimentation control.

4. The applicant shall comply with the applicable standards identified in *Section 9-405: General Development Standards for Mining Operations, Gunnison County Land Use Resolution*.

5. The term of permit for the operations is expressly limited through December 31, 2014.

6. The applicant shall obtain all required State or Federal approvals or permits prior to the commencement of the drilling operation.

7. Granting this Land Use Change Permit for this specific land use change does not exempt the use from compliance with any applicable State or federal statutory and regulatory requirements.

8. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

9. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

10. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

END OF DAY DISCUSSION; The Planning Commission will conduct a regularly scheduled meeting on, September 5, 2104.

Fulton adjourned the meeting at 11:45 A.M.

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/S/ Beth Baker
Community Development Department Services Manager
Gunnison County Community Development Department

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