DAVID LEINSDORF
ATTORNEY AT LAW

P.O. BOX 187, 215 ELK AVENUE
CRESTED BUTTE, CO 81224-0187
EMAIL: david81224@gmail.com

TELEPHONE: (970) 349-6111
FACSIMILE: (970) 349-6243

Hand Delivered

April 22, 2016

Gunnison County Board of County Commissioners
200 East Virginia Avenue
Gunnison, CO 81230

Gunnison County Planning Commission
221 North Wisconsin Street, Suite D
Gunnison, CO 81230

Re: Foxtrot Subdivision
Wastewater Treatment

Dear County Commissioners and Planning Commissioners,

This letter will address the Town of Crested Butte's claim that Foxtrot Subdivision is now required to apply for connection to the Town's wastewater treatment plant. At this time, connection is not required by the Town Code, nor by the March 13, 1996 Intergovernmental Agreement (IGA) purporting to implement the 201 Facilities Plan, nor by the Gunnison County Land Use Resolution. In the interest of brevity, this letter will address some, but not all, of the points supporting the applicant's position.

1. Town Code.

Section 13-1-280, relied upon by the Town, provides that "The owner of any land outside of the Town's boundaries **may** request, in writing, water and/or sewer service for such lands by means of an extension of the Town's systems. . . ." The word "may" is permissive, not mandatory. Applicant has not requested connection to the Town system.

However, even if the Town Code provided that the owner "shall" request connection, Foxtrot would not be required to apply. Foxtrot is not subject to Town jurisdiction because it is not located within the Town of Crested Butte.

2. Intergovernmental Agreement.

The parties to the IGA have never developed the "annexation, utility extension and/or development guidelines or I.S.D.S. District designations for the delineated service areas as well (sic) implement this Intergovernmental Agreement" called for in paragraph 2a. Furthermore, the IGA specifically provides that "based on consultation with the designated service provider, Gunnison County may approve a development in a delineated service area without current connection to the designated service provider."

The IGA also provides, "Participation in this Agreement does not inhibit or preclude any party to it from full exercise of its legal obligations or opportunities regarding either regulatory or other legal review of any proposed development. . . . Each party expressly reserves all rights and opportunities to further review, comment on and participate in, all regulatory permitting or other legal processes regarding such matters."