

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, February 3, 2012

- 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. Seaglass Holding, Inc./Minex Exploration, public hearing/work session/possible action, request to conduct mineral exploration activities in the Powderhorn area to quantify the extent, volume, grade and type of mineralization in the exploration area for rare earth minerals. Drilling is proposed to take place at five locations, with 2-3 holes drilled per site. The exploration activities are located in two separate areas; one area approximately 8.5 miles south of Powderhorn, in the vicinity of Rudolph Hill and one area approximately 6 miles northwest of Powderhorn, west of County Road 26. Rudolph Hill sites: Site No. 1 is located within Section 24, Township 46 North, Range 2 West, N.M.P.M. and Site No. 2 is located within Section 24, Township 46 North, Range 1½ West, N.M.P.M. County Road 26 sites: Sites No. 3, 4 and 5 are located within Sections 4 & 10, Township 47 North, Range 3 West, N.M.P.M. All sites are located on federal lands.

10:00 a.m. Break

10:15 a.m. SG Interests I, Ltd., work session/no action, request to drill the Hughes 11-90-26 gas well, located in northwest Gunnison County, in Section 26, Township 11 South, Range 90 West, 6th P.M., west of Highway 133

Lunch

1:00 p.m. Jacob Schloesser, work session/no action, amended application for a light industrial use – woodworking/milling operation in a detached structure, with outside storage; located at 318 Pine Street, Lot 2, Ragged Meadow, approximately 2 miles west of the Town of Marble

2:15 p.m. Break

2:30 p.m. Irwin Backcountry Guides, work session/no action, possible action/impact classification, request for expansion of the existing commercial use. The applicants seek to expand the existing use to include year-round activities including: ziplines, challenge courses, new mountain bike trails, guided and unguided hiking, snowshoeing and Nordic skiing, fishing, professional training, dinner tours, retreats, a children's play area, and a 1,788 square foot boathouse with boat rentals available to the public. Irwin Backcountry Guides is located 12 miles west of the Town of Crested Butte via Kebler Pass Road (CR 12) on Forest Service Road 826.1c.

- 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

**GUNNISON COUNTY PLANNING COMMISSION
REGULAR MEETING
February 3, 2012

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- Ramon Reed	Director of Community Development- Joanne Williams
Commissioner-Kent Fulton	Assistant Director of Community Development- Neal Starkebaum
Commissioner- Jim Seitz	Community Development Planner-Cathie Pagano
Commissioner-Susan Eskew	Community Development Services Manager-Beth Baker
Alternate Commissioner- AJ Cattles	
Alternate Commissioner-Warren Wilcox	

Others present as listed in text

With a quorum present Chairman Ramon Reed opened the regular meeting of the Commission.

MOVED; by Seitz seconded by Fulton to approve minutes of January 6, 2012 as amended. The motion passed unanimously.

MOVED; by Fulton seconded by Seitz to approve minutes of January 20, 2012 as amended. The motion passed unanimously.

SEAGLASS/ MINEX MINERAL EXPLORATON; The Planning Commission (Commission) conducted a public hearing and following it a work session to discuss the request to conduct mineral exploration activities in the Powderhorn area to quantify the extent, volume, grade and type of mineralization in the exploration area for rare earth minerals. Drilling is proposed to take place at five locations, with 2-3 holes drilled per site. The exploration activities are located in two separate areas; one area approximately 8.5 miles south of Powderhorn, in the vicinity of Rudolph Hill and one area approximately 6 miles northwest of Powderhorn, west of County Road 26. Rudolph Hill sites: Site No. 1 is located within Section 24, Township 46 North, Range 2 West, N.M.P.M. and Site No. 2 is located within Section 24, Township 46 North, Range 1½ West, N.M.P.M. County Road 26 sites: Sites No. 3, 4 and 5 are located within Sections 4 & 10, Township 47 North, Range 3 West, N.M.P.M. All sites are located on federal lands.

With a quorum present Chairman Ramon Reed opened the public hearing.

Community Development Services Manager Beth Baker confirmed public notice; the applicant submitted the certified mailing receipts and the proof of posting, and the Planning Office had the public notice published in the Gunnison Country Times and the Crested Butte News.

Reed identified two letters received by the Planning Office; from the Colorado Parks and Wildlife, and the Loziers.

Seaglass/ Minex representative Greg Schifrin briefly explained the application. He said this is an exploration program which includes several thousand acres of land, to identify locations of rare earth minerals. This area has been identified as one of 31 locations in the United States. The Chinese produce 97% of rare earth minerals; there is a need to identify the supplies in the United States. The land for exploration was acquired in 2011. They have done a detailed geo-chemical analysis sampling; the drill sites were determined based on the results. There will be two sites on Rudolph Hill and the others on Sapinero Mesa.

Schifrin explained the company had received a cease and desist order from Gunnison County; they were not aware the County requires a permit. Drilling was stopped, until County permits are issued.

Staff no comments-

Planning Commission-

Eskew asked how much water is used when drilling; Schifrin replied approximately 1,000 gallons per day.

Eskew asked about sound mitigations and sound panels; Schifrin said they could use sound panels.

Seitz was concerned with lighting.

Public Comments-

Gunnison County resident Butch Clark noted the Commission should consider requiring dust control, water management, and management of the material on the ground, because of the radioactivity. He also recommended using an appropriate reclamation procedure.

Goose Creek resident John Keller was concerned with evening lighting from the drill site. He was also concerned with his ground water and the health of his livestock. He questioned the reclamation and money in escrow for reclamation; Reed explained it is under the purview of the State, not the County. Schifrin explained any drilling done is shallow drilling.

Goose Creek resident Keith Farnsworth reiterated Keller's concerns with radiation, light pollution, and noise pollution. Schifrin agreed directional lighting could be used by the contractors. The drilling will be done 24 hrs. a day, but will be completed in several weeks.

Powderhorn resident Tim Lehmann asked how they were going to access the Rudolph Hill drill sites; Schifrin said they would use the ridge road by the Powderhorn guest ranch. Lehmann asked where they would get their water; Schifrin said they will haul water from the Lake Fork.

Gunnison County resident Perry Anderson said any lighting limitations should consider the government regulations for safety of the workers.

Gunnison County resident Laverne Megee was concerned with the best use of the water; Reed noted the County does not have control because it is in the State's purview.

Gunnison County resident Butch Clark was concerned with lighting at the Sapinero Mesa drilling sites because of low level high speed military flights; Schifrin said the drill rigs are 15 to 20 ft. in height.

Reed closed the public hearing at 9:40 A.M.

Reed opened the work session.

The Commission addressed the letter from Colorado Parks and Wildlife. They reviewed and discussed the recommendations.

The Commission reviewed the draft decision of approval.

Reed seated Wilcox for the vote on the application.

MOVED; by Seitz seconded by Fulton to approve LUC-11-00032 as amended. The motion passed unanimously.

PROJECT SUMMARY:

The request is for a land use change permit to conduct mineral exploration in the Powderhorn area. The purpose of the exploration project is to quantify the extent, volume, grade and type of mineralization in the exploration area for rare earth minerals, to determine if further exploration and/or mining development is warranted. Exploration operations will include surface and subsurface activities including soil sampling, rock sampling stream sediment sampling and geophysical sampling. The focus will be primarily on core drilling in order to develop a more complete 3D model of the subsurface mineralization. Drilling will take place at five locations, with 2-3 holes drilled per site. The drilling program depths will be 200' to 600' at each site. Drill pads will be approximately 20' x 35' with a staging area in the immediate vicinity. The project locations are located entirely on unpatented federal lands. There will be 1-8 persons in the exploration area

depending upon the specific activities being carried out: 1-3 geologists and 1-4 support staff, including geotechs, drillers and equipment operators. There will be only one drill site operated at one time, with one to two shifts per day.

The project area is entirely located on Bureau of Land Management lands and is in the Powderhorn area that contains a substantial number of unpatented mining claims that have been subject to periodic exploration activities.

- a. 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.

LOCATION:

The project area is located in two locations; one approximately 8.5 miles south of Powderhorn in the vicinity of Rudolph Hill, accessed from the County Road 27 network and one approximately 6 miles northwest of Powderhorn, west of County Road 26. The Rudolph Hill sites: Site No. 1 is located within Section 24, Township 46 North, Range 2 West, N.M.P.M., and Site No. 2 is located within Section 24, Township 46 North, Range 1½ West, N.M.P.M. The County Road 26 sites: Sites No. 3, 4 and 5 are located within Sections 4 & 10, Township 47 North, Range 3 West, N.M.P.M.

SURROUNDING LAND USES:

The project area is located entirely on 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. 2011-32, including maps, documents and exhibits.

SUBMITTALS RECEIVED AFTER INITIAL APPLICATION:

- *Notice of Powderhorn Project Exploration Drilling Program, Notice of Intent, No. P-2011-024, Completeness and Approval*, Division of Reclamation, Mining and Safety, G. Russell Means, Environmental Protection Specialist II, dated October 4, 2011.
- Maps of live water, submitted by Minex Exploration, dated January 20, 2012.
- Letter of January 19, 2012, Greg Schifrin, Seaglass Holding Corp., noting cultural resources response, corrected seed mix for reclamation.

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.

BUREAU OF LAND MANAGEMENT COMMENTS:

Brian St. George, Field Manager, Gunnison Office, Bureau of Land Management (BLM), noted at the January 6, 2011 Planning Commission work session that no federal action was required for this exploration activity on federal lands. Additionally, he noted that the subject BLM roads are closed to the public.

REVIEW AGENCY REFERRAL COMMENTS:

Comments were received from the following agencies:

Gunnison County Public Works Department:

Comments from Allen Moores, Public Works Department were received on January 12, 2012:

- "This project will be using CR. 26 to access 3 of the proposed sites, and C.R. 27 to access the other 2 sites. Impacts to either County Road will be minimal. It should be noted that there is no winter maintenance on CR 26. If winter access is to be considered, the applicant should contact our office, to apply for the required permits.*
- This proposal will be using existing BLM roads and we would see no need for improvements, especially in the Sapinero Mesa area where Sage Grouse is an issue.*

c. *No parking or unloading of equipment will be allowed on the County Roads.*"

Gunnison County Wildlife Conservation Coordinator:

Comments from Jim O. Cochran, Gunnison County Wildlife Conservation Coordinator were received in a memo dated January 12, 2012. He notes:

"The applicant submitted a Gunnison Sage-grouse Pre-application Conference Request for exploration drilling on mining claims located in the Rudolph Hill and Goose Creek (Sapinero Mesa) areas. The Rudolph Hill locations are not within mapped Gunnison Sage-grouse habitat.

The proposed activity is not within 0.6 miles of a Gunnison Sage-grouse lek. It is within mapped Gunnison Sage-grouse Occupied Habitat. An onsite assessment was conducted on January 4, 2012.

Three drill sites, located generally west of County Road 26 on Sapinero Mesa, are proposed. The southerly site has been disturbed, with drilling activity having been completed. We were notified by the Bureau of Land Management (BLM) that the applicant has complied with all Federal requirements. No NEPA review was required. I consulted with BLM Gunnison Field Office Manager Brian St. George and BLM Geologist Dave Lazorchak on my recommended permit conditions and Gunnison Sage-grouse issues.

There are four Gunnison Sage-grouse leks located approximately one mile north of the proposed drill sites. Mr. Martin indicated that grouse have been observed during lekking season distributed in a manner that indicates the leks are part of a "lek complex" that may not be completely mapped. The sage-grouse habitat in the area of the drill sites is in apparent good condition with minimal fragmentation, largely caused by two track roads. Habitats observed included mating (spring), nesting, late summer/fall, and winter. In short, this area is excellent Gunnison Sage-grouse habitat that is used by the bird. The area also provides important habitat for other wildlife species including elk and deer. This is one of the areas that provided critical winter range for these species during the extreme snow winter of 2007-2008, and likely helped prevent an even larger mortality of grouse, elk and deer.

The disturbed site, labeled as Drill Site #5 on the site map submitted, was approximately ½ acre in size. It was stripped of vegetation, including sagebrush. A reclamation pond, which had been observed by County staff in November, had been filled in. Hydrocarbon (oil) contamination was evident on the site. A small amount of trash, which appeared to be remnants of oil sorbent pads, was noted. Drill mud and/or concrete were evident. A dozer had pushed topsoil out into the sagebrush.

The two-track road into the site, from CR 26, was heavily compacted by equipment and vehicle travel. Fragmentation of habitat is a concern and, in this case, would best be addressed through compensatory mitigation. Because of the issues associated with the County requiring surface disturbing activities associated with that type of reclamation on Federal lands, I have not recommended that the County pursue that mitigation.

No evidence of reclamation efforts, such as seeding or scarifying, was evident, beyond filling and leveling. Drill sites #4 and #5 are located on windblown knobs with minimal soil cover and sparse black sagebrush as the primary plant type. Drill site #3 appears to be located in a depression with slightly more soil depth. Mr. Lazorchak noted that the site is actually located on the two-track road. Drill sites #3 and #4 did not appear to be disturbed and were located using the coordinates provided by the applicant. Access to drill sites #4 and #5 was by "closed" two-track road (BLM Travel Management Plan, 2010). Access to drill site #3 was by "open" two-track road. No barriers or signage indicating road status was noted.

Conservation measures for Gunnison Sage-grouse should be implemented to avoid and/or minimize direct impacts to grouse and their habitats. Because the project is on Federal lands, I have limited my recommendations to non-surface disturbing activities with the exception of the area already disturbed by the proponent. I recommend that the following conditions be applied to any permits/authorizations approved by Gunnison County for this project:

To avoid direct impacts to Gunnison Sage-grouse:

1. 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. County Road 26 is closed to motorized access during this period. No exception for this activity shall be authorized.

2. 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.

To avoid/minimize impacts to Gunnison Sage-grouse habitat:

1. 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 a pre-arranged staging area by a representative of Gunnison County.

2. All disturbed areas shall be reclaimed by grading, scarifying and reseeding. The seed mix shall be approved by the Gunnison Field Office of the Bureau of Land Management. (the mix proposed by the applicant in the Land Use Change application submitted to Gunnison County is not acceptable) Proof of approval, and final seed mix formula shall be provided to the Gunnison County Department of Community Development prior to application. Any mulch used shall be State of Colorado certified as weed-free. All piles of dirt, rock and/or plant material shall be raked out prior to seeding. No contaminated areas (hydrocarbons or other) that will prevent growth of desirable plants are allowed."

Colorado Parks and Wildlife:

Comments were received from J Wenum, Area Wildlife Manager, CP&W, letter of January 27, 2012, noting:

"Colorado Parks and Wildlife (CPW) appreciates the opportunity to review and comment on the Land Use Change Permit Application for the Seaglass Holding Inc./Minex proposed exploration drilling project for rare earth elements. Our comments and recommendations below are specific to the information provided in the Land Use Change Permit Application attached to the company's submittal letter dated November 22, 2011. We believe that our recommendations will assist Gunnison County with their efforts to address possible impacts to wildlife resources from the proposed development.

The general project area provides quality habitat for Gunnison sage-grouse, bighorn sheep, black bear, mule deer, elk, moose, and a variety of additional game and non-game wildlife resources. Minimizing human activity, vehicle traffic, surface disturbance from project-related activities, and reclaiming disturbed habitats as quickly as possible will minimize impacts to these species.

CPW recommends that the County consider requiring the applicant to implement the following general operating practices and Best Management Practices (BMPs) to reduce surface disturbance and additional habitat fragmentation from this project to enhance reclamation efforts and to minimize impacts to wildlife resources:

- 1) Thoroughly clean equipment prior to transporting to the site to remove all dirt, plant parts and material that may carry noxious weeds and other undesirable species onto the property or adjacent areas;
- 2) To enhance reclamation success, particularly for sagebrush and other shrubs, mow or brushhog vegetation where possible, leaving root structure intact, instead of scraping the surface and compacting the soil;
- 3) Where striping of vegetation is necessary, strip and segregate topsoil prior to construction. Store topsoil in windrows no higher than 5 feet. Immediately seed or implement other measures to control erosion, prevent weed establishment, and maintain soil microbial activity;
- 4) Reclaim disturbed or compacted areas (including access roads) by removing all non- native materials, scarifying (ripping) the surface, replacing the segregated topsoil, and reseeding. Place topsoil manually in drill holes if necessary;
- 5) Use only State of Colorado certified weed-free sources of seed and mulch during reclamation, and indigenous seed sources if possible;

- 6) *Establish reclamation success criteria for disturbed sites that must be achieved prior to any reclamation bond release or determination of final reclaimed status. Success criteria for this area should specify a shrub and forb component that must be achieved in reclaimed areas and specify that reclaimed areas must be weed free;*
- 7) *Reclaim and permanently close the access roads used for this exploratory project by placing physical barriers if needed to prevent public access;*
- 8) *During operations, confine vehicle activity to designated routes;*
- 9) *Use water tanks and/or closed-loop drilling operations rather than earthen pits or sumps to reduce ground disturbance and the potential for wildlife to access contaminants in drill cuttings and pit water. Remove drilling waste material from the site for disposal;*
- 10) *Initiate a food and waste/refuse management program during operations that uses bear-proof food storage containers and trash receptacles; and*
- 11) *Avoid bringing dogs, cats, and other domestic pets into this area.*

Both the Rudolph Hill drill sites (#1 and #2) and Sapinero Mesa drill sites (#3, #4, and #5) are located within critical winter range for mule deer and winter concentration areas and severe winter range for elk. The Rudolph Hill area contains some of the best winter range for big game in the southern half of the Gunnison Basin, and also provides a significant migratory corridor for mule deer and elk. Year-round development activities and habitat loss in this area have the potential to exasperate game damage issues in the Powderhorn Valley. Due to the importance of crucial winter habitats and migratory corridors for big game in the area, we recommend that the following seasonal timing limitation on development activities be applied to both the Rudolph Hill and Sapinero Mesa proposed drill sites:

- 12) *To avoid impacts to wintering big game, avoid surveying, exploration, drilling, and other project-related development activities from December 1 to April 15 each year.*

The Sapinero Mesa drill sites (#3, #4, and #5) are located within occupied Gunnison sage-grouse habitat and in an area that provides excellent nesting, brood-rearing, summer, fall, and winter habitat for this species. The nearest active Gunnison sage-grouse lek site is less than 1.0 mile from the closest drill site. Due to the pending United States Fish and Wildlife Service (USFWS) listing decision on Gunnison sage-grouse, and the sensitivity of this species to disturbance, we recommend that the following additional seasonal timing limitation on development activities and noise limitations be applied to the Sapinero Mesa proposed drill sites:

- 13) *To avoid impacts to Gunnison sage-grouse breeding activities, avoid surveying, exploration, drilling and other project-related development activities from March 15 to May 15 each year. Observe the existing closure on County Rd 26 to motorized access during this period; and*
- 14) *Sage grouse have been shown to be particularly sensitive to noise, including road noise during leking and nesting periods. Limit operational noise (including road noise) to a maximum of 49 dB(A) measured 30 feet from the source from the period March 1 to June 30 each year.*

Please accept these recommendations in the collaborative spirit intended to assist your efforts to reduce impacts to wildlife resources in the area proposed for exploratory drilling. CPW is concerned that the general operating practices and BMPs outlined above will not be sufficient to address the impacts to wildlife resources if full scale mining of this area proceeds. We look forward to continuing to work with you and your staff to reduce potential impacts to wildlife as this project moves forward."

A referral was sent to Dennis Spritzer, Fire Marshall, Gunnison County Fire Protection District; no comments were received.

Gunnison County Emergency Management:

A referral was sent to Scott Morrill, Gunnison County Fire Emergency Management; no comments were received.

Montrose Interagency Fire Dispatch:

Comments were received from Amy Stephens, Assistant Center Manager, email of January 19, 2012, noting:

"I received a call this afternoon from Jackie with Minex. She asked that I send an email to confirm, with you, that she had contacted us. She actually called last year as well. I have the Lat & Long locations in Goose Creek and Rudolph Hill. We have a map of those locations on our wall in dispatch for reference."

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 area containing the drill pads is within an area that is not mapped for wildfire hazards, according to County mapping. Comments were received from Amy Stephens, Assistant Center Manager, Montrose Interagency Fire Dispatch, email of January 19, 2012.

Section 11-106: *Protection of Wildlife Habitat Areas.*

The project areas is within Gunnison Sage-grouse habitat, critical winter range for mule deer and winter concentration areas and severe winter range for elk. According to the Colorado Parks and Wildlife, the Rudolph Hill area contains some of the best winter range for big game in the southern half of the Gunnison Basin, and also provides a significant migratory corridor for mule deer and elk. Comments were received from Jim Cochran, Gunnison County Wildlife Conservation Coordinator, dated January 12, 2012. Comments were also received from J Wenum, Area Wildlife Manager, CP&W, letter of January 27, 2012.

Section 11-107: *Protection of Water Quality.*

No drill pads 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 to the Sapinero Mesa project area is via County Road 26 (Sapinero Mesa – Lake City Cut-Off Road) and two track Bureau of Land Management roads, which, according to Brian St. George, Field Manager, Gunnison BLM Field Office, and in accordance with the 2010 Bureau of Land Management Travel Management Plan, are closed to the public.

The access to the Rudolph Hill project area is via County Road 27 (Powderhorn Road) and Bureau of Land Management Road 3045 (Beaver Creek Road). Heavy equipment associated with the exploration operation will be transported using standard vehicular haulage.

Potential impacts to County roads have been reviewed by the the County Public Works Department. Comments were received from Allen Moores, Public Works, dated January 12, 2012.

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 pads, 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 areas are in undeveloped areas on Bureau of Land Management lands. There are no campgrounds, picnic areas, residential areas or other developed sites within the vicinity.

C. Use Of Best Management Practices.

The applicant will use best management practices in the operations.

D. Setbacks.

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

m. Public Roads. (500')

The subject roads are closed to the public. 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.

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

A. Access And Transportation Plan.

The access to the Sapinero Mesa project area is via County Road 26 (Sapinero Mesa – Lake City Cut-Off Road) and Bureau of Land Management roads.

The access to the Rudolph Hill project area is via County Road 27 (Powderhorn Road) and Bureau of Land Management Road 3045 (Beaver Creek Road) Heavy equipment associated with the exploration operation will be transported using standard vehicular haulage.

Potential impacts to County roads have been reviewed by the the County Public Works Department. Comments were received from Allen Moores, Public Works, dated January 12, 2012.

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 has agreed to 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.

The project areas are visible to surrounding roads. No residences or other residential uses are located in the immediate area. 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.

F. General Operations.

1. Compliance With MSHA.

Not applicable for MSHA. Compliance with OSHA required.

2. Hours Of Operation.

The applicant has requested that the operation operate 24 hours/day, in two 12-hour shifts.

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 or access to the Sapinero Mesa sites is not permitted on the Sapinero Mesa sites 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.

2. County Priorities.

Not applicable.

3. Reclamation To Be Completed Pursuant To MLRD Reclamation Plan.

Not applicable, covered by 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:

- January 11, 2012 – Work Session
- January 11, 2012 – Site Visit
- January 20, 2012 – Work Session
- February 3, 2012 – Public Hearing & Work Session

SITE VISIT:

The Commission conducted a site visit on January 11, 2012. The Commission viewed the proposed locations of the drill pad sites and the surrounding areas, and notes that the sites are very remote.

PUBLIC HEARING:

The Planning Commission conducted a public hearing on February 3, 2012, at that time several area residents addressed the Commission:

Butch Clark noted the Commission should consider material handling and monitoring of radiation.

John Keller, Goose Creek resident, noted concerns with lighting from the drilling operations.

Keith Farnsworth – Goose Creek resident, concerns with radiation, light and noise pollution.

Perry Anderson noted that when considering the limitation on the lighting, the County should cross check the MSHA regulations for safety of the workers.

Laverne McGee had a question on the use of water for the drilling operations – best use of the water.

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 Sapinero Mesa drill sites are located within Gunnison Sage-grouse occupied habitat. Comments from Jim O. Cochran, Gunnison County Wildlife Conservation Coordinator, dated January 12, 2012, identify specific mitigation to protect Gunnison Sage-grouse and avoid and/or minimize direct impacts to the grouse and their habitats.
4. The Sapinero Mesa and Rudolph Hill drill sites are located within critical winter range for mule deer and winter concentration areas and severe winter range for elk. Comments from J Wenum, Area Wildlife Manager, CP&W, letter of January 27, 2012, identify specific mitigation to protect critical winter range for mule deer and winter concentration areas and severe winter range for elk and avoid and/or minimize direct impacts to mule deer and elk.
5. 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 locations of the drill sites, 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.
6. The Planning Commission hereby finds that extending the hours of operation to allow 24 hour/day activity, to permit continuous drilling at the sites, until completion of the operation, and further finds that there will be no significant net adverse impacts on human activity, surrounding properties or the community in general, based upon the remote locations of the drill sites.
7. Comments from Allen Moores, Public Works Department, dated January 12, 2012, note that there is no County winter maintenance on County Road 26.
8. Area residents have noted concerns with the night lighting of the drilling operations.
9. The applicant has identified that the drill cuttings and drill material may contain elevated levels of radiation. The Planning Commission therefore finds that it is in the interests of the public and environment for the applicant to provide for radiation testing of the drill cuttings and materials and to provide the results to the County.
10. 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.
11. 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.
12. 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*.
13. 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 #2011-32, Seaglass Holding Corporation – Minex Exploration, Powderhorn

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 any seasonal closures of County Road 26 (Sapinero Mesa)
3. No parking or unloading of any equipment is allowed on County roads.
4. This approval allows for continuous 24-hours/day operations.
5. All site lighting shall be downward directed to minimize off-site impacts.
6. The applicant shall provide radiation testing of the drill cuttings and materials and provide the results to the Community Development Department, including results of the material testing and ambient background radiation, within 30 calendar days of extraction of the drilling material from each site.
7. During the period March 15 to May 15 annually, no exploration activities shall be allowed on the Sapinero Mesa sites. This shall include any access to the sites, whether direct exploration is involved or not. County Road 26 is closed to motorized access during this period. No exception for this activity shall be authorized.
8. 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.
9. Any equipment brought onto the sites 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. Equipment shall be inspected in Gunnison or a pre-arranged staging area by a representative of the Gunnison County Public Works Department.
10. The seed mix used for reclamation shall be approved by the Gunnison Field Office of the Bureau of Land Management. Proof of approval, and final seed mix formula shall be provided to the Gunnison County Department of Community Development prior to commencement of drilling operations. Any mulch used shall be State of Colorado certified as weed-free. All piles of dirt, rock and/or plant material shall be raked out prior to seeding. No contaminated areas (hydrocarbons or other) that will prevent growth of desirable plants are allowed.
11. The applicant shall comply with the following recommendations from the Colorado Parks and Wildlife, as identified in the letter from J Wenum, Area Wildlife Manager, dated January 27, 2012:
 1. Thoroughly clean equipment prior to transporting to the site to remove all dirt, plant parts and material that may carry noxious weeds and other undesirable species onto the property or adjacent areas;
 2. To enhance reclamation success, particularly for sagebrush and other shrubs, mow or brushhog vegetation where possible, leaving root structure intact, instead of scraping the surface and compacting the soil;
 3. Where striping of vegetation is necessary, strip and segregate topsoil prior to construction. Store topsoil in windrows no higher than 5 feet. Immediately seed or implement other measures to control erosion, prevent weed establishment, and maintain soil microbial activity;

4. Reclaim disturbed or compacted areas (including access roads) by removing all non- native materials, scarifying (ripping) the surface, replacing the segregated topsoil, and reseeding. Place topsoil manually in drill holes if necessary;
 5. Use only State of Colorado certified weed-free sources of seed and mulch during reclamation, and indigenous seed sources if possible;
 6. During operations, confine vehicle activity to designated routes;
 7. Initiate a food and waste/refuse management program during operations that uses bear-proof food storage containers and trash receptacles;
 8. To avoid impacts to wintering big game, avoid surveying, exploration, drilling, and other project-related development activities from December 1 to April 15 each year.
 9. To avoid impacts to Gunnison sage-grouse breeding activities, avoid surveying, exploration, drilling and other project-related development activities from March 15 to May 15 each year. Observe the existing closure on County Rd 26 to motorized access during this period;
 10. Sage grouse have been shown to be particularly sensitive to noise, including road noise during leking and nesting periods. Limit operational noise (including road noise) to a maximum of 49 dB(A) measured 30 feet from the source from the period March 1 to June 30 each year.
12. The applicant shall employ best management practices for erosion and sedimentation control.
 13. The applicant shall comply with the applicable standards identified in *Section 9-405: General Development Standards for Mining Operations, Gunnison County Land Use Resolution*.
 14. The term of permit for the operations is expressly limited to December 31, 2012.
 15. 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.
 16. 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.
 17. 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.
 18. 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.

SG INTERESTS- HUGHES 11-90-26; The Planning Commission (Commission) conducted a work session to discuss the request to drill the Hughes 11-90-26 gas well, located in northwest Gunnison County, in Section 26, Township 11 South, Range 90 West, 6th P.M., west of Highway 133

With a quorum present Chairman Ramon Reed opened the work session.

SG Interests representatives Catherine Dickert and Eric Sanford were present for the discussion of the application.

Dickert explained this is for the Hughes pad; up to five gas wells would be drilled on the pad. None of the five would be water disposal wells; there will be both CBM and horizontal wells. The first well head will be 11-90-26 #2. Dickert said included in the application are references to all five wells. It also includes the pipeline and the road. The traffic impacts

took into consideration a mobilization for each of the five wells. Starkebaum noted the one year completion timeline could be a problem with five wells; could need an official request to extend the time period.

Dickert said the application includes a request for a technical infeasibility waiver. There is an existing road, the culverts will be replaced, and the road will be improved.

Starkebaum asked about the placement of the pad in reference to the wetlands- could it be moved to the south; Sanford replied that they have placed the pad where the applicant chose. There will be an onsite visit conducted.

Wilcox suggested requiring an as built; Sanford responded that it is specifically regulated by the COGCC. It is a down hole permit and in the purview of the COGCC. They do submit an as drilled to the COGCC.

Reed requested copies of the State forms 2 and 2A for each well.

Sanford noted the flowback pits number three and four have been constructed and could be used.

Reed asked for something to show the nearest domestic water well; Dickert said it is approximately two miles away. The ranch house has a cistern/ spring box but not a well. The applicants will provide documentation describing the location of the nearest water well.

Reed asked if the County local designee had been on site or provided comments; Starkebaum said comments have been requested and a site visit will take place.

The commissioners briefly discussed a site visit; they determined they will depend on the information from the County local designee Alan Moores, and his observations from his site visit.

Reed asked about traffic volume; Dickert noted the application addresses the traffic and the different times of year, and operations.

The Commission requested the following information;

- Allen Moores site visit comments
- Domestic well locations
- Traffic numbers to consider the worst case scenario, during completion
- Report from the local designee
- Copies of the COGCC applications
- Actual mineral ownership within a mile

The next work session will be February 17, 2012, and the public hearing will be conducted in March.

JACOB SCHLOESSER- WOODWORKING/ MILLING OPERATION; The Planning Commission (Commission) conducted a work session to discuss the amended application for a light industrial use – woodworking/milling operation in a detached structure, with outside storage; located at 318 Pine Street, Lot 2, Ragged Meadow, approximately 2 miles west of the Town of Marble.

With a quorum present Chairman Ramon Reed opened the work session.

The Planning Commission had directed staff to prepare a decision of denial; based upon noncompatibility with the neighborhood on, June, 3, 2011. The applicant subsequently submitted an amended application on November 30, 2011. The concerned citizens of Marble were notified of the amended application December 27, 2011.

Attorney representing Jake Schloesser Melinda Beck said the business is a wood fabrication business. She showed a photo from the north side looking down on the yard.

Beck explained the application's compliance with *Gunnison County Land Use Resolution (LUR) Article Nine;*

- 9-301E.1 –The existing building is 2,100 sq ft and is built of superior quality construction

- 9-302E.2- All operations of the company are contained with the existing building, except for outdoor storage which is permitted by 9-310E.10.
- 9-301E.3- Sound: the noise analysis shows that operations do not exceed County standards and are equivalent to the sound produced by two neighbors talking. Air quality: the company operates a wood-fired boiler permitted at the time of installation in 2005, but has taken steps to minimize its use including increased insulation in the building and insuring that wood used does not contain glue or paint. Water Quality: The company operates with a dust collection system to prevent by-products from entering the water system.
- 9-301E.4- Traffic- Deliveries to and from the site averages three times per month. Independent contractors hired by the company visit the site infrequently because most work occurs at client locations. Client visits are rare and occur only a few times per year.
- 9-301E.5- Hours of operation should be restricted. The company operates on the site between 8 am and 6 pm.
- 9-301E.6- Retail sales shall be incidental to permitted use. The company does not operate a retail store, although an occasional neighbor will purchase a piece of wood or character piece directly from the company.
- 9-301E.7- Visual impacts must be mitigated
- 9-301E.9- Parking shall be indoors or screened for light industrial vehicles.
- 9-301E.10- Outside storage is permitted but must be screened from view
- 9-301E.7, 9 and 10 were all addressed with a drawing of the site.

Wilcox noted the applicant had responded to the mitigation requests concerning noise, that were not addressed prior to this amended application.

Seitz questioned the difference in the noise level 25 ft. from the property line as opposed to noise “not leaving the property.” Starkebaum explained the light industrial noise considerations- shall not produce offensive noise beyond the boundaries of the parcel. Reed asked if Schloesser was present during noise testing; Schloesser said the testing was done with equipment running while in the building, and the equipment running and wood being cut from outside the building.

Reed asked when the mitigation measures would be done- the insulation of the building and the gate. Schloesser said the fencing, the gate to be done within 90 days of approval. Landscaping timing will be influenced by the weather. The insulation completion was taken out, but if needed it could be added back into the proposed mitigation. The commissioners agreed it should be included as part of the total mitigation.

Eskew asked if this is a residential area; Reed yes.

Seitz was concerned with the berms and the trees and interfering with the power line; Schloesser said things could be moved and adjusted to the Rural Electric Association guidelines.

Reed asked about the sound buffer zone around the berms. Schloesser said the closest neighbor is outside the sound buffer-zone. Reed suggested extending the buffer- zone to the bottom of the one acre property. Schloesser said it is a natural berm that could be enhanced along the Provost property.

Reed explained the Commission had directed staff to prepare a decision of denial; based upon noncompatibility with the neighborhood on, June, 3, 2011. The applicant subsequently submitted an amended application on November 30, 2011.

Reed said the Commission could direct staff to continue with denial, or recommend an approval, or note the need for more information including another site visit. The Commission agreed to conduct another site visit.

Fulton requested that the County Attorney be present at the next meeting for a discussion.

Joyce Preston said the project is still not in compliance with the LUR. The new members of the Commission should become familiar with the site. The commissioners requested an additional site visit.

Neighbor to the south of the business Ron Provost said no one had been on his property to take sound readings. The sound testing is incorrect.

Marble resident Susan Weber did not understand how the business can continue when it is not permitted; Reed explained the Commission is not a part of the County Enforcement Team.

Marble resident Joyce Preston asked why the County Enforcement team had allowed this business to operate without a permit. Director of Community Development Joanne Williams said the Enforcement Team allowed the business to operate during this process, until the application went through review and was approved or denied. Williams agreed this has not been a reasonable amount of time.

Marble resident Jim Cunningham said lives have been put on hold; it is not fair to put this on hold any longer.

Weber said nothing has changed; it is still not compatible with the neighborhood.

Following a discussion, the Commission decided to not conduct a third public hearing. They noted the application had not changed, the mitigation measures had. The public will be allowed to submit written comments to the Commission.

IRWIN BACKCOUNTRY GUIDES (IBG); The Planning Commission (Commission) conducted a work session to discuss impact classification, and the request for expansion of the existing commercial use. The applicants seek to expand the existing use to include year-round activities including: ziplines, challenge courses, new mountain bike trails, guided and unguided hiking, snowshoeing and Nordic skiing, fishing, professional training, dinner tours, retreats, a children's play area, and a 1,788 square foot boathouse with boat rentals available to the public. Irwin Backcountry Guides is located 12 miles west of the Town of Crested Butte via Kebler Pass Road (CR 12) on Forest Service Road 826.1c.

With a quorum present Chairman Ramon Reed opened the work session.

Alan Bernholtz , attorney David Leinsdorf, engineer Bob Williams, and architect Bill Coburn were present to represent the applicant.

Reed noted this is the first work session for this new application.

Bernholz explained they are now applying to use this property year round, with canopy tours, fishing, bike tours, hiking, snow shoeing. They would use the lake with canoes, paddle boards, kayaks, etc. He pointed out this would provide some year round employment. He said the application had identified a maximum number of people, but that number is not at maximum every day. All those activities will not be going on at the same time in one day.

Leinsdorf said they will be amending the application to reflect the actual uses. The numbers will be amended and will go down.

Planner Cathy Pagano noted the comments from the referral agencies were not due and were not all in yet.

Reed explained this application is a major impact by definition; expansion of existing uses in sequential projects. The applicants have requested it be downgraded to a minor impact.

Leinsdorf said requesting a reduction of impact classification to minor impact does not preclude any of the examination of the application. Reduction of the impact can reduce the amount of time it takes to complete a County review.

Reed said the timing of a site visit will depend on the weather.

Bernholtz said the additional impacts will be minor; we are not going into a pristine area. The area is overrun with activity; it is a summer and winter recreational area.

Reed asked if there is a perpetual easement; Bernholtz said it is a reciprocal easement with no time limit.

Reed was concerned with a possible increase in the injury rate, and an increased demand on emergency services Bernholtz did not think that it would increase the demand on the emergency resources. They have rescue equipment on site. They are trained wilderness first responders.

Public Works representative Allen Moores said they will be inspecting the road in the spring. He said an operation and maintenance agreement should be considered.

Leinsdorf said there would be less than one acre of ground disturbance; Reed pointed out the use of the trail does not just disturb that small area, there is impact to wildlife, etc.

Environmental Health official Richard Stenson explained the current ISDS permit is for the lodge, not the movie cabin.

Property owner in Irwin Jonathon Ocbach said the proposed boat house is almost 1,800 sq ft. and very close to the lake. It could have a large impact. He was concerned with the cumulative impacts, not just this proposal.

Bernholtz said the zip line will be coated to reduce the noise. They are not planning any roads. The boat storage is a club house, to only store boats. The boat house is 250 ft. from the water.

Leinsdorf and engineer Williams both disagreed with Stenson's calculations of water needed. Stenson stated 15 gallons per person per day is in the guidelines for day use camp facilities. It is in the State and the County guidelines; he is bound to use the number. Williams said the figure for day camps includes showers, etc.; Environmental Health has historically used actual data.

Leinsdorf said they would be submitting an amended application, to address the major/ minor impact classification.

The Commission decided to put off determining the impact classification until the referral comments have come in, and the applicants have submitted the amended application.

Reed adjourned the meeting at 4:55 P.M.

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