

AGENDA
TOWN OF HUDSON - BOARD OF TRUSTEES
REGULAR MEETING
October 21, 2015 - 6:00 P.M.
WORK SESSION – 5:15 P.M.

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

ADDITIONS TO AGENDA

CITIZEN'S COMMENTS

1) CONSENT AGENDA

(Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes – Regular Meeting, October 7, 2015
- b. Payment of Bills

2) PUBLIC HEARINGS

- a. Case No. 15-09 USR, Kerr McGee Oil & Gas West Pad Site
- b. Case No. 15-10 USR, Kerr McGee Oil & Gas East Pad Site

3) GENERAL BUSINESS

- a. Case No. 15-09 USR, Kerr McGee Oil & Gas Onshore LP, Use by Special Review, CC Open A 1 West Pad.
- b. Case No. 15-10 USR, Kerr McGee Oil & Gas Onshore LP, Use by Special Review, CC Open A 2 East Pad.
- c. Hudson Lockers, Patio and Gazebo, Site Plan, Case No. 15-11 SP
- d. Ordinance No. 15-14, First Reading, United Power Franchise renewal

4) STAFF REPORTS

5) ADJOURNMENT

WORK SESSION (To be held from 5:15 to 5:45 p.m. and continued following the regular meeting)

Interviews - Water Resources Engineering Services

MINUTES
TOWN OF HUDSON - BOARD OF TRUSTEES
REGULAR MEETING
October 7, 2015 - 6:00 P.M.

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

Mayor Patch called the meeting to order at 6:00 p.m.

ROLL CALL

Mayor, Raymond Patch - Present
Trustee, Matt Cole – Absent
Trustee, Laura Hargis – Present
Trustee, Christine Hamilton – Present
Trustee, Julia Stell – Present
Trustee, Terri Davis – Absent
Trustee, Maria Chavez - Present

Town Clerk/Treasurer Pro-Tem, Becky Utecht took roll call, and a quorum of the Mayor Pro-Tem and (4) Trustees were present.

Town Staff Present:

Town Administrator – Joe Racine
Town Attorney – Corey Hoffmann
Town Clerk/Treasurer Pro-Tem – Becky Utecht
Public Safety Director – Brent Flot
Economic Development Director – Dan Hamsmith
Public Works Director – Ron Allen
Utility Director – Hunter Fobare

ADDITIONS TO AGENDA

CITIZEN'S COMMENTS

Terri Davis arrived at approximately 6:05 pm. Matt Cole arrived at approximately 6:15 pm.

Chief Gabrielson, Hudson Fire Protection District, reported that the fire department has been on 576 calls for service to date. The fire district will now receive auto aid from the Fort Lupton Fire Department. Every surrounding EMS agency in the area will now aid the Hudson Fire Protection District. There is a grant that the district will use to purchase three new utility vehicles, two SUV's and one pick up. During fire prevention week, October 5th – October 10th, the Hudson Fire Protection District has been at Lochbuie Elementary and the Hudson Academy of Arts and Sciences educating the children on fire safety. Starting on October 28, 2015 the Ride-Along program will be underway. This program will reward a child in the school district for good behavior and grades and allow them to ride with the fire staff. October 20th - 23rd many of the fire staff will be attending the Chief's conference in Keystone. During the Fall the Boot event the fire protection staff raised \$14,002.00, the most in their history of supporting the MDA program. October is Breast Cancer Awareness month and the fire staff will be wearing t-shirts and pink items in support. There have been flyers posted and left around the area explaining the ballot measures in relation to the request of the fire protection district for a mill levy increase. Station 3 in Lochbuie will host a haunted house on Halloween.

Maria Chavez reported that the Girl Scout Troop will be doing a community service action in honor of the birthday of the founder of the Girl Scouts, Julie Orden Low. The troop will be collecting birthday themed items including, dry cake mixes, frosting, balloons, and candles in which they will donate to the Weld County Food Bank to give out to those in need.

1) CONSENT AGENDA

(Consent Agenda Items are considered routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member or Citizen so requests, in which case the items may be removed from the Consent Agenda and considered at the end of the Regular Agenda.)

- a. Board of Trustees Minutes, Regular Meeting, September 16, 2015
- b. Payment of Bills
- c. Liquor License Renewal Dhillon, Inc. dba Old Buffalo Liquors

Trustee Hargis made a motion, seconded by Trustee Stell to approve the Consent Agenda.

The vote was as follows:

Aye: Trustees Hamilton, Chavez, Stell, Davis, Hargis and Mayor Patch

Nay - None

Mayor Patch declared the motion carried.

2) GENERAL BUSINESS

- a. Ordinance 15-12, Second Reading, An Ordinance amending the Hudson Municipal Code to clarify the definition of weeds

Joe Racine, Town Administrator, reported that this ordinance does not ban all sunflowers.

Trustee Hargis made a motion, seconded by Trustee Stell to approve Ordinance 15-12, Second Reading, An Ordinance amending the Hudson Municipal Code to clarify the definition of weeds.

The vote was as follows:

Aye: Trustees Hamilton, Davis, Stell, Hargis, Chavez and Mayor Patch

Nay – None

Mayor Patch declared the motion carried.

- b. MOU Weld County Rd. 41- Maintenance Agreement

Joe Racine, Town Administrator, reported there has been an MOU negotiated between the Town and Weld County regarding the maintenance of CR 41. Town responsibilities will be to maintain .48 miles of CR 41, including the recycled asphalt surfacing of the 1,000-foot long portion in or adjoining the Town boundaries. Weld County will be responsible for maintaining CR 10 between Beech Street and the railroad, CR 16 between I-76 and CR 51 and CR 49 between CR 14 and CR 16. The proposed agreement only goes until December 31, 2015. A new MOU will be needed to cover 2016.

Trustee Hargis made a motion, seconded by Trustee Stell to approve and sign the MOU Weld County Rd 41 Maintenance Agreement.

The vote was as follows:

Aye: Trustees Cole, Hamilton, Davis, Stell, Hargis, Chavez and Mayor Patch

Nay – None

Mayor Patch declared the motion carried.

c. Report: CR 41 Recycled Asphalt road surfacing

Ron Allen, Public Works Director, reported that the CR 41 project had encountered one minor change. The original quote was for a 4" overlay and the Town had requested a 6" overlay. The difference in cost is \$1,129.00. Envirotech will deliver forty-five truckloads of material and the project is scheduled to start on October 19, 2015 with an estimated completion date of October 21, 2015.

Joe Racine, Town Administrator, reported that there are three neighbors affected by this project. The original scope of work included one-half mile of CR 41, south of CR 8. The new scope of work includes surfacing only the road section that is partially within Hudson, approximately 1,000 feet. The reduction of the scope of work reduces the cost of the project to \$21,618. Neighboring landowners will be responsible for the installation of culverts at their driveways.

Mayor Patch and the Board of Trustees directed the Town staff to move forward with this project as scheduled.

d. Update Hudson Marshal

Brent Flot, Public Safety Director, reported that all uniforms are in, badge and brass are completed and in, vehicle equipment is 90% complete, radios are 95% complete. For records management the Town of Hudson has contracted with E-Force and is finalizing contract with Fort Lupton records. There will be a meeting with Weld County Commissioners regarding the CAD (Computer Aided Dispatch) system and a contract with Weld County Dispatch. Evidence storage will be with the Fort Lupton police department as a good way of a checks and balances system. The NIBRS (National Incident Based Reporting System) will be done through E-Force or contracted with Fort Lupton. Weapons to be purchased include AR-15's with duty and range rounds, shotguns with sock rounds and lethal rounds. The Sex Offender Registration will be finalized with CBI and SOTAR (Douglas County) after oath of Office including required yearly prints and quarterly checks. Policy and Procedures are 95% complete, marijuana laws need reviewed. Records and evidence procedures when finalized and contracted with Ft. Lupton. Have a call in to State Patrol to inquire about the change in responsibilities, if any, when the Oath of Office is given.

e. 2016 Preliminary Budget

Joe Racine, Town Administrator, reported that it is required by law to provide a preliminary budget to the Board of Trustees at this time. A spreadsheet itemizing each fund with actual, budgeted and projected numbers was emailed to each board member. The memo, distributed at this meeting summarizes each fund within the budget. The annual survey results and upcoming budget are placed side by side in an effort to address resident concerns and wants. The match for the Town Hall grant is in the budget but the Town will not know about the grant until sometime in December. A supplemental appropriation resolution will need to be adopted under the Paving Sales Tax fund. The General fund balance is about 1.3 million and would pay for approximately one year of Town expenses. No major capital projects are expected to occur in 2016, with the exception of the Town Hall, pending the grant approval. The goal for 2016 is to take care of what we have. A management intern has been added to the 2016 budget with a cost of \$20,000 for the year. The seasonal parks position has been removed from the 2016 budget; a full-time public works maintenance position has been added. The trailer will be moved back to Town Hall for the recreation director and Dan Hamsmith, Economic Development Director.

Terri Davis, Trustee, reported that based on the survey comments she read there is a need to plant more trees at the park, Veteran's Memorial, and fishing pond. She reported the survey comments also indicated the need for repairs of the basketball court, and more street sweeping. She asked about possibly having an additional rabies clinic and the status of the program to provide emergency radios for every home.

3) STAFF REPORTS

Joe Racine, Town Administrator, reported the planning commission would be addressing three cases at next week's meeting. One being the Hudson Lockers site plan and the other two being USR's for well pads on the Shaklee property.

Joe Racine, reported that he and Corey Hoffmann have been meeting with the Shaklee's to discuss the possibility of them establishing a metro district.

Joe Racine, reported that he has received several resumes for the DOLA intern. Group interviews will be held downtown at UCD next week.

Joe Racine, reported that the new pedestrian crossing over the railroad tracks looks good. A barrier will need to be put in place at Birch Street using large sand stone rocks.

Joe Racine, reported that the Town is reviewing the recreation director applications.

Joe Racine, reported that with the assistance of KBN Engineers the Board will be interviewing three water engineering companies on October 21, 2015 following the regular Board of Trustees meeting.

Joe Racine, reported that the full building permit has been issued for the Love's Best Western Plus hotel.

Ron Allen, Public Works Director, reported that CIRSA would be doing their annual walk through on October 14, 2015.

Ron Allen, reported that the maintenance department will be blowing the irrigation system out at the park and the pond.

Ron Allen, reported that the CR 49 project has seen some delays due to fog but will work throughout the weekend.

Ron Allen, reported that the maintenance department is currently moving into the new Public Works facility. They will need to contact the fire department about fire extinguisher locations. He will arrange a date and time when the Board of Trustees can do a walk through at the new facility.

Ron Allen, reported that the maintenance staff is still working on installing new water meters throughout Town.

Ron Allen, reported that he is currently working on the preparation of the Veteran's Day Ceremony.

Hunter Fobare, Utility Director, reported that he has contracted with Ambient H2O Water for help with the repairs to the pump at the West lift station. The pump at the wastewater plant is also in need of repairs and more work needs done than originally planned.

Dan Hamsmith, Economic Development Director, reported that the final meeting for the Hazardous Mitigation Plan is scheduled for this week.

Dan Hamsmith, reported that the RE-3J School District will be having a community meeting on October 29, 2015 at 6:30 pm at the Hudson Academy of Arts and Sciences to discuss the facility report analysis.

Dan Hamsmith, reported that on October 31, 2015 from 4-6 pm at the Hudson Academy of Arts and Science there will be information available for residents to give their input in regard to the Comprehensive Plan Update.

Dan Hamsmith, reported that Andarko is donating \$200.00 worth of candy for the annual Trunk or Treat and 100-125 bags of glow sticks.

Ray Patch, Mayor, reported that he would like to contact Habitat for Humanity to see if there would be a possibility of building two homes on the old Public Works facility land for disabled veterans.

Ray Patch, reported that it is time for the annual manager evaluation and welcomed other Board members to join him in the process.

Julie Stell, Trustee, reported that she would like to be involved in the manager evaluation process.

4) EXECUTIVE SESSION

- a. To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(e) – negotiation for proposed annexation.

Trustee Hargis made a motion, seconded by Trustee Cole to enter into executive session To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(e) for negotiations for proposed annexation. Motion carried unanimously.

Mayor Patch asked to let the record show that the motion passed. The board entered into Executive Session at 7:32 p.m.

Mayor Patch reconvened the regular meeting of the Hudson Town Board of Trustees at 7:39 pm.

ADJOURNMENT

The meeting adjourned at approximately 7:47 p.m.

TOWN OF HUDSON, COLORADO

Mayor

ATTEST

Town Clerk

Report Criteria:

Report type: GL detail

Check.Type = {<->} "Adjustment"

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
10/16/2015	51053	4	Andersen's Star Market	100115-250	Drinking Water	75-68-6710	7.99
10/16/2015	51053	4	Andersen's Star Market	100115-250	Cleaning Supplies WWTP	75-68-6710	1.97
10/16/2015	51053	4	Andersen's Star Market	100115-250	Mouse Traps	10-64-6710	7.24
10/16/2015	51053	4	Andersen's Star Market	100115-250	Gatorade for Fall Clean Up	10-68-6730	25.11
10/16/2015	51053	4	Andersen's Star Market	100115-250	Lab Supplies	75-68-6710	12.70
Total 51053:							55.01
10/16/2015	51054	45	AT&T	100415-0202	Long Distance Service	10-64-6410	62.75
10/16/2015	51054	45	AT&T	100415-0202	Long Distance Service	10-68-6410	31.38
10/16/2015	51054	45	AT&T	100415-0202	Long Distance Service	70-64-6410	31.38
10/16/2015	51054	45	AT&T	100415-0202	Long Distance Service	70-68-6410	31.37
Total 51054:							156.88
10/16/2015	51055	1208	BBR	02893	Dumpster at PW Shop	10-68-6633	350.00
10/16/2015	51055	1208	BBR	02903	Dumpsters for Fall Clean UP	10-69-6730	4,650.00
Total 51055:							5,000.00
10/16/2015	51057	1216	Blue Tarp Financial Inc.	33353660	CT Argn Comp Toe Dk B	10-68-6710	98.92
Total 51057:							98.92
10/16/2015	51058	683	Bratton's Office Equipment Inc.	011043	Shipping for Toner	10-64-6633	11.91
10/16/2015	51058	683	Bratton's Office Equipment Inc.	011789	Canon Contract / Meter Charge	10-64-6633	323.90
Total 51058:							335.81
10/16/2015	51059	386	Brighton Lock & Key Service	37194	WW Plant Keys	75-68-6710	10.00
Total 51059:							10.00
10/16/2015	51060	1041	Caselle Inc.	68547	Contract Support and Maintenance - November 2015	10-64-6740	262.50
10/16/2015	51060	1041	Caselle Inc.	68547	Contract Support and Maintenance - November 2015	70-64-7733	131.25
10/16/2015	51060	1041	Caselle Inc.	68547	Contract Support and Maintenance - November 2015	75-64-7733	131.25
Total 51060:							525.00
10/16/2015	51061	36	Colorado Analytical Laboratories I	150923047	Wastewater Samples	75-68-6633	111.60
10/16/2015	51061	36	Colorado Analytical Laboratories I	150929037	Wastewater Samples	75-68-6633	111.60
10/16/2015	51061	36	Colorado Analytical Laboratories I	151006079	Water Samples	70-68-6633	98.50
Total 51061:							321.70
10/16/2015	51062	33	DPC Industries Inc.	737004415-1	WW Chemicals	75-68-6710	979.99
Total 51062:							979.99
10/16/2015	51063	1271	Fastenal Company	COFTL11161	Signs	10-68-6712	594.14

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 51063:							594.14
10/16/2015	51064	503	Flowmation Inc.	3535	Meter Repair	75-68-6652	400.00
Total 51064:							400.00
10/16/2015	51065	19	Grainger	9857035811	Bulbs	75-68-6710	310.78
Total 51065:							310.78
10/16/2015	51066	1045	Green Mountain Lawn & Tree Car	152559	Fertilize Trees	10-69-6633	525.00
Total 51066:							525.00
10/16/2015	51067	22	Hoffmann Parker Wilson & Carber	093015-4080	Legal Services - Administration	10-64-6630	2,046.00
10/16/2015	51067	22	Hoffmann Parker Wilson & Carber	093015-4080	Legal Services - Community Development	10-64-6630	280.50
10/16/2015	51067	22	Hoffmann Parker Wilson & Carber	093015-4080	Legal Services - Municipal Court	10-62-6630	264.00
Total 51067:							2,590.50
10/16/2015	51069	1250	Humphries Poli Architects	35026.00-3	New Town Hall Project	60-64-7718	63.90
Total 51069:							63.90
10/16/2015	51070	276	Joe Racine	100515	Mileage	10-64-6213	75.90
10/16/2015	51070	276	Joe Racine	100515	Medicare Reimbursement	10-64-6110	149.90
10/16/2015	51070	276	Joe Racine	100515	Computer, Camera Phone	10-64-6633	50.00
10/16/2015	51070	276	Joe Racine	100515	Meeting Parking	10-64-6212	3.50
Total 51070:							279.30
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-001/00	Engineering - Town	10-64-6640	1,150.56
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-001/00	Engineering - Library Beech Street	23-71-6640	1,311.25
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-001/00	Engineering - Water	10-64-6636	69.75
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-001/00	Engineering - Skoglund	10-64-6636	479.25
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-001/00	Engineering - Anadarko Shaklee	10-64-6636	46.50
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-001/00	Engineering - Love's Hotel	10-64-6636	783.50
10/16/2015	51071	840	Ketterling Butherus & Norton Engi	1131-002/00	1131-002 Hudson Water System Model	70-71-6640	8,750.00
Total 51071:							12,590.81
10/16/2015	51072	853	Love's Travel Stops & County Stor	636978887	Fuel - PW Department	10-68-6416	749.69
10/16/2015	51072	853	Love's Travel Stops & County Stor	636978887	Fuel - Code Enforcement	10-66-6416	228.95
10/16/2015	51072	853	Love's Travel Stops & County Stor	636978887	Fuel - Water Department	70-68-6416	239.21
10/16/2015	51072	853	Love's Travel Stops & County Stor	636978887	Fuel - WW Department	75-68-6416	186.44
Total 51072:							1,404.29
10/16/2015	51073	1186	Pinnacle Bank	100115-4035	Brent - Tough Book	10-66-7733	219.99
Total 51073:							219.99
10/16/2015	51074	1187	Pinnacle Bank - 2	100115-4076	ED Summit Meetings and Chamber Luncheon	10-65-7103	92.76

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 51074:							92.76
10/16/2015	51075	1188	Pinnacle Bank - 3	100115-4050	Door Letters	75-68-6710	84.00
10/16/2015	51075	1188	Pinnacle Bank - 3	100115-4050	Fall Clean Up - Crew Breakfast	10-69-6730	48.12
Total 51075:							132.12
10/16/2015	51076	1189	Pinnacle Bank - 4	100115-4043	Postage	10-64-6722	15.72
Total 51076:							15.72
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Office Furniture	10-66-7730	649.96
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Office Furniture	10-68-7731	1,029.96
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Office Furniture	10-66-6720	396.98
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Office Supplies	10-68-6720	336.34
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Fall Clean Up - Food	10-68-6730	78.08
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Hotel for Conference	10-68-6210	198.00
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Office Chair	10-68-6720	99.99
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Mountain Constructors Crew Lunch	10-68-6710	66.56
10/16/2015	51077	1190	Pinnacle Bank - 5	100115-4068	Meals - Conference	10-68-6210	75.67
Total 51077:							2,931.54
10/16/2015	51078	1266	Pinnacle Bank - 7	100115-3473	Dog Leashes	10-66-6633	51.85
10/16/2015	51078	1266	Pinnacle Bank - 7	100115-3473	Lunch Meetings	10-66-6415	91.39
10/16/2015	51078	1266	Pinnacle Bank - 7	100115-3473	Car Wash	10-66-6416	8.00
Total 51078:							151.24
10/16/2015	51079	509	Quill Corporation	8312436	Operating Supplies	10-64-6710	114.32
10/16/2015	51079	509	Quill Corporation	8312436	Office Supplies	10-64-6720	413.31
10/16/2015	51079	509	Quill Corporation	8314008	Calendar	10-64-6710	16.52
10/16/2015	51079	509	Quill Corporation	8368488	Coffee and Cups	10-64-6710	71.98
10/16/2015	51079	509	Quill Corporation	8371440	Candy for Meetings	10-64-6710	25.99
10/16/2015	51079	509	Quill Corporation	8394739	Office Supplies	10-64-6720	39.65
10/16/2015	51079	509	Quill Corporation	8454415	Office Supplies	10-64-6720	57.96
Total 51079:							739.73
10/16/2015	51080	1151	RH Water & Wastewater LLC	123	Water Contract Ops	70-68-6633	125.00
10/16/2015	51080	1151	RH Water & Wastewater LLC	123	Wastewater Contract Ops	75-68-6633	125.00
Total 51080:							250.00
10/16/2015	51081	1269	RJ McNutt & Associates LLC	8819	One Lens for New PW Shop	21-71-7713	792.50
Total 51081:							792.50
10/16/2015	51082	342	Roggen Farmer's Elevator Associ	7045	Bulk Delivery Propane - WWTP	75-68-6419	1,120.00
Total 51082:							1,120.00
10/16/2015	51083	49	SAFEbuilt Inc	0021982-IN	Code Enforcement Training	10-66-6632	302.50
10/16/2015	51083	49	SAFEbuilt Inc	0022017-IN	Building Permits and Plan Review Services	10-65-6642	544.30

Check Issue Date	Check Number	Vendor Number	Payee	Invoice Number	Description	Invoice GL Account	Check Amount
Total 51083:							846.80
10/16/2015	51084	1270	Scott Bordewyk	091515	Mileage - Champs for CDL	10-68-6415	34.50
Total 51084:							34.50
10/16/2015	51085	285	Town of Hudson	100115-4066	Water - Cememtry	10-68-6418	15.16
10/16/2015	51085	285	Town of Hudson	100115-4066	Water & Sewer - 509 Cherry Street	10-68-6418	42.20
10/16/2015	51085	285	Town of Hudson	100115-4066	Water & Sewer - 1175 6th Avenue	70-68-6418	5,780.26
10/16/2015	51085	285	Town of Hudson	100115-4066	Water & Sewer - 557 Ash Street	10-64-6418	64.14
10/16/2015	51085	285	Town of Hudson	100115-4066	Water - 650 Cherry Street	10-69-6418	998.74
10/16/2015	51085	285	Town of Hudson	100115-4066	Water & Sewer - 258 5th Avenue	10-68-6418	82.12
10/16/2015	51085	285	Town of Hudson	100115-4066	Newsletter Quiz Winners - Volume No, 79	10-69-6730	100.00
Total 51085:							7,082.62
10/16/2015	51086	131	Tribune The	4330439	Publishing - Case No 15-09	10-64-6620	23.34
10/16/2015	51086	131	Tribune The	4330440	Ordinance Publishing - 15-10 2nd Reading	10-64-6620	23.34
10/16/2015	51086	131	Tribune The	4330441	Ordinance Publishing - 15-12	10-64-6620	66.16
10/16/2015	51086	131	Tribune The	4334936	Advertising - Rec Coordinator	10-69-6620	944.10
10/16/2015	51086	131	Tribune The	5917930093	Advertising - Rec Coordinator	10-69-6620	944.10
Total 51086:							2,001.04
10/16/2015	51087	5	United Power	093015-1634	Electric - 8249 WCR 47.5	75-68-6413	3,593.06
10/16/2015	51087	5	United Power	093015-1800	Electric - 258 5th Avenue	10-68-6413	92.58
10/16/2015	51087	5	United Power	093015-1825	Electric - 258 5th Avenue	10-68-6413	77.77
10/16/2015	51087	5	United Power	100815-1553	Electric - 557 Ash Street	10-64-6413	176.21
10/16/2015	51087	5	United Power	100815-1553	Electric - 557 Ash Street	70-64-6413	176.20
Total 51087:							4,115.82
10/16/2015	51088	99	USA BlueBook	742837	Bugs	75-68-6710	154.70
10/16/2015	51088	99	USA BlueBook	746719	Bulk Water Meter	70-68-6735	1,533.79
10/16/2015	51088	99	USA BlueBook	760377	Supplies	75-68-6710	140.31
10/16/2015	51088	99	USA BlueBook	764505	Pump Gantry	75-68-6710	1,484.16
10/16/2015	51088	99	USA BlueBook	764505	Pump Gantry	70-68-6710	1,484.16
Total 51088:							4,797.12
10/16/2015	51089	293	Virulent Solutions Inc.	H151001TO	Laptop Setup - Brent	10-66-6632	617.50
10/16/2015	51089	293	Virulent Solutions Inc.	H151015SE	Server Repairs and Montly Computer Services	10-64-6633	712.50
Total 51089:							1,330.00
10/16/2015	51090	13	Weld County Sheriff's Office	100615	Weld County Sherrif's Patrol Time	10-66-6632	9,005.02
Total 51090:							9,005.02
Grand Totals:							61,900.55

Report Criteria:

Report type: GL detail

Check.Type = {<>} "Adjustment"

MEMORANDUM

To: Board of Trustees

2.a. - b.

From: Joe Racine, Town Administrator

3.a. - b.

Date: October 21, 2015

Subject: Public Hearings (combined)
Case No. 15-09 USR, Kerr McGee Oil & Gas, CC Open A West Pad
Case No. 15-10 USR, Kerr McGee Oil & Gas, CC Open A East Pad

Attachments

The meeting this evening will include public hearings and action on two Use by Special Review (USR) applications from Kerr McGee Oil & Gas Onshore LP (Anadarko) for two pads of three and four new wells on the Shaklee (CC Open A) property located east of the correctional facility, and south of the wastewater treatment facility. The Town's oil and gas regulations require that wells drilled in town have a USR permit. Because the two pads are related and the applications similar I recommend that the public hearings be combined into a single hearing.

The Planning Commission held their hearings on October 14th and recommended that the USRs be approved with conditions.

Included in this packet are the following:

- Memorandum from Town Planner, Roy Fronczyk, summarizing the applications and the Planning Commission's recommendations.
- Letter dated October 14th from Patty Varra of Kerr McGee, requesting alternate language for the Planning Commission's recommendations 3 and 4.
- Map of the geographic area served by the frontage road.
- Excerpt from the Municipal Code listing the criteria for issuance of a USR permit.
- Planning Commission staff memos for the West and East pads.
- Applicant's narrative description of the proposed activity on the West and East pads.
- Colorado Oil and Gas Conservation Commission applications for the West and East pads.

As with earlier USRs for oil and gas activity in Town the primary concerns are with traffic and street maintenance. Kerr McGee has contracted with a traffic planning consultant to prepare a traffic study that is supposed to identify the traffic impact of these pads in the context of other activity in the area and to recommend traffic management strategies to minimize the impact. We met with Kerr McGee and their consultant four months ago, but have not yet received the plan.

It is important that a traffic study that takes into account all of the other oil and gas and other activity that is dependent upon the frontage road, including our newly constructed section, be completed. Kerr McGee has represented that 100% of the traffic generated by these well pads will travel to and from the west of the Hwy 52/Frontage Road intersection, and that no additional traffic will be generated through Hudson or at the I-76 interchange. However, we don't have the traffic study that would substantiate that claim.

MEMORANDUM

TO: Town of Hudson Board of Trustees

FROM: Roy Fronczyk, Town Planner

DATE: October 16, 2015

SUBJECT: Planning Commission Public Hearing October 14, 2014, Case No. 15-09 USR - CC Open A 1 West Pad and Case No. 15-10 USR - CC Open A 2 East Pad

The required public hearing pertaining to the Use by Special Review (USR) request of the above referenced applications was conducted on Wednesday, October 14, 2015. All required public notifications, adjacent property notices and posting of the property were completed.

Staff presented their findings and recommendations which are attached to this memo. The applicant was represented by Patty Varra, Municipal Planning Analyst from KerrMcGee Oil and Gas Onshore LP who presented background on the company and outlined the extent of the projects. Of note in her comments was mention that there is another well pad site, containing 11 wells proposed in the vicinity of the site.

There were no residents in attendance at the meeting.

In the last few years the Town's position on the evaluation of oil and gas well pad USRs is that the Colorado Oil and Gas Conservation Commission (COGCC) has the authority and the capability to evaluate issues pertaining to operations, environment, safety and restoration to the deferred to . However, the concern which has the most impact on the town is traffic and managing traffic associated with the Use by Special Review proposals before the Board.

Following are the recommendations for conditions of approval:

- (1) Should the site plan change from that one which is approved, then a new application for the USR would need to be submitted to the Town.
- (2) Prior to the Town issuing a Notice to Proceed the town would need copies of the COGCC permit and a executed permit for the use of overweight construction vehicles on town streets.
- (3) A traffic study identifying the cumulative effects of oil and gas well development activities encompassing all drilling on the site, a larger area of activity surrounding the Hudson Correctional Facility and future development at the SH 52 and I-76 Frontage Road intersection is purportedly been undertaken by the applicant but has yet to be provided to the Town. Prior to the Town issuing a Notice to Proceed the town needs to review the findings of the Study.
- (4) Prior to the Town issuing a Notice to Proceed the town needs to execute a Memorandum of Understanding to identify the responsibilities of the applicant in mitigating any identified adverse impacts to the Town of Hudson.

The applicant has objected to items 3 and 4 above and have submitted the attached letter with proposed language changes.

The crux of the matter is that the recommendation from staff and approved by the PC requests that the Town receive the promised cumulative Traffic Study and Traffic Management Options **prior** to issuance of a Notice to Proceed. The applicant wants the Notice to Proceed issued now, with the condition that **before they move dirt** we would receive the Traffic Study and Traffic Management Options. We will need the information in sufficient time to develop a plan to manage the impacts of traffic that may result from the proposed activities.



Kerr-McGee Oil & Gas OnShore LP
A subsidiary of Anadarko Petroleum Corporation
1099 18th Street
Denver, CO 80202
(720) 929-6000

October 14, 2015

Roy Fronczyk and Planning Commission
Town of Hudson
557 Ash Street
Hudson, CO 80642

VIA EMAIL

Re: CC Open Wells
Case No. 15-09-USR
Case No. 15-10-USR
Town of Hudson, Weld County, Colorado

Mr. Fronczyk and Commissioners:

Kerr McGee Oil & Gas OnShore LP (KMG) is in receipt of the staff Memorandums for 15-09-USR and 15-10-USR and would like to request the following changes to Section IV – STAFF CONCLUSIONS/RECOMMENDATIONS referenced in both documents:

3) *A traffic study identifying the cumulative effects of oil and gas well development activities encompassing all drilling on the site, a larger area of activity surrounding the Hudson Correctional Facility and future development at the SH 52 and I-76 Frontage road intersection is purportedly being undertaken by the applicant but has yet to be provided to the Town. The Town must review the findings of the Study prior to surface disturbing activities on the CC Open pads.*

Kerr McGee intends to provide the Town with the results of the third party study and continue to work with the Town on ways to mitigate traffic impacts associated with its operations; however, KMG requests issuance of the Notice to Proceed and continued coordination prior to surface disturbance activities commencing.

4) *Prior to commencing surface disturbance activities on the CC Open pads, Kerr McGee and the Town agree to work in good faith to reach a Memorandum of Understanding concerning the responsibilities of the applicant in mitigating any identified adverse impacts to the Town of Hudson.*

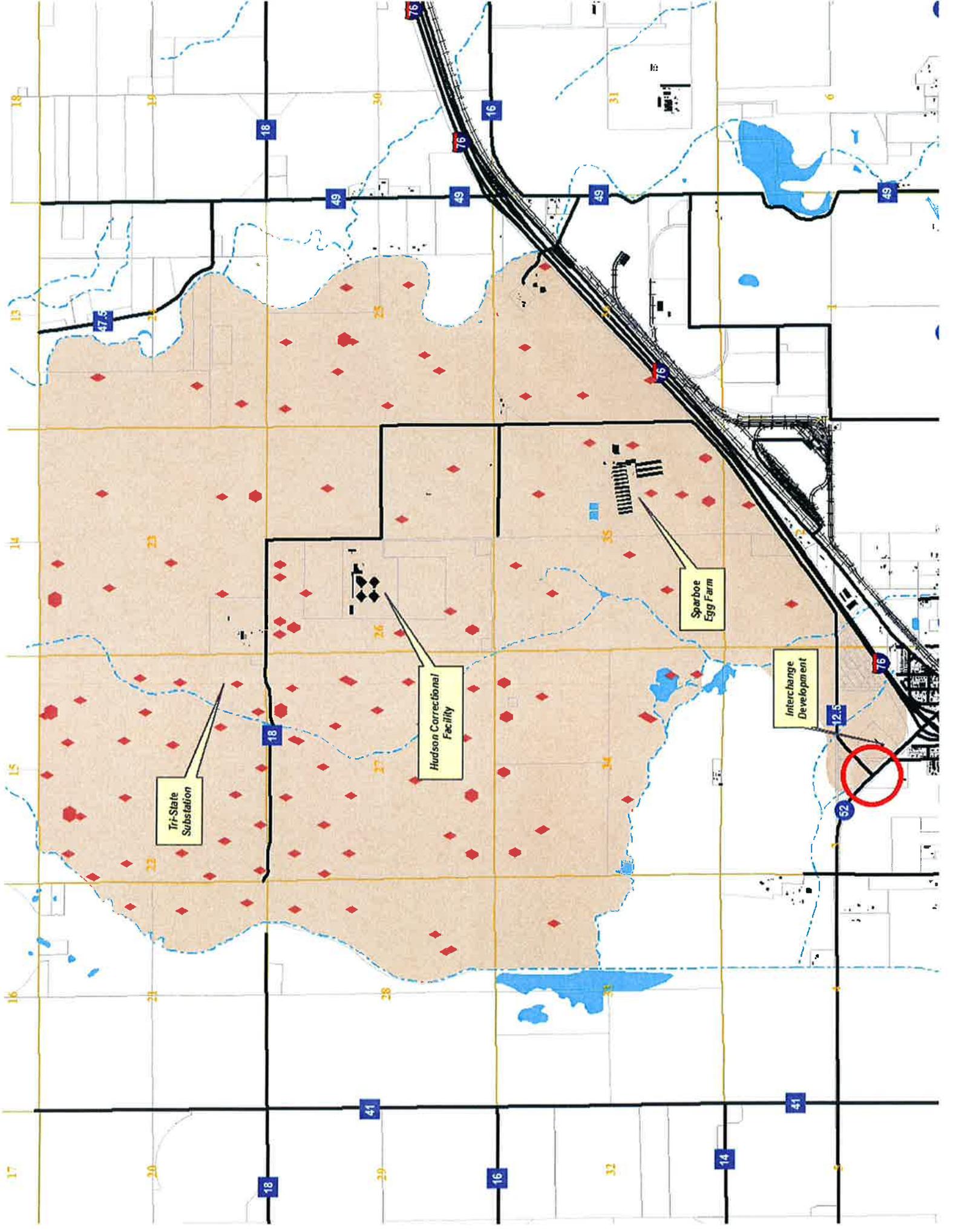
KMG will in good faith continue to work with the Town on a mutually agreed upon MOU/Agreement. However, such an agreement is not a requirement set forth in Hudson's code, current state law or COGCC rules and regulations; therefore, not an obligation of the applicant to enter into one. Although it is KMGs intention to negotiate an agreement that is beneficial to both parties the outcome of such negotiations cannot impeded KMGs approval for its proposed development.

Thank you for your time and consideration to this request. If you have any questions or would like any additional information please do not hesitate to contact me

Regards,

Patty Varra

cc: Susan Aldridge
Joe Racine
Corey Hoffmann



Sec. 16-63. Uses permitted by Special Review (USR).

(a) Intent. The uses within the zone districts established by this chapter as Uses by Special Review (USR) may be permitted in the designated districts upon approval by the board of trustees following a public notice and hearing as described in this section and subject to such conditions and safeguards as may be imposed by the board of trustees.

(b) Criteria for approval. The board of trustees may approve a Use by Special Review by resolution, specifying reasonable conditions which include, but are not limited to, the requirements that the proposed use:

(1) Will be in harmony and compatible with the character of the surrounding areas and neighborhood;

(2) Will be consistent with the town comprehensive plan, this article or any other plan, program, map or ordinance adopted or under consideration pursuant to official notice by the town;

(2.5) There shall be proven a community need for the proposed use at the proposed location given existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the town and also within the immediate area of the proposed use.

a. The proposed use in the proposed location shall not result in either a detrimental over-concentration of a particular use within the town or within the immediate area of the proposed use; and

b. The area for which the use is proposed is not better suited for or likely to be needed for uses which are permitted as a matter of right within that district, given policies or provisions of the comprehensive plan, this chapter or other plans or programs of the town.

(3) Will not result in an over-intensive use of land and shall meet the dimensional standards of this zoned district unless otherwise approved by the board of trustees;

(4) Will not have a material adverse effect on community capital improvement programs;

(5) The proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities and services of the town or its residents. Where any such improvements, facilities, utilities or services are not available or adequate to service the proposed use in the proposed locations, the applicant shall, as part of the application and as a condition to approval of the USR, be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with the comprehensive plan, this chapter and other plans, programs, maps and ordinances adopted by the town to guide its growth and development. The approval of the USR shall be predicated upon such improvements, facilities, utilities and services being provided and guaranteed by the applicant;

(6) Will not result in undue traffic congestion or traffic hazards;

(7) Will not cause significant air, water or noise pollution;

(8) Will be adequately landscaped, buffered and screened; and



(9) Will not otherwise be detrimental to the health, safety or welfare of adjacent properties, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare, either as they presently exist or as they may in the future be developed as a result of the implementation of provisions and policies of the comprehensive plan, this chapter or any other plan, program, map or ordinance adopted or under consideration pursuant to official notice, by the town or other governmental agency having jurisdiction to guide growth and development of the community.

(c) Limitations. Uses by Special Review shall be permitted for a duration of time specified by the board of trustees or until the land use changes or is terminated, whichever occurs first. Approval of a USR by the board of trustees may stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for front, side or rear yard setbacks greater than the minimum dimensional standards as provided in this chapter, suitable landscaping, off-street parking and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of this chapter, and mitigate adverse effects upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the board of trustees.

Each use is subject to review by the planning commission as often as the board of trustees deems appropriate to ensure compliance with the criteria above and any other stated conditions of approval. The performance criteria upon which the USR shall be conditioned shall prohibit noise, dust, vibration, odor or other nuisance problems beyond the interior buffer yard line of the use. Data demonstrating this shall constitute a part of the application for the USR. Failure of a property owner or occupant of any property subject to a USR permit to comply with any USR conditions shall constitute a violation of this chapter.

(d) Procedure.

(1) The applicant should meet with representatives of the town informally to discuss the request to be submitted and determine the requirements for such application and the size and nature of the proposal.

(2) Once the applicant determines to proceed, the following information shall be submitted to the town clerk for referral to the planning commission:

- a. A completed development application form and a USR application form.
- b. Graphic materials as needed to describe the proposal, printed on 11" x 17" paper.
- c. A narrative outlining the proposal as described below.
- d. Reserved.
- e. An alphabetical list of all property owners adjacent to the affected property.
- f. Any other information that the town may require.
- g. The appropriate fee or deposit.
- h. Proof of ownership, or consent of the owner.

(3) The planning commission shall review the proposal as soon as practical and determine the completeness of the application.

(4) Public hearings shall be scheduled before the planning commission in accordance with this chapter.

(5) The planning commission shall, following the public hearing, make its recommendation in writing to the board of trustees which shall make the final determination. The board of trustees may hold additional public hearings prior to making a final decision if it determines it is in the public interest to do so.

(6) In approving a USR, the board of trustees may impose additional reasonable conditions necessary to protect the public interest and welfare of the community.

(e) Revocation. A conditional use may be revoked or modified, after notice and hearing, for either of the following reasons:

(1) The conditional use was obtained or extended by fraud or deception; or

(2) One (1) or more of the conditions imposed by the conditional use has not been met or has been violated. (Ord. 10-08 §2, 2010)

MEMORANDUM

TO: Town of Hudson Planning Commission

FROM: Roy Fronczyk thru Joe Racine

DATE: October 8, 2015

SUBJECT: KerrMcGee Oil & Gas WEST Well Pad Site – Case No. 15-09-USR

I. REQUEST:

Kerr-McGee Oil & Gas Onshore LP has submitted a Use by Special Review Application (USR) to construct oil and gas wells and related facilities on the Shaklee property. The development would include 3 new wells adjacent to an existing well and an upgraded access road to the site. The USR application covers a 400 acre tract due to the ownership pattern. The disturbance area for the site will encompass about 12.9 acres and the well pad just over 5 acres.

A second component of the proposal is the Production Facility which will consist of oil tanks, water tanks separators, a Lease Automatic Custody Transfer unit (LACT) and emission control devices. This facility will serve both the well pad site of this application and the companion application identified in Case No. 15-10 USR, East Pad Site. Unlike previous Oil and Gas applications before the town this facility is located away from the drilling site.

Mobilization and pad construction is anticipated for the last quarter of 2015 or first quarter of 2016 and completion of all activities is anticipated in the last quarter of 2016/first quarter 2017.

II. EXISTING CONDITIONS:

The West Well Pad site is located approximately 2,200 feet North of the intersection of Oak Street and 30th Avenue. There is one existing well at the proposed pad site which is accessed by private service road that will be improved to accommodate the increased drilling and extraction facilities.

The Production Facility is located approximately 1,700 feet North and East of the intersection of Oak Street and 30th Ave. This facility is located between the existing well pad site and production facilities approved by the Town of Hudson as Case No. 11-05 USR in 2011. The production facility is situated approximately 1,900 feet from the West Pad Site and will be connected by a pressure tested flowline buried approximately four feet deep. The existing access road serving the current oil and gas production facility will be improved to accommodate additional traffic generated by this new production facility and to provide improved access to the proposed well pad site in Case N. 15-10 USR East Pad Site.

The site is currently zoned Planned Development (PD) and is included in the Shaklee Annexation of 2009. A concept plan for the development of the annexation area, Shaklee Centre, was approved and the site for the additional wells are designated as Single Family Residential use in the concept plan. The Town's existing Comprehensive Plan Map reflects the Shaklee Centre concept plan.

III. FINDINGS

1. The Town of Hudson devotes an entire chapter of the Land Development Code to Oil and Gas Operations (Article 11). A majority of those regulations pertain to the impacts of the actions on the immediate surroundings and to the entire community as a whole. The Town's regulations defer issues pertaining to operations, environment and safety and restoration to the Colorado Oil and Gas

Conservation Commission (COGCC). At this time the applicant has submitted a permit application to COGCC but has yet to receive approval. The town's regulations stipulate that a final Notice to Proceed has to include copies of the COGCC permit.

2. The Applicant has provided an "Easement, Right-of-Way and Surface Damages Agreement" between themselves and CC Open A, LLC the surface owner permitting the operation of the oil and gas well activities on the site.

3. The Shaklee land was annexed to the Town of Hudson in 2009 and the Shaklee Centre concept plan was approved for the property. The proposed well pad site and production facility falls in an area designated as Single Family Residential use which is defined as any use allowable in the R-1 and R-2 Zoning Districts. Both districts permit as a Use by Special Review oil and gas wells and thus consideration of the application falls within the allowable uses of the property

4. There are three phases to the project: (1) site preparation and drilling, (2) completion and (3) production. The first two phases are the most intensive in terms of on-site construction and is estimated to take about 5 months (150 days). Drilling and Completion activities run round-the-clock, 24/7. The applicant has estimated vehicular traffic generated by the request and is shown as an attachment to the project narrative.

5. Based on the estimates provided in the narrative (attached), the traffic generated by each phase of the development is as follows:

- a. Construction – 6 days – 184 trips per day.
- b. Drilling – 30 days – 47 trips per day.
- c. Completion – 34 days – 116 trips per day.
- d. Production Facility Construction – 90 days – 6 trips per day.
- e. Reclamation – 21 days – 53 trips per day.

The applicant has indicated the various types of vehicles associated with each phase of construction and are described in the table. The variety of vehicles include pickups, 3-axel trailers or vehicles, Semis and trailers and over- sized load vehicles.

There is no information or analysis provided, as requested pertaining to the impact on roadways or intersections in the Town. See No. 3 in the Recommendations section of this report.

6. The Town of Hudson has not yet received a response from the Hudson Fire Protection District who has the responsibility of providing emergency services to the site. Referrals were also sent to Weld County, School District RE-3J and the Colorado Department of Transportation (CDOT). To date, no comments have been received from these agencies.

IV. STAFF CONCLUSIONS /RECOMMENDATIONS

Staff recommends approval of the application with the following conditions:

(1) Should the site plan change from that one which is approved, then a new application for the USR would need to be submitted to the Town.

(2) Prior to the Town issuing a Notice to Proceed the town would need copies of the COGCC permit and a executed permit for the use of overweight construction vehicles on town streets.

(3) A traffic study identifying the cumulative effects of oil and gas well development activities encompassing all drilling on the site, a larger area of activity surrounding the Hudson Correctional Facility and future development at the SH 52 and I-76 Frontage Road intersection is purportedly been undertaken by the applicant but has yet to be provided to the Town. Prior to the Town issuing a Notice to Proceed the town needs to review the findings of the Study.

(4) Prior to the Town issuing a Notice to Proceed the town needs to execute a Memorandum of Understanding to identify the responsibilities of the applicant in mitigating any identified adverse impacts to the Town of Hudson.

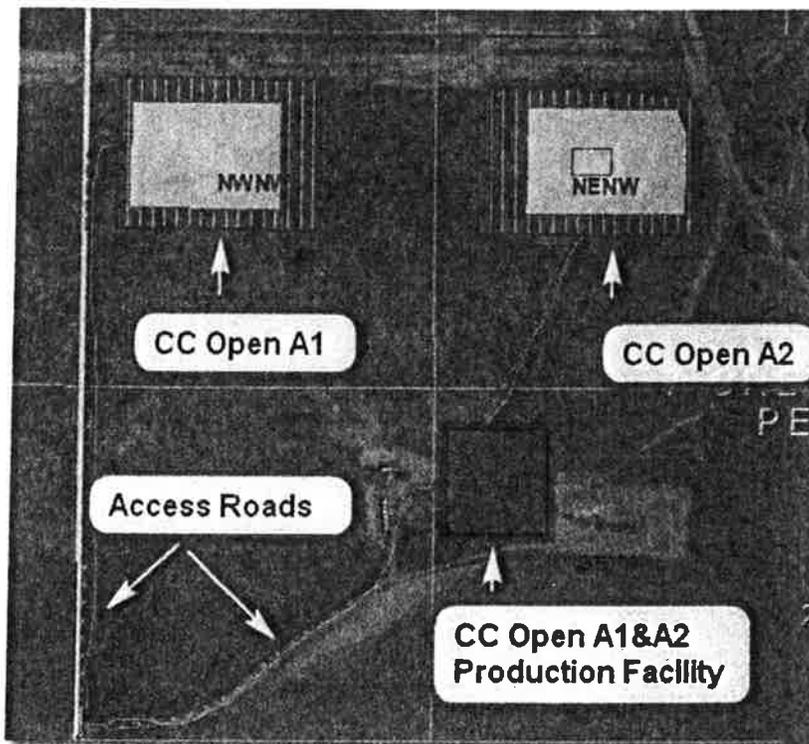
A recommendation to the Board of Trustees on the Use by Special permit should include findings regarding the proposed use for the property along with location, access and other factors, including testimony at the hearing.

1. Narrative

1.1 DESCRIPTION OF INTENDED USE

Kerr-McGee Oil & Gas Onshore LP (KMG), an Anadarko company, intends to horizontally drill three (3) oil and gas wells from one pad location. The proposed wells will be known as the well names listed in Section 1.2. The desired outcome of this application is to permit the wells to all formations. The purpose of the wells is to produce hydrocarbons from underlying formations known to have commercial potential from the production of such substances.

The proposed wells and production facilities are located in Township 2 North, Range 65 West 6th P.M. Section 25. See the aerial vicinity map below showing the site access.



1.2 SITE IMPROVEMENTS

KMG shall construct an operations area of approximately 10 acres for the drill and completions pad. The location will be reclaimed to approximately 0.5 acres. The Production Facility will be approximately 4.2 acres for construction and reclaimed to approximately 1.8 acres post operations.

Master Site Plan is included with this Application for further use and review (See –Master Site Plan).

After the Wells have been drilled to their total depths and completed as wells capable of production, KMG will reclaim the drill site. The reclamation will be in accordance with the applicable rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC). If any of the wells are

not capable of production, that specific well (or wells) will be plugged and abandoned as a dry hole and the same reclamation of the site will apply.

If the wells are completed as producers, the well head location will be encompassed by a fenced and gated area.

Flowlines will be laid to connect these wells to the production facilities. Pipelines will transport natural gas and oil from the facilities to designated processing facilities throughout the area.

1.3 CHARACTERISTICS OF INSTALLATION

These wells will have a wellhead assembly installed on site as well as production facilities including but not limited to tank batteries, separators, LACT units, meter houses, and emissions control devices. Pumping units may be installed should pressure within the wells necessitate their use. In Addition the location may include above ground appurtenances such as a meter house associated with midstream gathering not owned by KMG.

1.4 CHARACTERISTICS OF DRILLING AND COMPLETION OPERATIONS

KMG management will utilize authorized employees and professional contractors to conduct the drilling and completion operations on site. The actual drilling phase is approximately 6 to 11 days per well, under normal circumstances. Drilling will be continuous, 24 hours a day, for this period. Completion operations will be performed on each well subsequent to the drilling phase. The production facilities will be installed and the wells put on-line. The surface will be re-graded to its prior condition as nearly as practicable. KMG anticipates mobilization and pad construction to begin in the last quarter of 2015/first quarter 2016 contingent upon approval from the Town of Hudson. Completion of all construction activities including site preparation, drilling, completion, facilities and pipeline installation and final regarding is anticipated in the last quarter of 2016/first Quarter 2017.

1.5 CHARACTERISTICS OF MAINTENANCE

A lease operator will inspect the wells on a regular basis under normal conditions and as required by any special circumstances under the supervision of the KMG Area Manager. In addition all wells are remotely monitored 24/7 from our Integrated Operations Center located in Platteville, Colorado.

1.6 DISPOSAL METHODS STATEMENT

- Drilling mud will be spread on lands outside of the Town limits in a manner approved by the COGCC or taken to a commercial disposal.
- A commercial size trash bin for removing debris will be located on site. This bin will be for use by all parties affiliated with the operation.
- Human waste will be properly handled by portable sanitary facilities located on site. KMG will contract a sanitary service company to provide and maintain the self-contained sanitary facilities throughout the oil and gas operation.
- Produced water will be disposed of off-site as approved by the COGCC.

1.7 RELATIVE PLANS

- Noise: KMG will meet all applicable noise requirements set forth by COGCC regulations during operations. Exhaust from all engines, motors and related equipment, shall be vented in a direction away from occupied buildings where practical. KMG, on a case by case basis, installs a straw bale "wall" as a sound and visual buffer during drilling and completion operations.

-
- Lighting: KMG will meet all applicable visual impact requirements set forth by the COGCC. Where practical lights will be shielded and turned inward toward the rig to minimize disturbance to existing structures or public roadways.
 - Vibration: KMG will meet all applicable vibration requirements set forth by COGCC regulations during operations. There is not any unusual vibration anticipated from the proposed operation.
 - Air and Water Quality: KMG will meet all applicable air and water quality requirements set forth by COGCC regulations during operations. KMG will comply with the Colorado Department of Public Health and Environment regulations by filing an Air Pollution Emissions Notice (A.P.E.N.), along with any other additional required application data. If production volumes exceed required thresholds, KMG will install emissions control devices as warranted to obtain required reductions of ozone precursors. The COGCC sets forth specific requirements for casing depth in order to protect ground water sources. Produced water will be hauled away and properly disposed of in accordance with COGCC regulations.
 - Odor: KMG will meet all applicable odor requirements set forth by COGCC regulations during operations. There is not any noxious, prolonged or unusually high amounts of odor expected from the proposed operation.
 - Visual Impacts: KMG will meet all applicable visual impact requirements set forth by COGCC regulations during operations. The permanent facilities will be painted in accordance with COGCC regulations and in a manner to harmoniously blend with the surrounding environment. The site will be reclaimed to as near the original grades as practicable.
 - Environmental Impacts: A representative of or for KMG's Environmental Group will perform a site inspection to clear the location for environmental issues (including wildlife and wetlands) prior to site construction activities. KMG will comply with all applicable wildlife and wetland regulatory requirements. Impacts to regulated wildlife species and jurisdictional wetlands are not expected.
 - Waste: Please refer to section above, 1.6 – Disposal Methods Statement.
 - Public Safety: The completed well sites will be surrounded with a chain link security fence and gate with adequate lock. KMG personnel will monitor the well sites regularly upon completion of the wells in addition all new well sites are remotely monitored 24/7 by representatives in KMG's Integrated Operations Center. Authorized representatives and/or KMG personnel shall be on-site during drilling and completion operations. A copy of an Emergency Response Plan is included with this application (See Emergency Response and Fire Protection Plan).
 - Access Road: KMG will utilize a lease access road from North Oak Street (CR 47) for drilling operations and maintenance equipment. The road will be properly graded for adequate drainage and shall be surfaced and maintained to prevent dust and mud and provide sufficient access for fire protection; culverts and bridges shall be utilized where necessary.

CC Open A 1 (West)

Type of Trucks and Timing During Each Operation Phase:

Vehicle Type	Construction	Drilling	Completion Prep & Completion	Production Facility Construction	Reclamation
Pickup	16%	63%	9%	50%	16%
3-axle bobtail	42%	12%	45%	25%	42%
Semi and Trailer	41%	10%	45%	25%	41%
Over-sized load	1%	15%	1%	0%	1%
<i>Working Hours</i>	12	24	24	12	12
<i>Shift Start</i>	6AM	24 HOUR	24 HOUR	7AM	6AM
Total Trips	1,100- 6 ac. (184 trips /acre)	1395 (465 per well)	3,927 3 well Pad (1309/well) 34 days/~ 8.5 per well Prep + Comp.	537 (179/well) 90 days	1,100 -6 ac. 2-3 weeks (184 trips/ac.)

USE BY SPECIAL REVIEW

CC OPEN A 34N-36HZ,
 CC OPEN A 13C-36HZ, CC OPEN A 35N-36HZ,
 CC OPEN A 14N-36HZ, CC OPEN A 14C-36HZ,
 CC OPEN A 36N-36HZ & CC OPEN A 15N-25HZ,
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 25,
 TOWNSHIP 2 NORTH, RANGE 65 WEST, 6TH P.M.,
 TOWN OF HUDSON, COUNTY OF WELD, STATE OF COLORADO

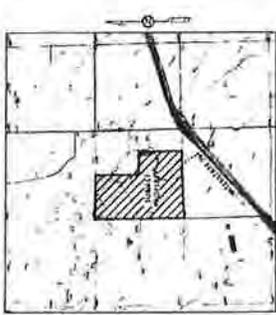
- General Notes: Grading plans, for rough grading only. Grading map is necessary to bring plan into full compliance with approved Final Grading Plan and Site Plan.
- Water Truck: It shall be by the Town Inspector, will be provided to keep road in check.
- Water Truck: All accumulations beyond the property limits due to grading or erosion shall be removed immediately by the contractor.
- No grading shall take place in the delineated Flood Hazard Area until the Final Grading Plan has been approved and all necessary permits are obtained.
- It is the responsibility of the contractor to ensure that the grading and erosion control measures are installed and maintained in accordance with the approved plans and specifications. The contractor shall be responsible for the installation and maintenance of all erosion control measures.
- Any grading shall be in accordance with the approved plans and specifications. The contractor shall be responsible for the installation and maintenance of all erosion control measures.
- It is the responsibility of the contractor to ensure that the grading and erosion control measures are installed and maintained in accordance with the approved plans and specifications. The contractor shall be responsible for the installation and maintenance of all erosion control measures.
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- Any grading shall be in accordance with the approved plans and specifications. The contractor shall be responsible for the installation and maintenance of all erosion control measures.

PROPERTY OWNER:
 COBALT OIL & GAS
 1099 18th Street
 Fort Collins, CO 80526

CONSULTANT:
 6.09 CONSULTING, LLC
 1099 18th Street
 Fort Collins, CO 80526

TOWN OF HUDSON:
 1099 18th Street
 Fort Collins, CO 80526

ENVIRONMENTAL PROTECTION AGENCY:
 1099 18th Street
 Fort Collins, CO 80526



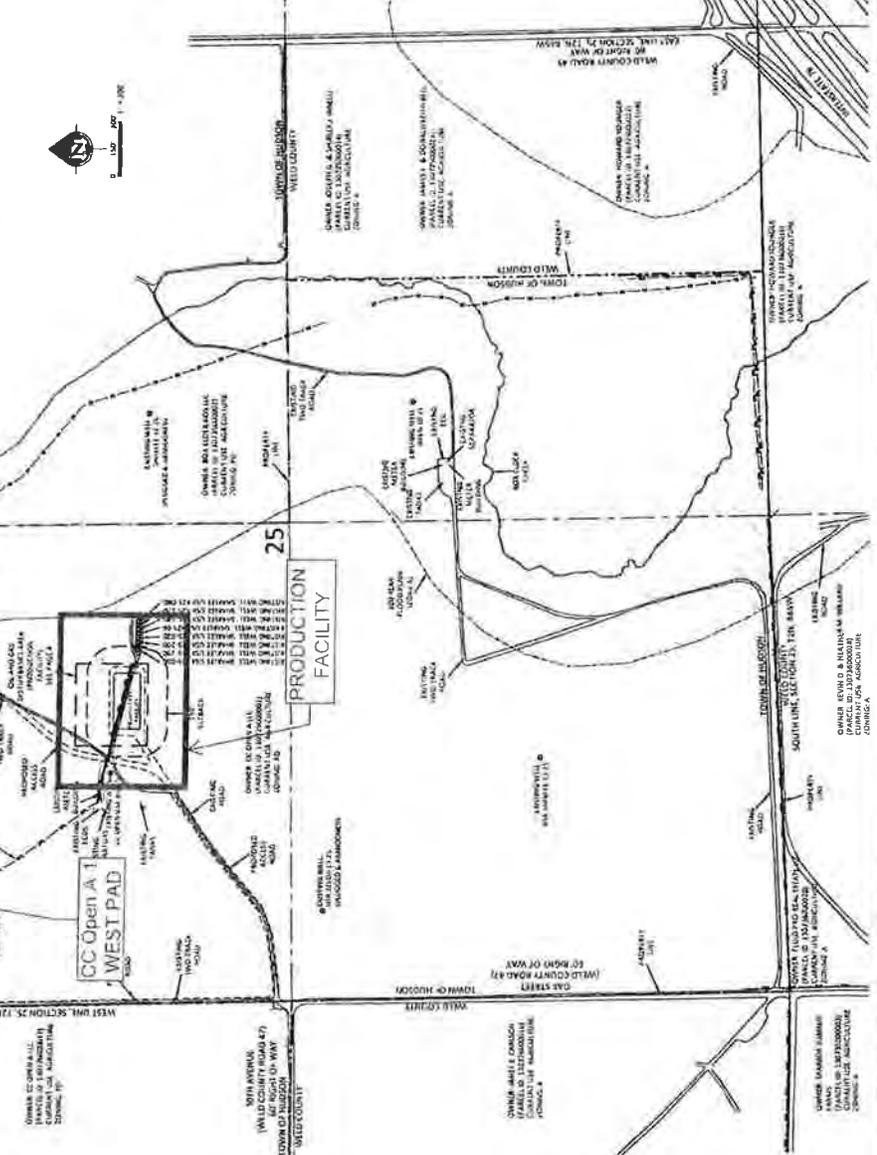
6.09 CONSULTING, LLC
 1099 18th Street
 Fort Collins, CO 80526
 Phone: 970-221-6000
 Fax: 970-221-6001
 Email: info@609consulting.com

LOVELAND OFFICE
 1117 Pennsylvania Street
 Loveland, CO 80538
 Phone: 970-686-1111

IRVING OFFICE
 1099 18th Street
 Fort Collins, CO 80526
 Phone: 970-221-6000

6.09 CONSULTING, LLC

- LEGEND**
- TOWN OF HUDSON LIMITS
 - LOCAL JURISDICTIONAL INTEREST
 - ASSESSMENT
 - EXISTING PIPELINE
 - EXISTING FENCE
 - EXISTING BURIED POWERLINE
 - EXISTING OVERHEAD POWERLINE
 - PROPOSED WELL LOCATION
 - EXISTING WELL LOCATION
 - EXISTING POWER POLE
 - EXISTING ROADWAY
 - EXISTING BUILDING
 - 100 YEAR FLOOD PLAIN (FEMA #1)



DATE	BY	REVISION
08/14/13	JK	ISSUED
08/14/13	JK	REVISED
08/14/13	JK	REVISED

RELATED REMOTE LOCATIONS

(Enter as many Related Locations as necessary. Enter the Form 2A document # only if there is no established COGCC Location ID#)

This proposed Oil and Gas Location is:

LOCATION ID # FORM 2A DOC #

Well Site is served by Production Facilities

424330

FACILITIES

Indicate the number of each type of oil and gas facility planned on location

Wells	4	Oil Tanks*	_____	Condensate Tanks*	_____	Water Tanks*	_____	Buried Produced Water Vaults*	_____
Drilling Pits	_____	Production Pits*	_____	Special Purpose Pits	_____	Multi-Well Pits*	_____	Modular Large Volume Tanks	_____
Pump Jacks	3	Separators*	_____	Injection Pumps*	_____	Cavity Pumps*	_____	Gas Compressors*	_____
Gas or Diesel Motors*	_____	Electric Motors	_____	Electric Generators*	_____	Fuel Tanks*	_____	LACT Unit*	_____
Dehydrator Units*	_____	Vapor Recovery Unit*	_____	VOC Combustor*	_____	Flare*	_____	Pigging Station*	_____

OTHER FACILITIES*

Other Facility Type

Number

FLOW LINES	11
TEMPORARY 500 BBL TANKS	2

Those facilities indicated by an asterisk () shall be used to determine the distance from the Production Facility to the nearest cultural feature on the Cultural Setbacks Tab.

Per Rule 303.b.(3)C, description of all oil, gas, and/or water pipelines:

Two 500 barrel skid-mounted frac tanks will be temporarily placed onsite for use of the pre-spud rig only. One tank will store water and the other will store water-based mud.

Please see Comments section for flow line description.

CONSTRUCTION

Date planned to commence construction: 01/01/2016

Size of disturbed area during construction in acres: 10.00

Estimated date that interim reclamation will begin: 07/01/2016

Size of location after interim reclamation in acres: 0.40

Estimated post-construction ground elevation: 4899

DRILLING PROGRAM

Will a closed loop system be used for drilling fluids: Yes

Is H₂S anticipated? No

Will salt sections be encountered during drilling: No

Will salt based mud (>15,000 ppm Cl) be used? No

Will oil based drilling fluids be used? Yes

DRILLING WASTE MANAGEMENT PROGRAM

Drilling Fluids Disposal: OFFSITE

Drilling Fluids Disposal Method: Commercial Disposal

Cutting Disposal: OFFSITE

Cuttings Disposal Method: Commercial Disposal

Other Disposal Description:

Please see Comments section. Disposal description will not fit in space provided.

Beneficial reuse or land application plan submitted? Yes

Reuse Facility ID: _____ or Document Number: _____

Centralized E&P Waste Management Facility ID, if applicable: 149021

SURFACE & MINERALS & RIGHT TO CONSTRUCT

Name: CC OPEN A, LLC

Phone: 303.916.6198

Address: PO BOX 200487

Fax: _____

Address: _____

Email: _____

City: EVANS State: CO Zip: 80620

Surface Owner: Fee State Federal Indian

Check all that apply. The Surface Owner: is the mineral owner
 is committed to an oil and Gas Lease
 has signed the Oil and Gas Lease
 is the applicant

The Mineral Owner beneath this Oil and Gas Location is: Fee State Federal Indian

The Minerals beneath this Oil and Gas Location will be developed from or produced to this Oil and Gas Location: Yes

The right to construct this Oil and Gas Location is granted by: Surface Use Agreement

Surface damage assurance if no agreement is in place: _____ Surface Surety ID: _____

Date of Rule 306 surface owner consultation 10/16/2014

CURRENT AND FUTURE LAND USE

Current Land Use (Check all that apply):

Crop Land: Irrigated Dry land Improved Pasture Hay Meadow CRP
Non-Crop Land: Rangeland Timber Recreational Other (describe): _____
Subdivided: Industrial Commercial Residential

Future Land Use (Check all that apply):

Crop Land: Irrigated Dry land Improved Pasture Hay Meadow CRP
Non-Crop Land: Rangeland Timber Recreational Other (describe): _____
Subdivided: Industrial Commercial Residential

CULTURAL DISTANCE INFORMATION

Provide the distance to the nearest cultural feature as measured from Wells or Production Facilities onsite.

	From WELL	From PRODUCTION FACILITY
Building:	1844 Feet	_____ Feet
Building Unit:	2518 Feet	_____ Feet
High Occupancy Building Unit:	3795 Feet	_____ Feet
Designated Outside Activity Area:	5280 Feet	_____ Feet
Public Road:	2286 Feet	_____ Feet
Above Ground Utility:	426 Feet	_____ Feet
Railroad:	5280 Feet	_____ Feet
Property Line:	473 Feet	_____ Feet

INSTRUCTIONS:

- All measurements shall be provided from center of nearest Well or edge of nearest Production Facility to nearest of each cultural feature as described in Rule 303.b.(3)A.
- Enter 5280 for distance greater than 1 mile.
- Building - nearest building of any type. If nearest Building is a Building Unit, enter same distance for both.
- Building Unit, High Occupancy Building Unit, and Designated Outside Activity Area - as defined in 100-Series Rules.
- For measurement purposes only, Production Facilities should only include those items with an asterisk(*) on the Facilities Tab.

DESIGNATED SETBACK LOCATION INFORMATION

Check all that apply. This location is within a: Buffer Zone Exception Zone Urban Mitigation Area

- Buffer Zone - as described in Rule 604.a.(2), within 1,000' of a Building Unit.
- Exception Zone - as described in Rule 604.a.(1), within 500' of a Building Unit.
- Urban Mitigation Area - as defined in 100-Series Rules.

Pre-application Notifications (required if location is within 1,000 feet of a building unit):

Date of Rule 305.a.(1) Urban Mitigation Area Notification to Local Government: _____

Date of Rule 305.a.(2) Buffer Zone Notification to Building Unit Owners: _____

FOR MULTI-WELL PADS AND PRODUCTION FACILITIES WITHIN DESIGNATED SETBACK LOCATIONS ONLY:

Check this box if this Oil and Gas Location has or will have Production Facilities that serve multiple wells (onl or offsite) and the Production Facilities are proposed to be located less than 1,000 feet from a Building Unit. *(Pursuant to Rule 604.c.(2)E.i., the operator must evaluate alternative locations for the Production Facilities that are farther from the Building Unit, and determine whether those alternative locations were technically feasible and economically practicable for the same proposed development.)*

By checking this box, I certify that no alternative placements for the Production Facilities, farther from the nearest Building Unit, were available based on the analysis conducted pursuant to Rule 604.c.(2)E.i.

In the space below, explain rationale for siting the multi-well Production Facility(ies) that supports your Rule 604.c.(2)E.i determination. Attach documentation that supports your determination to this Form 2A.

SOIL

List all soil map units that occur within the proposed location. attach the National Resource Conservation Service (NRCS) report showing the "Map Unit Description" report listing the soil typical vertical profile. This data is to used when segregating topsoil.

The required information can be obtained from the NRCS web site at <http://soildatamart.nrcs.usda.org/> or from the COGCC web site GIS Online map page found at <http://colorado.gov/cogcc>. Instructions are provided within the COGCC web site help section.

NRCS Map Unit Name: 70 VALENT SAND, 3 TO 9 PERCENT SLOPES _____

NRCS Map Unit Name: _____

NRCS Map Unit Name: _____

PLANT COMMUNITY:

Complete this section only if any portion of the disturbed area of the location's current land use is on non-crop land.

Are noxious weeds present: Yes No

Plant species from: NRCS or, field observation Date of observation: 07/24/2015

List individual species: Cheatgrass - Bromus tectorum – (NOXIOUS WEED-C-List), tumble mustard - Sisymbrium altissimum, sand sagebrush - Artemisia filifolia

Check all plant communities that exist in the disturbed area.

- Disturbed Grassland (Cactus, Yucca, Cheatgrass, Rye)
- Native Grassland (Bluestem, Grama, Wheatgrass, Buffalograss, Fescue, Oatgrass, Brome)
- Shrub Land (Mahogany, Oak, Sage, Serviceberry, Chokecherry)
- Plains Riparian (Cottonwood, Willow, Aspen, Maple, Poplar, Russian Olive, Tamarisk)
- Mountain Riparian (Cottonwood, Willow, Blue Spruce)
- Forest Land (Spruce, Fir, Ponderosa Pine, Lodgepole Pine, Juniper, Pinyon, Aspen)
- Wetlands Aquatic (Bullrush, Sedge, Cattail, Arrowhead)
- Alpine (above timberline)
- Other (describe): _____

ALL exceptions and variances require attached Request Letter(s). Refer to applicable rule for additional required attachments (e.g. waivers, certifications, SUAs).

OPERATOR COMMENTS AND SUBMITTAL

Comments

FLOW LINE DESCRIPTION:

Flow Lines: Four flow lines will flow to the production facility location. During production, flow direction in the flow lines is from the well head to the production facility. The size of flow lines is typically 2". Flow lines will be constructed from steel pipe, buried, and will equal the distance between the well heads and the tank battery, approximately 2100'.

Four fuel gas supply lines will also be installed from the well head to the production facility. During operation flow direction in the supply lines will be from the production facility to the well head. The size of the supply lines is typically 1". Supply lines will be constructed from poly or steel pipe, buried, and will equal the distance between the well heads and the tank battery, approximately 2100'.

Gas lift lines are also occasionally installed (one per well) from the well head to the production facility. During operation flow direction in the gas lift lines will be from the production facility to the well head. The size of the gas lift lines is typically 2". Gas lift lines will be constructed from steel pipe, buried, and will equal the distance between the well heads and the tank battery, approximately 2100'.

OTHER DISPOSAL DESCRIPTION:

Drilling fluids disposal: KMG will reuse water-based drilling fluids to the maximum extent possible, at which point they will either be land applied or taken to a licensed, commercial disposal site; the decision will be based upon laboratory analysis of fluids. KMG will reuse oil-based drilling fluids to the maximum extent possible, at which point they will be returned to the fluids manufacturer for reconditioning or disposal at a licensed, commercial disposal site.

Cuttings disposal: Water-based cuttings will be disposed of using a Centralized E&P Waste Management facility or a private spread field, depending on what is feasible at the time of drilling. Oil-based cuttings will be disposed of offsite and at a licensed, commercial disposal site.

I hereby certify that the statements made in this form are, to the best of my knowledge, true, correct and complete.

Signed: _____

Date: _____

Email: djregulatory@anadarko.com

Print Name: Ronett Powers

Title: Regulatory Analyst II

Based on the information provided herein, this Application for Permit-to-Drill complies with COGCC Rules and applicable orders and is hereby approved.

COGCC Approved: _____

Director of COGCC

Date: _____

Conditions Of Approval

All representations, stipulations and conditions of approval stated in this Form 2A for this location shall constitute representations, stipulations and conditions of approval for any and all subsequent operations on the location unless this Form 2A is modified by Sundry Notice, Form 4 or an Amended Form 2A.

Best Management Practices

No	BMP/COA Type	Description
1	Planning	This proposed oil and gas location is located in a rural rangeland area. The nearest building unit is located 2518' away.
2	Planning	In order to minimize surface disturbance, this proposed location will amend existing Location # 309934. Three new horizontal wells will be added to the exiting well on this location.

Total: 2 comment(s)

Attachment Check List

Att Doc Num	Name
400895909	ACCESS ROAD MAP
400895913	HYDROLOGY MAP
400895915	LOCATION DRAWING
400895916	LOCATION PICTURES
400895918	MULTI-WELL PLAN
400895919	NRCS MAP UNIT DESC
400895920	WELL LOCATION PLAT
400895921	REFERENCE AREA MAP
400895924	SURFACE AGRMT/SURETY
400895925	WASTE MANAGEMENT PLAN
400896116	REFERENCE AREA PICTURES

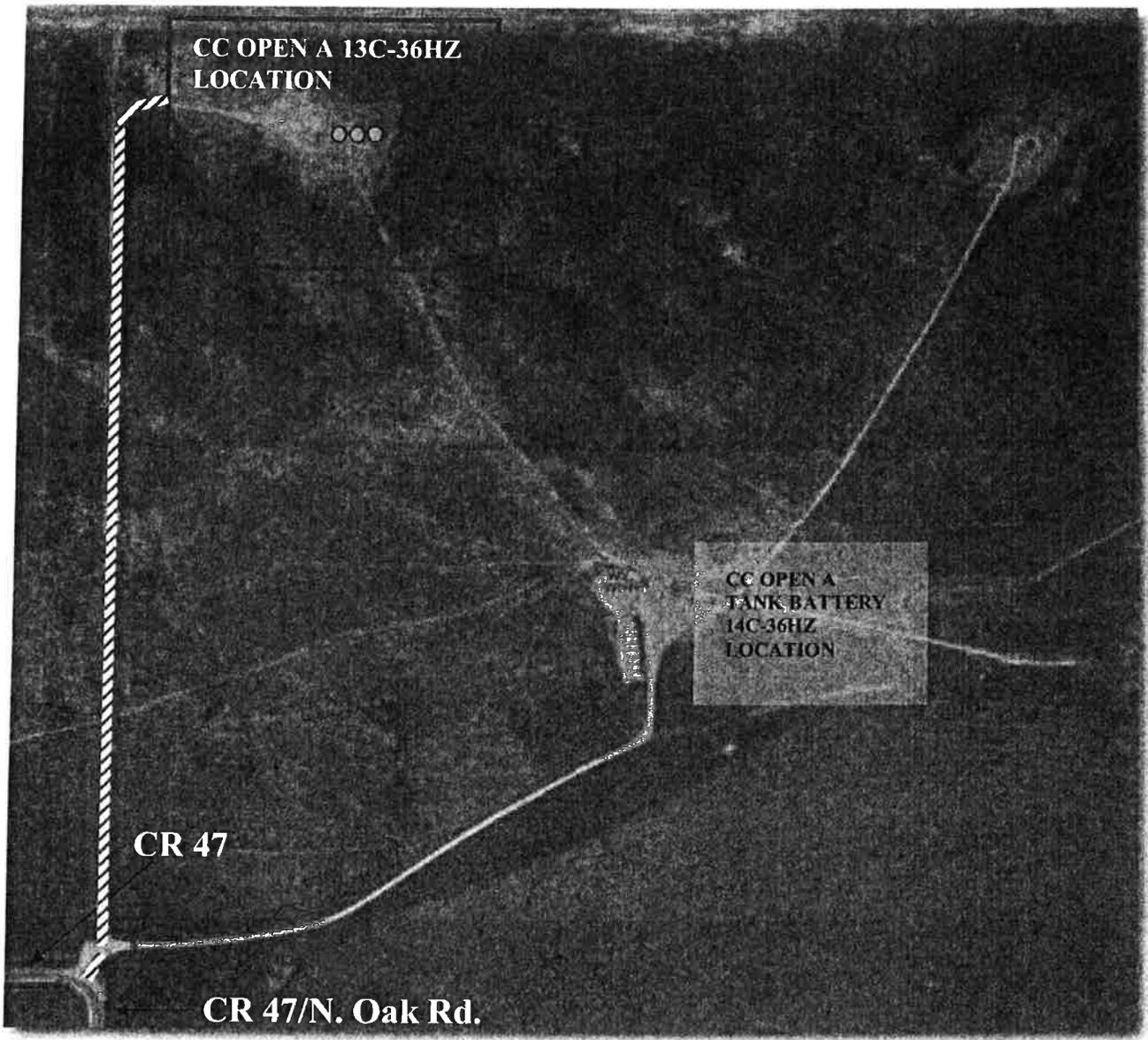
Total Attach: 11 Files

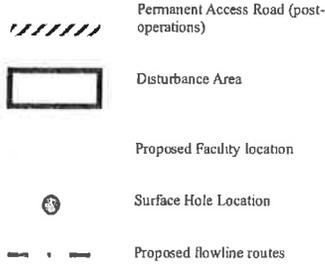
General Comments

User Group	Comment	Comment Date

Total: 0 comment(s)

CC OPEN A 13C-36HZ ACCESS ROAD MAP



			
		<p>CC Open A 13C-36HZ Access Map Sec.25-T2N-R65W Weld County, CO</p>	
		<p>Edited By: Paul Ratliff</p>	<p>Last Edited: 9/1/2015</p>

MEMORANDUM

TO: Town of Hudson Planning Commission
FROM: Roy Fronczyk thru Joe Racine
DATE: October 8, 2015
SUBJECT: KerrMcGee Oil & Gas **EAST** Well Pad Site – Case No. 15-10-USR

I. REQUEST:

Kerr-McGee Oil & Gas Onshore LP has submitted a Use by Special Review Application (USR) to construct oil and gas wells and related facilities on the Shaklee property. The development would include 4 new wells adjacent to an existing well and an upgraded access road to the site. The USR application covers a 400 acre tract due to the ownership pattern. The disturbance area for the site will encompass about 10.0 acres and the well pad just over 5.0 acres.

A second component of the proposal is the Production Facility which will consist of oil tanks, water tanks separators, a Lease Automatic Custody Transfer unit (LACT) and emission control devices. This facility will serve both the well pad site of this application and the companion application identified in Case No. 15-09 USR, West Pad Site. Unlike previous Oil and Gas applications before the town this facility is located away from the drilling site.

Mobilization and pad construction is anticipated for the last quarter of 2015 or first quarter of 2016 and completion of all activities is anticipated in the last quarter of 2016/first quarter 2017.

II. EXISTING CONDITIONS:

The East Well Pad site is located approximately 3,150 feet North and East of the intersection of Oak Street and 30th Avenue. There is one existing well at the proposed pad site which is accessed by private service road that will be improved to accommodate the increased drilling and extraction facilities.

The Production Facility is located approximately 1,700 feet North and East of the intersection of Oak Street and 30th Ave. This facility is located between the existing well pad site and production facilities approved by the Town of Hudson as Case No. 11-05 USR in 2011. The production facility is situated approximately ¼ mile from the East Pad Site and will be connected by a pressure tested flowline buried approximately four feet deep. The existing access road serving the current oil and gas production facility will be improved to accommodate additional traffic generated by this new production facility and to provide improved access to the proposed well pad site in Case N. 15-10 USR East Pad Site.

The site is currently zoned Planned Development (PD) and is included in the Shaklee Annexation of 2009. A concept plan for the development of the annexation area, Shaklee Centre, was approved and the site for the additional wells are designated as Single Family Residential use in the concept plan. The Town's existing Comprehensive Plan Map reflects the Shaklee Centre concept plan.

III. FINDINGS

1. The Town of Hudson devotes an entire chapter of the Land Development Code to Oil and Gas Operations (Article 11). A majority of those regulations pertain to the impacts of the actions on the immediate surroundings and to the entire community as a whole. The Town's regulations defer issues pertaining to operations, environment and safety and restoration to the Colorado Oil and Gas

Conservation Commission (COGCC). At this time the applicant has submitted a permit application to COGCC but has yet to receive approval. The town's regulations stipulate that a final Notice to Proceed has to include copies of the COGCC permit.

2. The Applicant has provided an "Easement, Right-of-Way and Surface Damages Agreement" between themselves and CC Open A, LLC the surface owner permitting the operation of the oil and gas well activities on the site.

3. The Shaklee land was annexed to the Town of Hudson in 2009 and the Shaklee Centre concept plan was approved for the property. The proposed well pad site and production facility falls in an area designated as Single Family Residential use which is defined as any use allowable in the R-1 and R-2 Zoning Districts. Both districts permit as a Use by Special Review oil and gas wells and thus consideration of the application falls within the allowable uses of the property

4. There are three phases to the project: (1) site preparation and drilling, (2) completion and (3) production. The first two phases are the most intensive in terms of on-site construction and is estimated to take about 5 months (150 days). Drilling and Completion activities run round-the-clock, 24/7. The applicant has estimated vehicular traffic generated by the request and is shown as an attachment to the project narrative.

5. Based on the estimates provided in the narrative (attached), the traffic generated by each phase of the development is as follows:

- a. Construction – 6 days – 184 trips per day.
- b. Drilling – 40 days – 47 trips per day.
- c. Completion – 34 days – 154 trips per day.
- d. Production Facility Construction – 90 days – 8 trips per day.
- e. Reclamation – 21 days – 53 trips per day.

The applicant has indicated the various types of vehicles associated with each phase of construction and are described in the table. The variety of vehicles include pickups, 3-axel trailers or vehicles, Semis and trailers and over- sized load vehicles.

There is no information or analysis provided, as requested, pertaining to the impact on roadways or intersections in the Town. See No. 3 in the Recommendations section of this report.

6. The Town of Hudson has not yet received a response from the Hudson Fire Protection District who has the responsibility of providing emergency services to the site. Referrals were also sent to Weld County, School District RE-3J and the Colorado Department of Transportation (CDOT). To date, no comments have been received from these agencies.

IV. STAFF CONCLUSIONS /RECOMMENDATIONS

Staff recommends approval of the application with the following conditions:

(1) Should the site plan change from that one which is approved, then a new application for the USR would need to be submitted to the Town.

(2) Prior to the Town issuing a Notice to Proceed the town would need copies of the COGCC permit and a executed permit for the use of overweight construction vehicles on town streets.

(3) A traffic study identifying the cumulative effects of oil and gas well development activities encompassing all drilling on the site, a larger area of activity surrounding the Hudson Correctional Facility and future development at the SH 52 and I-76 Frontage Road intersection is purportedly been undertaken by the applicant but has yet to be provided to the Town. Prior to the Town issuing a Notice to Proceed the town needs to review the findings of the Study.

(4) Prior to the Town issuing a Notice to Proceed the town needs to execute a Memorandum of Understanding to identify the responsibilities of the applicant in mitigating any identified adverse impacts to the Town of Hudson.

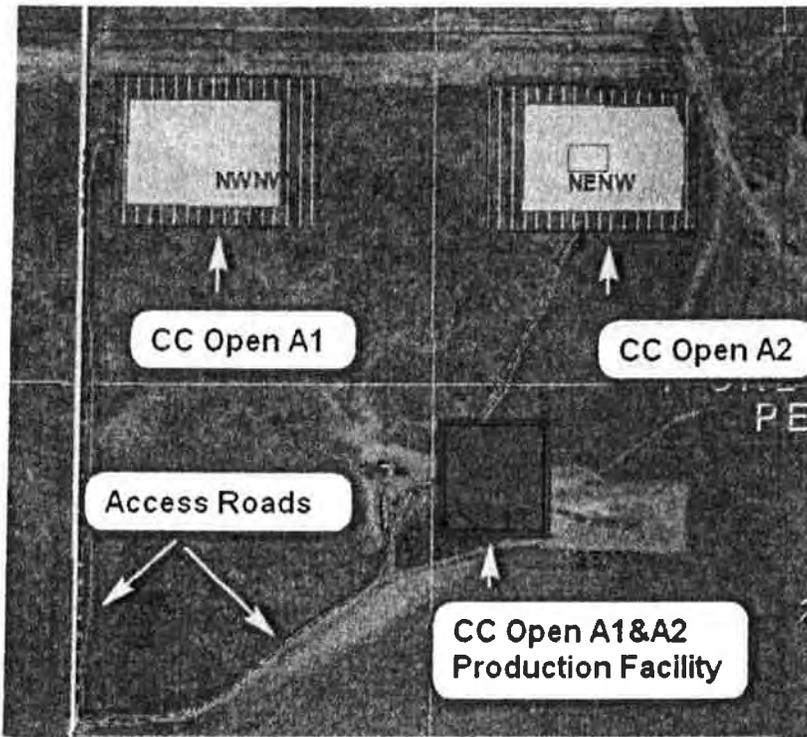
A recommendation to the Board of Trustees on the Use by Special permit should include findings regarding the proposed use for the property along with location, access and other factors, including testimony at the hearing.

1. Narrative

1.1 DESCRIPTION OF INTENDED USE

Kerr-McGee Oil & Gas Onshore LP (KMG), an Anadarko company, intends to horizontally drill three (3) oil and gas wells from one pad location. The proposed wells will be known as the well names listed in Section 1.2. The desired outcome of this application is to permit the wells to all formations. The purpose of the wells is to produce hydrocarbons from underlying formations known to have commercial potential from the production of such substances.

The proposed wells and production facilities are located in Township 2 North, Range 65 West 6th P.M. Section 25. See the aerial vicinity map below showing the site access.



1.2 SITE IMPROVEMENTS

KMG shall construct an operations area of approximately 10 acres for the drill and completions pad. The location will be reclaimed to approximately 0.5 acres. The Production Facility will be approximately 4.2 acres for construction and reclaimed to approximately 1.8 acres post operations.

Master Site Plan is included with this Application for further use and review (See –Master Site Plan).

After the Wells have been drilled to their total depths and completed as wells capable of production, KMG will reclaim the drill site. The reclamation will be in accordance with the applicable rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC). If any of the wells are

not capable of production, that specific well (or wells) will be plugged and abandoned as a dry hole and the same reclamation of the site will apply.

If the wells are completed as producers, the well head location will be encompassed by a fenced and gated area.

Flowlines will be laid to connect these wells to the production facilities. Pipelines will transport natural gas and oil from the facilities to designated processing facilities throughout the area.

1.3 CHARACTERISTICS OF INSTALLATION

These wells will have a wellhead assembly installed on site as well as production facilities including but not limited to tank batteries, separators, LACT units, meter houses, and emissions control devices. Pumping units may be installed should pressure within the wells necessitate their use. In Addition the location may include above ground appurtenances such as a meter house associated with midstream gathering not owned by KMG.

1.4 CHARACTERISTICS OF DRILLING AND COMPLETION OPERATIONS

KMG management will utilize authorized employees and professional contractors to conduct the drilling and completion operations on site. The actual drilling phase is approximately 6 to 11 days per well, under normal circumstances. Drilling will be continuous, 24 hours a day, for this period. Completion operations will be performed on each well subsequent to the drilling phase. The production facilities will be installed and the wells put on-line. The surface will be re-graded to its prior condition as nearly as practicable. KMG anticipates mobilization and pad construction to begin in the last quarter of 2015/first quarter 2016 contingent upon approval from the Town of Hudson. Completion of all construction activities including site preparation, drilling, completion, facilities and pipeline installation and final regarding is anticipated in the last quarter of 2016/first Quarter 2017.

1.5 CHARACTERISTICS OF MAINTENANCE

A lease operator will inspect the wells on a regular basis under normal conditions and as required by any special circumstances under the supervision of the KMG Area Manager. In addition all wells are remotely monitored 24/7 from our Integrated Operations Center located in Platteville, Colorado.

1.6 DISPOSAL METHODS STATEMENT

- Drilling mud will be spread on lands outside of the Town limits in a manner approved by the COGCC or taken to a commercial disposal.
- A commercial size trash bin for removing debris will be located on site. This bin will be for use by all parties affiliated with the operation.
- Human waste will be properly handled by portable sanitary facilities located on site. KMG will contract a sanitary service company to provide and maintain the self-contained sanitary facilities throughout the oil and gas operation.
- Produced water will be disposed of off-site as approved by the COGCC.

1.7 RELATIVE PLANS

- Noise: KMG will meet all applicable noise requirements set forth by COGCC regulations during operations. Exhaust from all engines, motors and related equipment, shall be vented in a direction away from occupied buildings where practical. KMG, on a case by case basis, installs a straw bale "wall" as a sound and visual buffer during drilling and completion operations.

-
- Lighting: KMG will meet all applicable visual impact requirements set forth by the COGCC. Where practical lights will be shielded and turned inward toward the rig to minimize disturbance to existing structures or public roadways.
 - Vibration: KMG will meet all applicable vibration requirements set forth by COGCC regulations during operations. There is not any unusual vibration anticipated from the proposed operation.
 - Air and Water Quality: KMG will meet all applicable air and water quality requirements set forth by COGCC regulations during operations. KMG will comply with the Colorado Department of Public Health and Environment regulations by filing an Air Pollution Emissions Notice (A.P.E.N.), along with any other additional required application data. If production volumes exceed required thresholds, KMG will install emissions control devices as warranted to obtain required reductions of ozone precursors. The COGCC sets forth specific requirements for casing depth in order to protect ground water sources. Produced water will be hauled away and properly disposed of in accordance with COGCC regulations.
 - Odor: KMG will meet all applicable odor requirements set forth by COGCC regulations during operations. There is not any noxious, prolonged or unusually high amounts of odor expected from the proposed operation.
 - Visual Impacts: KMG will meet all applicable visual impact requirements set forth by COGCC regulations during operations. The permanent facilities will be painted in accordance with COGCC regulations and in a manner to harmoniously blend with the surrounding environment. The site will be reclaimed to as near the original grades as practicable.
 - Environmental Impacts: A representative of or for KMG's Environmental Group will perform a site inspection to clear the location for environmental issues (including wildlife and wetlands) prior to site construction activities. KMG will comply with all applicable wildlife and wetland regulatory requirements. Impacts to regulated wildlife species and jurisdictional wetlands are not expected.
 - Waste: Please refer to section above, 1.6 – Disposal Methods Statement.
 - Public Safety: The completed well sites will be surrounded with a chain link security fence and gate with adequate lock. KMG personnel will monitor the well sites regularly upon completion of the wells in addition all new well sites are remotely monitored 24/7 by representatives in KMG's Integrated Operations Center. Authorized representatives and/or KMG personnel shall be on-site during drilling and completion operations. A copy of an Emergency Response Plan is included with this application (See Emergency Response and Fire Protection Plan).
 - Access Road: KMG will utilize a lease access road from North Oak Street (CR 47) for drilling operations and maintenance equipment. The road will be properly graded for adequate drainage and shall be surfaced and maintained to prevent dust and mud and provide sufficient access for fire protection; culverts and bridges shall be utilized where necessary.

CC Open A 2 (East)

Type of Trucks and Timing during Each Operation Phase:

Vehicle Type	Construction	Drilling	Completion Prep & Completion	Production Facility Construction	Reclamation
Pickup	16%	63%	9%	50%	16%
3-axle bobtail	42%	12%	45%	25%	42%
Semi and Trailer	41%	10%	45%	25%	41%
Over-sized load	1%	15%	1%	0%	1%
Working Hours	12	24	24	12	12
Shift Start	6AM	24 HOUR	24 HOUR	7AM	6AM
Total Trips	1,100- 6 ac. (184 trips /acre)	1860 (465 per well)	5236 4 well Pad (1309/well) 34 days/ ~ 8.5 per well Prep + Comp.	716 (179/well) 90 days	1,100 -6 ac. 2-3 weeks (184 trips/ac.)

USE BY SPECIAL REVIEW

CC OPEN A 34N-36HZ,
 CC OPEN A 13C-36HZ, CC OPEN A 35N-36HZ,
 CC OPEN A 14N-36HZ, CC OPEN A 14C-36HZ,
 CC OPEN A 36N-36HZ & CC OPEN A 15N-25HZ,
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 25,
 TOWNSHIP 2 NORTH, RANGE 65 WEST, 6TH P.M.,
 TOWN OF HUDSON, COUNTY OF WELD, STATE OF COLORADO

- GENERAL NOTES:**
1. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 2. Water flow, if called for by the Town Inspector, will be provided to keep wind erosion in check.
 3. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 4. No grading shall take place in the designated Flood Hazard Areas until the Final Drainage Plan has been approved and all appropriate permits have been obtained.
 5. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 6. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 7. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 8. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 9. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.
 10. The site plan, including utility, drainage, and other details, shall be submitted with the proposed Final Drainage Plan and Site Plan.

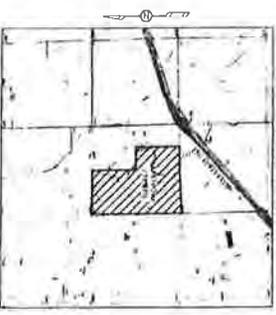
PROPERTY OWNER:
 CC OPEN A, LLC
 609 Commerce
 Evans, CO 80620-0487

PROPERTY OPERATOR:
 KERR-MCCOY OIL & GAS
 10971 18th Street
 Denver, CO 80228
 (720) 775-6000

CONSULTANT:
 SHERPDS DEPARTMENT
 CONSERVATION
 WHEAT RIDGE, CO
 (970) 336-4015 OR 311

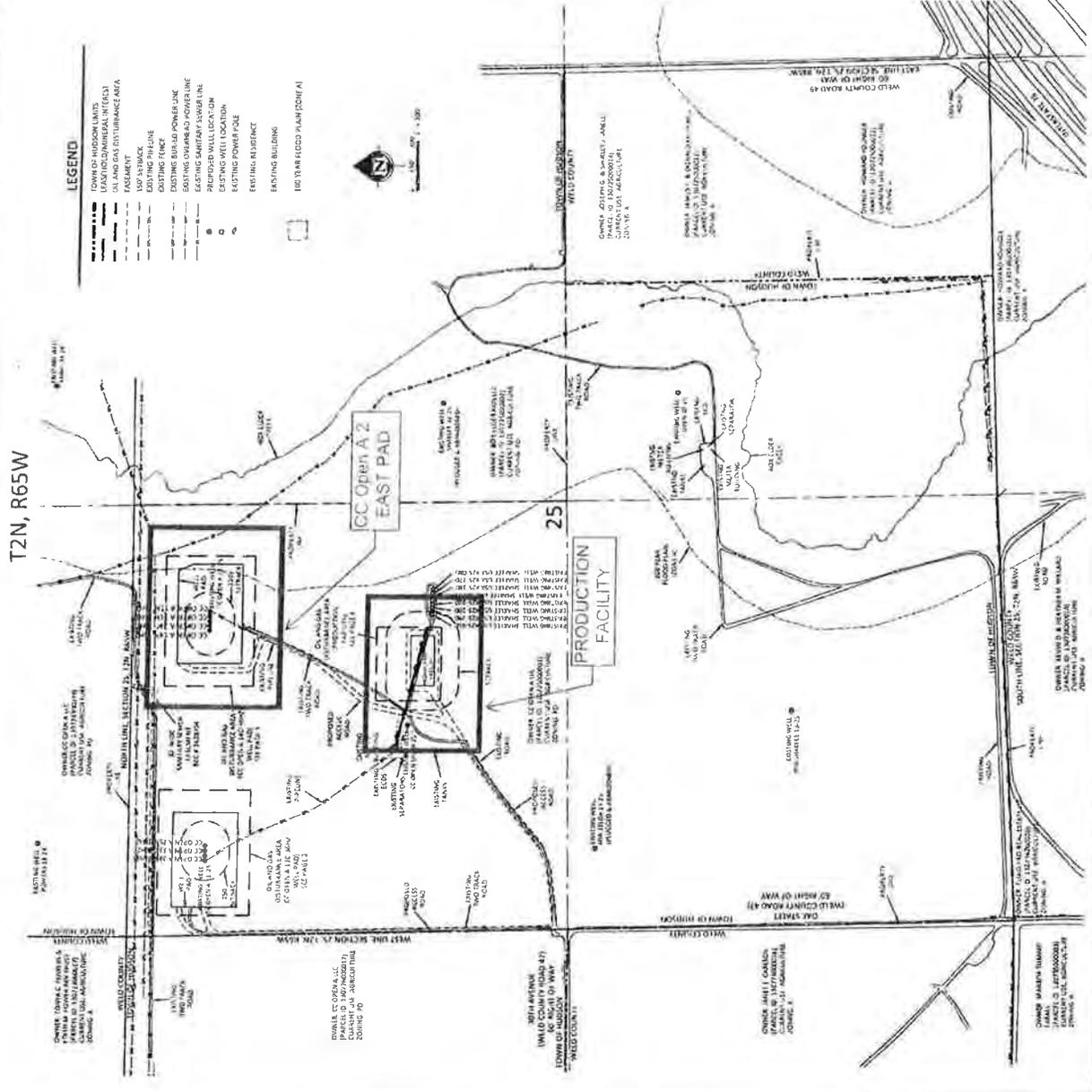
TOWN OF HUDSON:
 TOWN PLANNER
 FIRE PROTECTION
 (303) 354-0151 OR 311

COLOrado OIL & GAS CONSERVATION:
 10971 18th Street
 Denver, CO 80228
 (720) 775-6000



LEGEND

- TOWN OF HUDSON LIMITS
- UNSATURATED/MINERAL INTERESTS
- OIL AND GAS DISTURBANCE AREA
- SEWERAGE
- EXISTING FENCE
- EXISTING POWER LINE
- EXISTING POWER POLE
- EXISTING BUILDING
- 100 YEAR FLOOD PLAIN (CONT. A)



Kerr-McCoy Oil & Gas Operator, L.P.
 10971 18th Street
 Denver, Colorado 80228

LEVELAND PRICE SHERIDAN OFFICE
 1111 East 17th Avenue, Suite 200
 Denver, CO 80202
 (303) 733-1111

CONSULTING, LLC
 609 Commerce
 Evans, CO 80620-0487
 (720) 775-6000

FORM
2A
Rev
08/13

State of Colorado
Oil and Gas Conservation Commission

1120 Lincoln Street, Suite 801, Denver, Colorado 80203
Phone: (303) 894-2100 Fax: (303) 894-2109



Document Number:
400893568
(SUBMITTED)
Date Received:

Oil and Gas Location Assessment

New Location Refile Amend Existing Location Location#: 332381

Submit signed original form. This Oil and Gas Location Assessment is to be submitted to the COGCC for approval prior to any ground disturbance activity associated with oil and gas operations. Approval of this Oil and Gas Location Assessment will allow for the construction of the below specified Location; however, it does not supersede any land use rules applied by the local land use authority. Please see the COGCC website at <http://cogcc.state.co.us/> for all accompanying information pertinent this Oil and Gas Location Assessment.

Location ID:
332381
Expiration Date:

This location assessment is included as part of a permit application.

CONSULTATION

This location is included in a Comprehensive Drilling Plan. CDP # _____
This location is in a sensitive wildlife habitat area.
This location is in a wildlife restricted surface occupancy area.
This location includes a Rule 306.d.(1)A.ii. variance request.

Operator

Operator Number: 47120
Name: KERR MCGEE OIL & GAS ONSHORE LP
Address: P O BOX 173779
City: DENVER State: CO Zip: 80217-3779

Contact Information

Name: Ronett Powers
Phone: (720) 929-6759
Fax: (720) 929-7759
email: ronett.powers@anadarko.com

RECLAMATION FINANCIAL ASSURANCE

Plugging and Abandonment Bond Surety ID: 20010124 Gas Facility Surety ID: _____
Waste Management Surety ID: _____

LOCATION IDENTIFICATION

Name: CC OPEN A Number: 14C-36HZ
County: WELD
Quarter: NENW Section: 25 Township: 2N Range: 65W Meridian: 6 Ground Elevation: 4894

Define a single point as a location reference for the facility location. When the location is to be used as a well site then the point shall be a well location.

Footage at surface: 482 feet FNL from North or South section line
1903 feet FWL from East or West section line
Latitude: 40.115421 Longitude: -104.614937
PDOP Reading: 1.4 Date of Measurement: 01/24/2015
Instrument Operator's Name: ROB WILSON

SURFACE & MINERALS & RIGHT TO CONSTRUCT

Name: CC OPEN A, LLC

Phone: 303.916.6198

Address: PO BOX 200487

Fax: _____

Address: _____

Email: _____

City: EVANS State: CO Zip: 80620

Surface Owner: Fee State Federal Indian

Check all that apply. The Surface Owner: is the mineral owner
 is committed to an oil and Gas Lease
 has signed the Oil and Gas Lease
 is the applicant

The Mineral Owner beneath this Oil and Gas Location is: Fee State Federal Indian

The Minerals beneath this Oil and Gas Location will be developed from or produced to this Oil and Gas Location: Yes

The right to construct this Oil and Gas Location is granted by: Surface Use Agreement

Surface damage assurance if no agreement is in place: _____ Surface Surety ID: _____

Date of Rule 306 surface owner consultation 10/16/2014

CURRENT AND FUTURE LAND USE

Current Land Use (Check all that apply):

Crop Land:	<input type="checkbox"/> Irrigated	<input type="checkbox"/> Dry land	<input type="checkbox"/> Improved Pasture	<input type="checkbox"/> Hay Meadow	<input type="checkbox"/> CRP
Non-Crop Land:	<input checked="" type="checkbox"/> Rangeland	<input type="checkbox"/> Timber	<input type="checkbox"/> Recreational	Other (describe): _____	
Subdivided:	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential		

Future Land Use (Check all that apply):

Crop Land:	<input type="checkbox"/> Irrigated	<input type="checkbox"/> Dry land	<input type="checkbox"/> Improved Pasture	<input type="checkbox"/> Hay Meadow	<input type="checkbox"/> CRP
Non-Crop Land:	<input checked="" type="checkbox"/> Rangeland	<input type="checkbox"/> Timber	<input type="checkbox"/> Recreational	Other (describe): _____	
Subdivided:	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential		

CULTURAL DISTANCE INFORMATION

Provide the distance to the nearest cultural feature as measured from Wells or Production Facilities onsite.

	From WELL	From PRODUCTION FACILITY
Building:	1395 Feet	_____ Feet
Building Unit:	1973 Feet	_____ Feet
High Occupancy Building Unit:	5049 Feet	_____ Feet
Designated Outside Activity Area:	5280 Feet	_____ Feet
Public Road:	2493 Feet	_____ Feet
Above Ground Utility:	438 Feet	_____ Feet
Railroad:	5280 Feet	_____ Feet
Property Line:	481 Feet	_____ Feet

INSTRUCTIONS:

- All measurements shall be provided from center of nearest Well or edge of nearest Production Facility to nearest of each cultural feature as described in Rule 303.b.(3)A.
- Enter 5280 for distance greater than 1 mile.
- Building - nearest building of any type. If nearest Building is a Building Unit, enter same distance for both.
- Building Unit, High Occupancy Building Unit, and Designated Outside Activity Area - as defined in 100-Series Rules.
- For measurement purposes only, Production Facilities should only include those items with an asterisk(*) on the Facilities Tab.

DESIGNATED SETBACK LOCATION INFORMATION

Check all that apply. This location is within a: Buffer Zone
 Exception Zone
 Urban Mitigation Area

- Buffer Zone - as described in Rule 604.a.(2), within 1,000' of a Building Unit.
- Exception Zone - as described in Rule 604.a.(1), within 500' of a Building Unit.
- Urban Mitigation Area - as defined in 100-Series Rules.

Pre-application Notifications (required if location is within 1,000 feet of a building unit):

Date of Rule 305.a.(1) Urban Mitigation Area Notification to Local Government: _____

Date of Rule 305.a.(2) Buffer Zone Notification to Building Unit Owners: _____

FOR MULTI-WELL PADS AND PRODUCTION FACILITIES WITHIN DESIGNATED SETBACK LOCATIONS ONLY:

Check this box if this Oil and Gas Location has or will have Production Facilities that serve multiple wells (onl or offsite) and the Production Facilities are proposed to be located less than 1,000 feet from a Building Unit. *(Pursuant to Rule 604.c.(2)E.i., the operator must evaluate alternative locations for the Production Facilities that are farther from the Building Unit, and determine whether those alternative locations were technically feasible and economically practicable for the same proposed development.)*

By checking this box, I certify that no alternative placements for the Production Facilities, farther from the nearest Building Unit, were available based on the analysis conducted pursuant to Rule 604.c.(2)E.i.

In the space below, explain rationale for siting the multi-well Production Facility(ies) that supports your Rule 604.c.(2)E.i determination. Attach documentation that supports your determination to this Form 2A.

SOIL

List all soil map units that occur within the proposed location. attach the National Resource Conservation Service (NRCS) report showing the "Map Unit Description" report listing the soil typical vertical profile. This data is to used when segregating topsoil.

The required information can be obtained from the NRCS web site at <http://soildatamart.nrcs.usda.org/> or from the COGCC web site GIS Online map page found at <http://colorado.gov/cogcc>. Instructions are provided within the COGCC web site help section.

NRCS Map Unit Name: 69 VALENT SAND, 0 TO 3 PERCENT SLOPES

NRCS Map Unit Name: 70 VALENT SAND, 3 TO 9 PERCENT SLOPES

NRCS Map Unit Name: _____

PLANT COMMUNITY:

Complete this section only if any portion of the disturbed area of the location's current land use is on non-crop land.

Are noxious weeds present: Yes No

Plant species from: NRCS or, field observation Date of observation: 07/24/2015

List individual species: Cheatgrass - Bromus tectorum – (NOXIOUS WEED-C-List), ragweed - Ambrosia psilostachya, sand sagebrush - Artemisia filifolia, horseweed - Conyza canadensis

Check all plant communities that exist in the disturbed area.

- Disturbed Grassland (Cactus, Yucca, Cheatgrass, Rye)
 Native Grassland (Bluestem, Grama, Wheatgrass, Buffalograss, Fescue, Oatgrass, Brome)
- Shrub Land (Mahogany, Oak, Sage, Serviceberry, Chokecherry)
 Plains Riparian (Cottonwood, Willow, Aspen, Maple, Poplar, Russian Olive, Tamarisk)
 Mountain Riparian (Cottonwood, Willow, Blue Spruce)
 Forest Land (Spruce, Fir, Ponderosa Pine, Lodgepole Pine, Juniper, Pinyon, Aspen)
 Wetlands Aquatic (Bullrush, Sedge, Cattail, Arrowhead)
 Alpine (above timberline)
 Other (describe): _____

ALL exceptions and variances require attached Request Letter(s). Refer to applicable rule for additional required attachments (e.g. waivers, certifications, SUAs).

OPERATOR COMMENTS AND SUBMITTAL

Comments

FLOW LINES DESCRIPTION:

Flow Lines: Five flow lines will flow to the production facility location. During production, flow direction in the flow lines is from the well head to the production facility. The size of flow lines is typically 2". Flow lines will be constructed from steel pipe, buried, and will equal the distance between the well heads and the tank battery, approximately 1600'. Five fuel gas supply lines will also be installed from the well head to the production facility. During operation flow direction in the supply lines will be from the production facility to the well head. The size of the supply lines is typically 1". Supply lines will be constructed from poly or steel pipe, buried, and will equal the distance between the well heads and the tank battery, approximately 1600'. Gas lift lines are also occasionally installed (one per well) from the well head to the production facility. During operation flow direction in the gas lift lines will be from the production facility to the well head. The size of the gas lift lines is typically 2". Gas lift lines will be constructed from steel pipe, buried, and will equal the distance between the well heads and the tank battery, approximately 1600'.

OTHER DISPOSAL DESCRIPTION:

Drilling fluids disposal: KMG will reuse water-based drilling fluids to the maximum extent possible, at which point they will either be land applied or taken to a licensed, commercial disposal site; the decision will be based upon laboratory analysis of fluids. KMG will reuse oil-based drilling fluids to the maximum extent possible, at which point they will be returned to the fluids manufacturer for reconditioning or disposal at a licensed, commercial disposal site. Cuttings disposal: Water-based cuttings will be disposed of using a Centralized E&P Waste Management facility or a private spread field, depending on what is feasible at the time of drilling. Oil-based cuttings will be disposed of offsite and at a licensed, commercial disposal site.

In order to minimize surface disturbance, this proposed location will amend existing Location # 332381. Four new horizontal wells will be added to the existing well on this location.

FLOODPLAIN COMMENTS:

Please note that a portion of this location's disturbance area will be in the floodplain during drilling and completion activities, however no portion of this location will remain in the floodplain after interim reclamation. At no point will the specified equipment (wells and pumpjacks) on this location be in the floodplain.

I hereby certify that the statements made in this form are, to the best of my knowledge, true, correct and complete.

Signed: _____ Date: _____ Email: djregulatory@anadarko.com

Print Name: Ronett Powers Title: Regulatory Analyst II

Based on the information provided herein, this Application for Permit-to-Drill complies with COGCC Rules and applicable orders and is hereby approved.

COGCC Approved: _____ Director of COGCC Date: _____

Conditions Of Approval

All representations, stipulations and conditions of approval stated in this Form 2A for this location shall constitute representations, stipulations and conditions of approval for any and all subsequent operations on the location unless this Form 2A is modified by Sundry Notice, Form 4 or an Amended Form 2A.

Best Management Practices

No	BMP/COA Type	Description
1	Planning	This proposed oil and gas location is located in a rural rangeland area. The nearest building unit is located 1973' away.

Total: 1 comment(s)

Attachment Check List

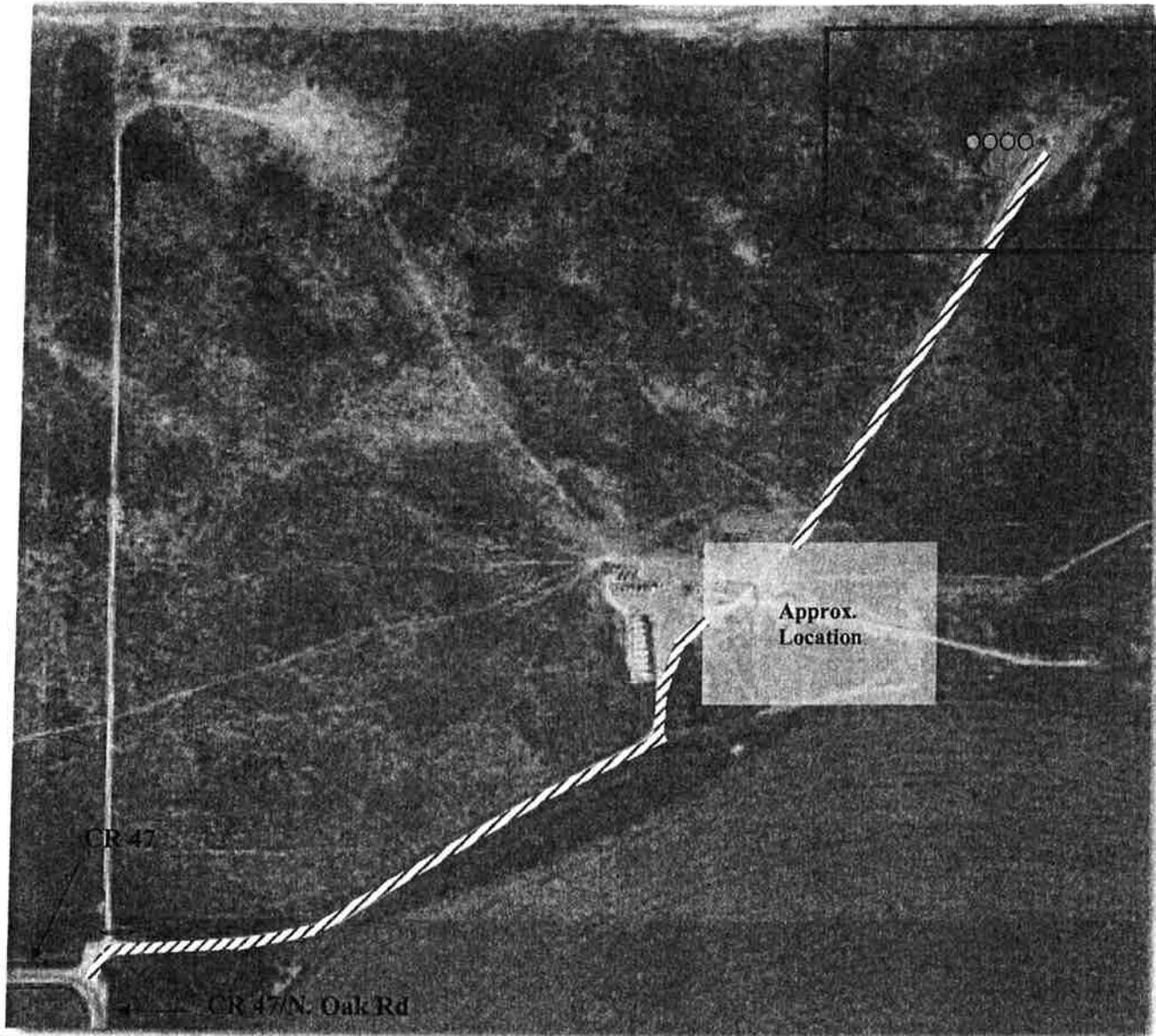
<u>Att Doc Num</u>	<u>Name</u>
400896289	ACCESS ROAD MAP
400896290	HYDROLOGY MAP
400896292	LOCATION PICTURES
400896293	MULTI-WELL PLAN
400896294	NRCS MAP UNIT DESC
400896295	WELL LOCATION PLAT
400896296	REFERENCE AREA MAP
400896297	REFERENCE AREA PICTURES
400896298	SURFACE AGRMT/SURETY
400896299	WASTE MANAGEMENT PLAN
400896933	LOCATION DRAWING

Total Attach: 11 Files

General Comments

<u>User Group</u>	<u>Comment</u>	<u>Comment Date</u>

Total: 0 comment(s)



This aerial photo and all notations and depictions thereon is provided as a courtesy and is intended to be used for general reference purposes only. Kerr-McGee Avularko expressly disclaims any and all representations or warranties regarding the accuracy or the completeness of the information appearing on this aerial photo and any reliance on it for any purpose whatsoever is at the sole risk of the party so relying.



Temporary Access Road (for Drilling, Completions, Reclamation)



Permanent Access Road (post-operations)



Disturbance Area

Proposed Facility location



Surface Hole Location



Proposed flowline routes



**CC Open A 14C-36HZ
Access Map
Sec.25-T2N-R65W
Weld County, CO**

Edited By:
Paul Ratliff

Last Edited:
9/1/2015

MEMORANDUM

3.c.

To: Board of Trustees
From: Joe Racine, Town Administrator
Date: October 21, 2015
Subject: Case No. 15-11 SP, Hudson Lockers Site Plan

Attachments

Hudson Lockers has applied for approval of a site plan for a gazebo structure that they have already constructed on a vacant lot on the south side of their store on Cedar Street. The structure consists of a portion of a steel grain bin supported overhead on six pieces of pipe, and a concrete pad. The applicant has also applied in arrears for a building permit. The building permit application is being reviewed by SafeBuilt and is not the subject of this public meeting.

Site plans are required by Code for all new structures in the B zone district. The gazebo is approximately 254 square feet in size.

The Planning Commission held their public meeting on October 14th and recommended that the site plan be approved with conditions.

Included in this packet are the following:

- Memorandum to the Board from Town Planner, Roy Fronczyk, summarizing the application and the Planning Commission's recommendations.
- Memorandum to the Planning Commission from Roy Fronczyk.
- Application and plans received from the applicant.
- Letter of September 18th from Roy Fronczyk to the applicant.

The Board may approve the site plan, approve the site plan with conditions, or deny the site plan.

MEMORANDUM

TO: Board of Trustees
FROM: Roy Fronczyk
DATE: October 16, 2015
SUBJECT: Planning Commission Public Meeting, October 14, 2015,
Hudson Lockers Gazebo Site Plan, Case #15-11 SP

The required public meeting pertaining to the evaluation of a Site Plan for the above referenced application was conducted by the Planning Commission on Wednesday, October 14, 2015. All required adjacent property notices and posting of the property were completed.

Staff presented their findings which are attached to this memo. The applicants, Jerry Sydow and Darren Sydow provided comments related to the questions raised in the staff report and others as follows:

- The impetus for the Gazebo/Patio comes from lunchtime deli customers who were looking for a place to consume their purchases.
- The Gazebo/patio development may be temporary and that the business may eventually expand into the gazebo site.
- Use of a grain silo roof structure was viewed as reflecting the history of Hudson as a farming community.

Comments were received from members of the audience and included those from Donny Reed, Tom Albano and Larry McClaren and were favorable to the project.

Staff recommended approval of the project with the following conditions:

- ~~1. The use of the Gazebo be limited to customers of Hudson Lockers and to conform to the hours of operation of the business.~~
- ~~2. Security cameras be installed to monitor the activity on the patio.~~
3. Signage for the Gazebo conform to the Hudson Sign Code which requires a permit to be issued prior to installation.
4. Any fencing should be reviewed by the Town's Building Inspector for conformance to codes.
5. An approved building permit be issued for the structure prior to occupancy.
6. Any on-site or structure lighting be directed in such a way as to avoid glare onto surrounding properties or to adjacent sidewalks or street.

The Planning Commission voted to recommend the Site Plan for approval to the Board of Trustees with conditions 3 through 6 of the staff report. Those items ~~crossed out~~ above were deleted from the approval.

Note that the site plan approval does not include the issuance of the building permit. The building permit is independent of the review and evaluation of the site plan.

MEMORANDUM

TO: Town of Hudson Planning Commission
FROM: Roy Fronczyk
DATE: October 8, 2015
SUBJECT: Public Meeting, Hudson Lockers Gazebo, Case #15-11

ATTACHMENTS

I. BACKGROUND

Hudson Lockers constructed a Gazebo on their property at 609 Cedar Street adjacent to their main place of business. This was done without approval of a site plan or building permit. The owner was notified of the violation of Town regulations and was issued a "Stop Work" order and was asked to submit a site plan showing the extent of the development proposed for the site. The owner has submitted the attached materials in support of the site plan.

Although this review is somewhat after the fact it was determined necessary to evaluate if there are any conflicts with Town regulations.

II. REQUEST:

The proposal for the property is to construct a patio area that will be used as an eating area for customers of Hudson Lockers. The patio will be covered by an 18 foot diameter silo roof to create a Gazebo like feature. Attached is a photo of the work undertaken prior to the issuance of the "Stop Work" order.

During the course of the application process the owner has responded to a number of questions aimed at understanding the extent of the plan for the property and operation of the patio/gazebo. Attached are the questions and responses provided by the owner.

III. EXISTING CONDITIONS:

The property in question is Weld County Assessor Parcel No. 147303414026 located at 609 Cedar Street. The northern portion of the site (prior to patio construction) was vacant and a building housing a barbershop occupies the southern part of the parcel. The rear of the property is used for Hudson Lockers and Barbershop employee and customer parking. Attached is a Site Plan of the property showing the location of the gazebo, adjacent buildings, sidewalk and alley.

(Note: There are some inconsistencies in the property lines shown on the site plan. The town records show the width of the property to be two 25' wide lots, the site plan shows one 23' and the other 27'. The front property line shows as the edge of the sidewalk and not the edge of the curb).

IV. FINDINGS and CONCLUSIONS

The function of the patio/gazebo is considered as "Accessory Use or Building" to the principal use of the site. There are no accessory uses defined in the Land Development Code for the B zoning district. However, there are general standards for accessory uses identified in the following section of the Code which are listed and followed by responses in *Bold Italics*.

Sec. 16-64. Standards for accessory uses and buildings.

(a) The accessory building or structure shall be subordinate to and customarily found with the principal use of the land or site and shall be located on the same lot as the principal use.

The lot on which the patio/gazebo is located is the same owner as the adjacent Hudson Lockers property and thus meets the criteria.

(b) Accessory buildings shall be operated and maintained for the benefit or convenience of the occupants of the premises which contain the principal use.

The building is designed for use by customers of Hudson Lockers

(c) Business and commercial. In a business or commercial district, a use accessory to an authorized use shall be permitted as specified in district regulations. The parking of automobiles of clients, patients, patrons or customers within a front, side or rear yard of a building within a commercial or business district, without charge and in connection with any use permitted in such, shall be deemed an accessory use.

There are no accessory uses identified in the "B" zoning district.

(d) Above ground storage of flammable liquids and gases. In the event the aboveground storage of flammable liquids and gases is a valid accessory use as defined in this section, such storage shall meet federal, state and local laws, regulations and safety standards.

No storage of flammable liquids or gases are proposed.

(e) In nonresidential zone districts, all setbacks for accessory uses shall conform to the setbacks as outlined in the underlying zoning district.

There is no minimum Front setback – the gazebo is virtually on the front property line.

Rear setback is 10' the structure is well within the setback.

Side setbacks – if constructed of masonry or fireproof material – no side setback. It is assumed that the iron columns holding up the metal silo roof are fireproof.

(f) In residential zone districts, with the exception of agricultural zone districts, accessory buildings must be set back at least three (3) feet from the side and rear property line of the property and a minimum of twenty (20) feet from all streets abutting the property. Accessory buildings are not allowed in a utility or drainage easement.

Not Applicable.

(g) The height of an accessory building shall not exceed ten (10) feet at the roof eaves above the ground measured at the building foundation. The total height of the accessory building shall not exceed that allowed in the zoning district of the principal use.

There is no height limit in the "B" zone, all other commercial zones (C-1 and C-2) have a 30' height limit - the gazebo structure is 17'6" tall.

(h) There shall be no more than three (3) accessory buildings on any lot, with the exception of agricultural zone districts. (Ord. 10-08 §2, 2010; Ord. 13-05 §3, 2013)

There are two storage sheds on the lot, the gazebo would be the third and thus meets the criteria.

Staff views the idea and design of the outdoor eating space as a unique and appropriate solution to capturing the history of the community. The silo roof structure mimics' those along the BNSF rail line and could form the basis of a long range theme for the downtown area.

The issue has been the construction of the facility prior to review by the Town. Once the oversight was brought to the attention of the applicant there has been willingness on the owner's part to comply with and catch up with the regulatory requirements. Therefore, staff recommends approval of the site plan with the following conditions:

1. The use of the Gazebo be limited to customers of Hudson Lockers and to conform to the hours of operation of the business.
2. Security cameras be installed to monitor the activity on the patio.
3. Signage for the Gazebo conform to the Hudson Sign Code which requires a permit to be issued prior to installation.
4. Any fencing should be reviewed by the Town's Building Inspector for conformance to codes.
5. An approved building permit be issued for the structure prior to occupancy
6. Any on-site or structure lighting be directed in such a way as to avoid glare onto surrounding properties or to the adjacent sidewalk or street.

The Planning Commission could recommend to the Board of Trustees approval of the proposal, approval with conditions or denial of the request or the Commission may table comment until the next available meeting when additional information is needed and requested by the planning commission.

A recommendation to the Board of Trustees on the Hudson Locker Gazebo Site Plan should include findings regarding the proposed layout of the property along with location, access and other factors, including any testimony at the public meeting. The recommendation will be forwarded to the Board of Trustees for consideration at the October 21, 2015 meeting.



The Gazebo as currently built

10/6/15

Hudson Lockers
621 Cedar Street
Hudson, Con 80642

To: Roy Fronzyk
Hudson Town Planner

Roy:

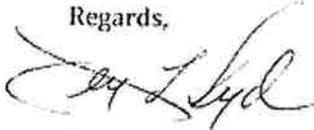
Responding to your email message to Darren Sydow dated Friday, October 2, 2015, I am delivering a packet with the following information you requested:

- Site Plan of entire property: Scale 1" = 10'
- All structures on the lot are identified on the plan.
- Vacant area on the lot is used for Hudson Lockers and Barbershop employee and customer parking.
- A small portion of concrete floor extends outside the circular shape of the gazebo to the sidewalk. A picture is attached.
- Height from floor to façade is 7' 6". A separate detailed engineered drawing showing all dimensions is included in packet.
- The width of the sidewalk from the property line to the front edge of the gazebo is 9'. This is also shown on the scale drawing of the site plan.

You will note that the engineer has stamped the drawing and certified that the gazebo meets all the requirements of the building code.

Hopefully, this provides you with the clarification you requested. If you have any further questions regarding this project please let me know and I will try to respond promptly.

Regards,



Jerry Sydow

Received

OCT 14 2015

Town of Hudson

TOWN OF HUDSON DEVELOPMENT APPLICATION



PROJECT NAME: Patio/Canopy

DATE: 9/21/15

LEGAL DESCRIPTION (attach sheet if necessary):

TYPE OF APPLICATION (check all that apply):

- | | | |
|---|--|---|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Subdivision sketch plan | <input type="checkbox"/> Subdivision prelim. plan |
| <input type="checkbox"/> Final plat | <input type="checkbox"/> Initial zoning | <input type="checkbox"/> Zoning map amendment |
| <input type="checkbox"/> Preliminary PUD plan | <input type="checkbox"/> Final PUD plan | <input checked="" type="checkbox"/> Site plan |
| <input type="checkbox"/> Minor development (plat) | <input type="checkbox"/> Zoning variance | <input type="checkbox"/> Use by Special Review |
| <input type="checkbox"/> Minor amendment (plat) | <input type="checkbox"/> Replat, vacation | <input type="checkbox"/> Other _____ |

*NOTE: ATTACH CHECKLIST/APPLICATION FORM FOR EACH TYPE OF APPLICATION.

PROPERTY DESCRIPTION:

Address or location: 609 Cedar St. / 617 Cedar St.

Current zoning: Commercial Proposed zoning: _____

Current land use: Parking Proposed land use: Patio

CONTACT INFORMATION:

OWNER: Hudson Lockers Phone: 303-536-4777
 Address (mail): P.O. Box 448 Fax: 303-536-4063
Hudson Co 80642 e-mail: Darren@HudsonLockers.com

APPLICANT: Darren Sydan Phone: 303-536-4777
 Address (mail): P.O. Box 448 Fax: 303-536-4063
Hudson Co 80642 e-mail: Darren@HudsonLockers.com

OWNER CERTIFICATION:

I certify that I am the lawful owner of the land included in this application, and that I consent to this application.

Owner: [Signature] Date: 9-21-15

I certify that the information submitted with this application is correct to the best of my knowledge. I understand that the application will be processed only after submittal of a complete application, including required documents, fees and deposits.

Applicant: [Signature] Date: 9-21-15

FOR OFFICE USE ONLY:			
Application #:	Date Received:	Fees:	Rec'd. by: <u>Received</u>

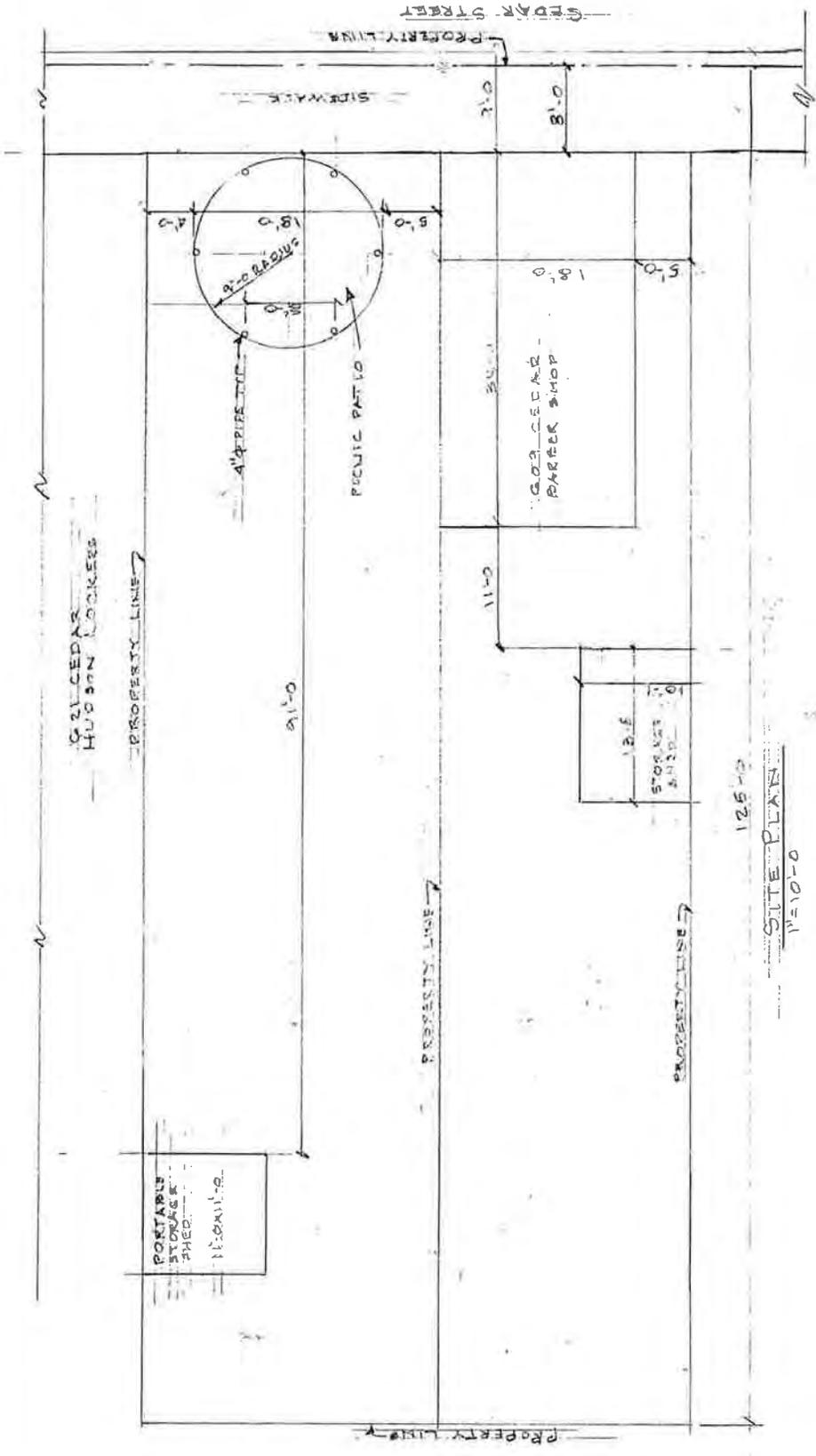
Town of Hudson
557 Ash St. P.O Box 351
Hudson CO. 80642

1. The patio will be used as an eating area. Operating hours M-F 8-6, Sat. 9-2.
2. 1-2 picnic tables built of either concrete or metal, anchors or cable will be used to tie them down
3. We are here throughout our working hours and will have security cameras looking upon it.
4. No lighting planned at this time, Might use a solar rope lighting of some kind. Possibly Christmas lighting during season.
5. No fencing planned.
6. 17"6" is the height
7. Haven't decided yet, thinking about hand painted distressed sign that says Hudson Lockers.
8. Concrete
9. Might add section that seats like a bar, made with the same material.

Received

SEP 21 2015

Town of Hudson



SITE PLAN FOR
 HUDSON LOCKERS
 621 CEDAR STREET HUDSON CO. 80642
 SCARLETT
 DATE 10-5-15
 DRAWN BY CWB

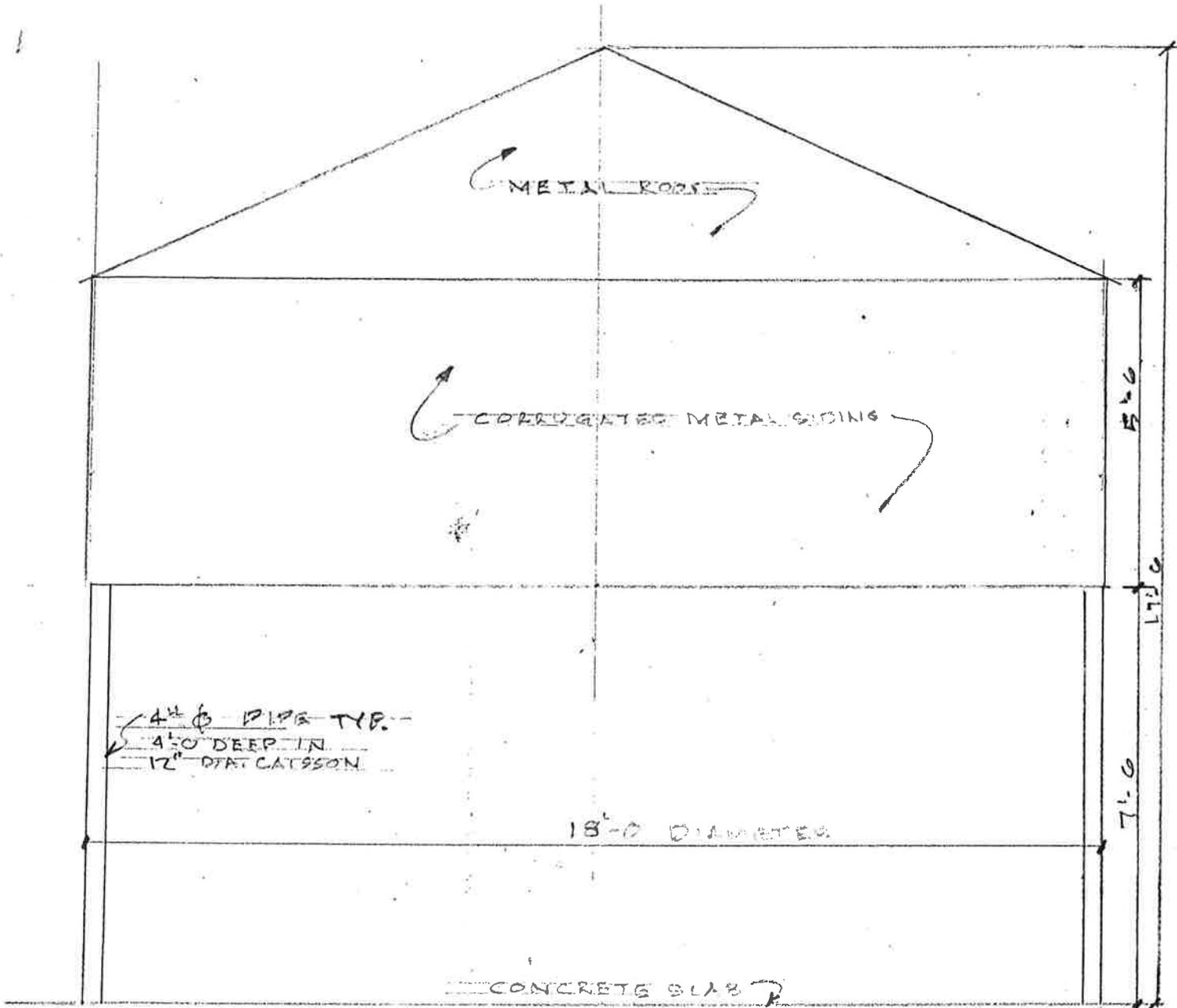
51-9-10-10
 COLORADO LICENSED PROFESSIONAL ENGINEER
 WES BURNING KILBURN
 5000

SITE PLAN
 SHEET NO.

Received

OCT - 6 2015

Town of Hudson



SECTION
B-B 1'-0"

THE ABOVE STRUCTURE MEETS ALL OF THE REQUIREMENTS OF THE BUILDING CODE

Received

OCT - 6 2015

Town of Hudson



GAZEBOS FOR
HUDSON LOCKERS

22 CEDAR ST. HUDSON, CO. 80642

SCALE: 3/8"=1'-0"	DRAWN BY W.B.K.
DATE: 10-9-15	

TYPICAL SECTION

SHEET NO. 2



TOWN OF HUDSON

557 ASH STREET, P O BOX 351, HUDSON, CO 80642-0351
Phone: (303) 536-9311 FAX: (303) 536-4753
www.hudsoncolorado.org

September 14, 2015

Mr. Jerry Sydow
Hudson Lockers
PO Box 448
Hudson, CO 80642

The Town of Hudson Planning Commission requests that you submit a site plan addressing the following items for the structure you have built at 609 Cedar Street (Weld County Assessor Parcel No. 147305414026)

Here are the items that the Town would like to see addressed:

1. A statement of how the structure on the property will be used including hours of operation
2. Type of furniture to be placed in the structure and any method of securing that furniture.
3. Method of monitoring the usage of the structure.
4. Location and type of lighting, if any in or on the structure.
5. The location and materials used for fencing, if any for the structure
6. Height of the structure.
7. Signage on the structure, if any
8. Materials or treatment for the floor of the structure.
9. Any additional modifications to or exterior treatments to the structure such as painting, full enclosure, etc
10. A scaled drawing showing the location of the structure on the lot and its proximity to buildings on either side

The above represents the extent of the information required at this time to submit for review by the Town. All requirements in the Town of Hudson Land Development Code for a site plan submittal and application are waived at this time.

A separate building permit will be required prior to use of the structure

You will need to fill out the one page Development Application that is attached

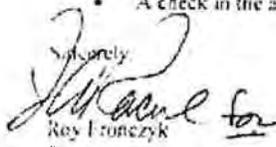
The site plan review process requires a public hearing before the Town of Hudson Planning Commission and Board of Trustees. The Planning Commission meets the second Wednesday of each month and the Trustees the first and third Wednesdays of the month. Property owners within 500 feet of the site will receive a letter notifying them of the pending action and the time of the public hearing. The property will have a sign posted announcing the hearing and an ad will be placed in the Greeley Tribune announcing the public hearing.

We would need the application materials no later than 21 days prior to a Planning Commission meeting date. An application fee of \$250.00 is required with the application materials.

In summary you will need to provide the Town with:

- A completed Development Application.
- A statement answering the question above.
- A scaled site plan map (11" x 17") showing the features and improvements on the site.
- A check in the amount of \$250

Sincerely,


Rey Fronczyk
Town Planner

cc Planning Commission

MEMORANDUM

3.d.

To: Board of Trustees
From: Joe Racine, Town Administrator
Date: October 21, 2015
Subject: Ordinance No. 15-14, First Reading, United Power franchise renewal

Attachment

United Power, the Town's electric power provider, operates under the terms of a franchise agreement. The current franchise, codified in Chapter 5, Article 2 of the Municipal Code, expires on November 1st. As a section of the Municipal Code, the proposed franchise renewal (61 pages in length) is proposed for adoption by ordinance. At the time of this memo the very lengthy ordinance is not yet ready. A copy of the franchise text is included in its place at this time.

Significant changes from the current ordinance include the following:

- Cost control on work that is done for the Town by United Power. [Section 6.8(B)]
- 20 year term. (The previous franchise agreement had been extended to 25 years.)

Franchises are agreements with the Town that detail the manner in which the service will be provided to the Town, and the use of Town streets for construction of facilities necessary to conduct the business. As with the current franchise, the franchise fee is 3% of revenue from sale of electricity. An additional 1.5% is set aside for the undergrounding fund.

If approved on first reading, the ordinance will be scheduled for second reading at the next meeting on November 4th. However, since there are statutory requirements for advertising that do not fit this schedule, our recommendation will be to continue the ordinance on second reading to the next meeting on November 18th. Although the current franchise term ends on November 1st, the terms of the ordinance will remain in effect until the replacement ordinance is adopted and becomes effective.

Representatives from United Power will be on hand at the meeting to answer questions.

ORDINANCE NO. 15-13

**ELECTRIC UTILITY FRANCHISE AGREEMENT
BETWEEN THE TOWN OF HUDSON, COLORADO
AND
UNITED POWER, INC.**

ARTICLE 1: DEFINITIONS

1.1 Short Title. This agreement shall be known as the Town of Hudson/United Power Electric Franchise Agreement (“Franchise Agreement or Agreement”).

1.2 Definitions. For the purpose of this franchise, the following words and phrases shall have the meaning given in this article. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” or “will” are mandatory and “may” is permissive. Words not defined in this article shall be given their common and ordinary meaning.

“**Board of Trustees**” means the governing body of the Town of Hudson.

“**CPUC**” means the Colorado Public Utilities Commission.

“**Electric Distribution Facility**” means that portion of United Power’s electric system, which delivers electricity from the substation breakers to United Power’s meters including all devices connected to that system.

“**Electricity**” and “**Electric Service**” means all electric energy and electric service provided to customers located within the Town, including street lighting and traffic signal services.

“**Emergencies**” means an event that directly influences the ability to provide service or is life threatening.

“**Energy Conservation**” means the decrease in energy requirements of specific customers during any selected time period, with end-use services of such customers held constant.

“Energy Efficiency” means methods of energy conservation, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility.

“Facilities” means all physical components of United Power which are deemed necessary by United Power to provide electricity within and through the Town for transportation, distribution and sale of electricity and include, but are not limited to, plants, works, systems, substations, transmission and distribution structures, lines, street lighting fixtures, equipment, conduit, transformers, underground lines, meter reading devices, communications and data transfer equipment, wires, cables, poles, and building structures.

“Town Property” refers to the surface, the air space above the surface and the area below the surface of any property owned or controlled by the Town or hereafter held by the Town, that would not otherwise fall under the definition of “Streets.”

“Party” or **“Parties”** refers to and includes United Power and the Town, either singly or collectively as the context requires.

“Private Project” refers to any project which is not covered by the definition of “Public Project.”

“Public Project” refers to (1) any public work or improvement within the Town that is wholly owned or wholly funded by the Town; or (2) any public work or improvement within the Town where fifty percent (50%) or more of the funding is provided by any combination of the Town, the federal government, the State of Colorado, in the County of Weld, and other entities established under Title 32 of the Colorado Revised Statutes.

“Public Utility Easement” refers to any easement over, under, or above public or private property, lawfully acquired by or dedicated to the use of United Power, its predecessors in

interest, or other public utility companies for the placement of public utility facilities, including but not limited to United Power facilities. Public Utility easement shall not include any easement for the use of United Power that is located within the Streets.

“Renewable Resource” refers to any facility, technology, measure, plan or action utilizing a renewable “fuel” source such as wind, solar, biomass, geothermal, municipal, animal, waste-tire or other waste, or hydroelectric generation of twenty megawatts or less, including any eligible renewable energy resource as defined in § 40-2-124(i)(a), C.R.S., as the same shall be amended from time to time.

“Residents” means all persons, businesses, industry, governmental agencies and any other entity whatsoever, presently located or which are hereinafter located, in whole or in part, within the territorial boundaries of the Town of Hudson.

“Revenues” means those amounts of money, which United Power bills for the sale of electricity under authorized rates to residents and any other sums that are generated by United Power from the use of its Facilities located within the Streets and Public Utilities easement. The word “revenue” does not include any other receipts including, but not limited to, receipts from the Town or any other person or entity, pole attachment revenue, disconnect/reconnect charges or late payment charge, but only receipts of money from the sale of electricity to Residents.

“Service Area” means the area within the Town of Hudson, which United Power is certified to serve by the CPUC.

“Streets and Public Places” means streets, alleys, viaducts, bridges, highways, avenues, boulevards, roads, lanes, public rights-of-way, easements, and places suitable for the placement of facilities that are located in the Town.

“Street Lighting Facilities” refers to all United Power facilities necessary to provide street lighting service.

“Street Lighting Service” refers to the illumination of streets and other Town property by means of United Power-owned non-ornamental street lights and United Power-owned ornamental street lights located in the Town or along the streets adjacent to the Town limits thereof, supplied from United Power’s overhead or underground electric distribution system.

“Tariff” or **“Tariffs”** shall mean the rules, regulations and rates which apply to United Power’s provision of electric service to its customers.

“Town” means the Town of Hudson located in Weld County, Colorado.

“Town Administrator” means the Town Administrator, and any agent, representative, officer or employee of the Town designated by the Town Council or the Town Administrator to act as the official Town representative with the authority to act on behalf of the Town under this franchise.

“Town Streets” means the roads, streets and associated right-of-way easements owned or controlled by the Town.

“Traffic Facilities” refers to any Town-owned or authorized traffic signal, traffic signage or other traffic control or monitoring device, equipment or facility, including all associated controls, connections and other support facilities or improvements, located in any streets or other Town property.

“Traffic Signal Lighting Service” refers to the furnishing of electricity from United Power’s distribution system for use in traffic facilities pursuant to the rules and regulations relating to such service in United Power’s Tariffs.

“**United Power**” means United Power, Inc. of Colorado, a Colorado not-for-profit electric cooperative, and its successors and assigns, but does not include its affiliates, subsidiaries or any other entity in which it has an ownership interest.

ARTICLE 2: GRANT OF FRANCHISE

2.1 Grant of Franchise. The Town hereby grants to United Power, for the period specified herein, and subject to the conditions, terms and provisions contained in this Agreement, an exclusive right to furnish, sell and distribute electricity within the Town, to the Town and to all residents of the Town within United Power’s service area as specified by the CPUC. Subject to the conditions, terms and provisions contained in this Agreement, the Town also hereby grants to United Power an exclusive right to acquire, construct, install, locate, maintain, operate and extend into, within and through the Town all facilities reasonably necessary to furnish, sell and distribute electricity within the Town, and as may be necessary to carry out the terms of this Agreement, subject to the Town’s prior right of usage for and subject to the Town’s reasonable exercise of the police powers including, but not limited to, zoning, subdivision, permit and building code requirements. These rights shall extend to all areas of the Town within United Power’s service area as specified by the CPUC, as the Town is now constituted, and to additional areas as the Town may increase in size by annexation or otherwise in said service area. The Town and United Power do not waive any of their rights under the statutes and Constitution of the State of Colorado and the United States, except as otherwise specifically set forth herein. The rights granted in this franchise will include the right to provide street lighting service and traffic signal lighting service to the Town, for which the Town will pay in accordance with its agreement with United Power or its established Tariffs. These rights shall extend to all areas of the Town within United Power’s certificated territory, as it is now constituted and to additional

areas as the Town may increase in size by annexation or otherwise within United Power's service territory.

2.2 Effective Date and Term of Franchise. This Franchise shall be effective as of the effective date of the ordinance adopting the same and shall supersede any prior franchise grants to United Power by the Town, and shall supersede the provisions of Article 2, Chapter 5 of the Municipal Code of the Town of Hudson. The term of the Franchise shall be twenty (20) years unless extended by mutual agreement of the parties. This Franchise is not intended to revoke any prior license, grant, or right to use the Streets or other Town property and such licenses, grants or rights of use are hereby affirmed. Such rights shall hereafter be governed by the terms of this Franchise. Any events occurring prior to the effective date of this Agreement shall be construed under the agreement in place as of the date of any such event except that any provisions relating to under-grounding of distribution lines shall be construed under this Agreement. All under-grounding fund balances in existence and work-in-process on the date this Franchise Agreement becomes effective shall carry forward unaffected by this transition and as provided generally herein.

2.3 Financial Responsibility.

(A) At the time of presentation of the letter accepting the terms of this Franchise, United Power shall submit to the Town certificates of insurance to demonstrate that United Power has the following insurance coverage to meet its obligations under the Franchise Agreement: worker's compensation insurance, comprehensive general liability and automobile liability insurance. The Town shall be listed as an additional listed insured for the comprehensive general liability insurance. United Power shall continuously maintain such coverage during the term of the Franchise, and the certificates of insurance shall be kept current

by annual revisions as of January 1 during the term of the franchise. The Town reserves the right to request and receive a copy of an insurance certificate(s) from United Power's insurers, demonstrating the placement of the coverage required hereunder. The Town may require, from time to time, and United Power agrees to provide, additional reasonable funding of United Power's indemnification obligations as a self-insured, if United Power is acting as a self-insured. Nothing herein contained shall create any right in any third party or cause the Town to be liable to any party for a failure so to act.

(B) The parties hereto understand and agree that the Town, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this Franchise Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

(C) The Town agrees to list United Power as an additional listed insured on the Town's insurance policies, and to cover any claims by any person or entity for injuries (including death) to persons or damage to property, including theft, resulting in whole or in part from the acts or omissions of the Town, its trustees, employees, agents, contractors, and subcontractors, or in connection with or based upon a violation of applicable federal, state or local laws by the Town, and related to the facilities and operations described in this Franchise Agreement.

2.4 Notice of Boundary Changes.

(A) United Power will provide the Town with a map defining the current United Power service area within the Town within thirty (30) days of the execution of this

Agreement and will transmit the map as an attachment to a letter from United Power to the Town Administrator.

(B) United Power will notify the Town within thirty (30) days of any changes in boundaries of United Power service area in the Town. Such notice will be in written form addressed to the Town Administrator.

(C) The Town will notify United Power of a proposed annexation within fourteen (14) days of the Town Council's resolution finding the petition for annexation to be in substantial compliance with the statutory requirements. Further, the Town will notify United Power of final approval of all annexations of land into the Town which occur within United Power's service area, within thirty (30) days after the effective date of the annexation. Failure by the Town to comply with the thirty-day time frame does not preclude the Town from collecting franchise fees from revenues received by United Power from residents of the annexed area after the effective date of the annexation.

2.5 Conditions, Limitations and Exclusions.

(A) The right to use and/or occupy public streets, alleys, viaducts, bridges, roads and public places for the purposes set forth herein is not, and shall not be deemed to be an exclusive franchise, and the Town reserves the right to itself to make or grant a similar use of public streets and other public places to any other person, firm or corporation. The right to make reasonable use of Town streets and other public property to provide electric service to the Town and its residents under the Franchise is subject to and subordinate to any Town usage of said streets or other public property.

(B) Nothing contained in this Franchise shall be construed to authorize United Power to engage in any activities requiring a license or permission from the Town other than the

provision of electric service without first obtaining such license or permission. This Agreement does not grant United Power the right, privilege or authority to engage in the cable television business, but does not prohibit joint use agreements between United Power and cable television companies for the shared use of facilities. Any such joint use agreement entered by United Power shall be consistent with United Power's obligations and responsibilities under this Franchise, including inserting provisions that require any joint user of an above ground facility be required to bear their costs of relocating such facility under-ground where United Power converts its shared above ground facilities to an under-ground facility.

(C) This Agreement does not grant United Power the right, privilege or authority to use or occupy any land currently designated as parks, park land or open space of the Town or which may in the future be so designated except to the extent United Power is currently using or occupying said parks, park land or open space and as otherwise authorized in writing by the Town. United Power shall not expand its use or occupancy of said parks, park land or open space except by specific written authorization of the Town; provided, however, that nothing herein contained shall limit or restrict United Power's right to maintain, renovate, repair or replace any such facilities currently occupying said parks, park land or open space, subject to the conditions set forth in this Franchise. The Town may require removal, relocation, or undergrounding of facilities from any parks, park land or open space subject to conditions set forth herein.

2.6 Police Powers.

(A) The Town retains the following rights in regard to this Franchise:

(1) To use, control and regulate, through the exercise of its police power, Town streets, public easements and other Town property, places and the space above and beneath them.

(2) To impose such other regulations as may be determined by the Town Council to be necessary in the exercise of its police power to protect the health, safety, welfare and convenience of the public.

(B) United Power expressly acknowledges the Town's right to adopt, from time to time, in addition to the provisions contained herein, such laws, including ordinances and regulations, as it may deem necessary in the exercise of its governmental powers. If the Town considers making any substantive changes in its local codes or regulations that in the Town's reasonable opinion will significantly impact United Power's operations in the Town's Streets and other Town property, it will make a good faith effort to advise United Power of such consideration; provided, however, that lack of notice shall not be justification for United Power's non-compliance with any applicable local requirements. United Power expressly acknowledges the Town's right to enforce regulations concerning United Power's access to or use of the Streets and other Town property, including requirements for permits.

(C) United Power shall comply with all laws, regulations, permits, and orders enacted by the Town that are applicable to United Power's provision of electric service within the Town. Compliance with the terms of this Franchise shall be deemed to constitute compliance with the Municipal Code of the Town of Hudson.

2.7 Payment of Expenses Incurred by Town in Relation to Ordinance. At the Town's option, United Power shall reimburse the Town for expenses incurred in publication of notices and ordinances related to this Franchise.

2.8 Continuation of Utility Service. In the event this Franchise is not renewed at the expiration of its term or is terminated for any reason, and the Town has not provided for alternative utility service, United Power will not remove any United Power facilities pending resolution of the disposition of the system, or portions thereof, and shall continue to provide, and be paid for at current rates, electric service within the Town until the Town arranges for utility service from another provider. United Power further agrees that it will not withhold any continued interim electric services necessary to protect the public. The Town agrees that in the circumstances of this Section 2.8, United Power shall be entitled to monetary compensation as provided in United Power's Tariffs on file with the CPUC and United Power shall be entitled to collect from residents and shall be obligated to pay the Town, at the same times and in the same manner as provided in the Franchise, an aggregate amount equal to the amount which United Power would have paid as a franchise fee as consideration for the continued interim use of the Town Streets. Only upon receipt of written notice from the Town stating that the Town has adequate alternative electric service for residents and upon order of the CPUC shall United Power be allowed to discontinue the provision of electric service to the Town and its residents. United Power will be compensated through the agreed upon final date of interim electric service provided by United Power.

ARTICLE 3: FRANCHISE FEE

3.1 Franchise Fee. In consideration for the grant of this Franchise, United Power shall pay the Town a sum equal to three percent (3%) of all revenues received from the sale of electricity within the Town. Payment of the franchise fee shall not exempt United Power from any lawful taxation upon its property or sales, except as set forth in 3.5 below. All amounts paid to United Power by the Town for use of electricity by any of its departments shall be excluded from computation of the franchise fee.

3.2 Surcharge of Franchise Fee. United Power may collect this fee by adding a surcharge not to exceed the franchise fee upon all Town residents that use facilities of United Power in the Town to obtain electrical service.

3.3 Electric Service Provided to the Town. No franchise fee shall be charged to the Town for electric service provided to the Town for its own consumption, including Street Lighting Service and Traffic Signal Lighting Service.

3.4 Franchise Fee Payment in Lieu of Certain Taxes and Other Fees. The Town accepts payment of the franchise fee by United Power in lieu of any occupation tax, occupancy tax, license tax, or similar tax or fee the Town might charge United Power or its subcontractors for the privilege of doing business in the Town, for the use or occupation of Town Streets, for the installation, operation and maintenance of United Power facilities, or for any other personal, real property, sales, use, or other tax or fee of any kind.

3.5 Franchise Fee Payment Not In Lieu of Permit or Other Fees. Payment of the franchise fee does not exempt United Power from any other lawful tax or fee imposed generally upon persons doing business within the Town, including by way of illustration any fee for a street closure permit, an excavation permit, a street cut permit, or other lawful permits hereafter required by the Town, except that the franchise fee provided for herein shall be in lieu of any occupation fee or similar tax for the use of Town Streets.

3.6 Payment Schedule. Unless otherwise specifically provided herein, payment of the franchise fee accruing after the effective date of this Agreement shall be made in monthly installments not more than twenty days following the close of the month for which payment is to be made for the franchise fees resulting from the sale of electricity. Initial and final payments

shall be prorated for the portions of the months at the beginning and end of the term of this Agreement. All payments shall be made to the Town in care of the Director of Finance.

3.7 Audit of Franchise Fee Payments.

(A) If requested, every three (3) years commencing at the end of the third year of this Franchise, United Power shall conduct an internal audit to investigate and determine the correctness of the franchise fee paid to the Town. Such audit shall be limited to the previous three (3) calendar years. If requested, United Power shall provide a written report to the Town Administrator containing the audit findings regarding the franchise fee paid to the Town for the previous three (3) calendar years.

(B) If the Town disagrees with the results of the audit, and if the parties are not able to informally resolve their differences, the Town may conduct its own audit at its own expense, and United Power shall cooperate fully, including but not necessarily limited to, providing the Town's auditor with all information reasonably necessary to complete the audit. If the results of a Town audit conducted pursuant to Section 3.7 concludes that United Power has underpaid the Town by three percent (3%) or more, in addition to the obligation to pay such amounts to the Town, United Power shall also pay all costs of the audit. Errors arising solely from customer addresses inadvertently not identified as located within the municipal boundaries of the Town shall not be included in determining the error rate unless the Town has provided specific detailed written notice to United Power that such location address is within the municipal boundaries of the Town.

(C) Either party may challenge any written notification of error as provided for in this Section 3.7 of this Franchise by filing a written notice to the other party within thirty (30) days of receipt of the written notification of error. The written notice shall contain a

summary of the facts and reasons for the party's notice. The parties shall make good faith efforts to resolve any such notice of error before initiating any formal legal proceedings for the resolution of such error.

(D) In addition to the three year audit provided above, the Town Administrator, or official Town representative, shall have access to the metering records of United Power during normal business hours upon reasonable notice for the purpose of auditing to ascertain that the franchise fee has been correctly computed and paid. All information obtained by the Town Administrator during a franchise fee audit shall be kept confidential and shall be utilized for the sole purpose of verifying that the franchise fee has been correctly computed and paid.

3.8 Change of Franchise Fee and Other Franchise Terms. The Town Council, upon giving ninety (90) days' notice to United Power, may request that the Town and United Power review the franchise fee rate and other material financial aspects of the Franchise. Upon such a request by the Town, the parties shall engage in good faith negotiations related to amending the franchise fee rate, and/or other related provisions of this Franchise to allow the Town to receive a different franchise fee rate, or other significant change in the financial aspects of the Agreement. In no event shall the franchise fee rate be increased more than twenty percent (20%) in any five (5) year period.

3.9 Most Favored Party Clause. United Power shall report to the Town, within 60 days of execution, the terms of any franchise or of any change of franchise in any other municipality that contains a franchise fee or other significant financial benefit greater than the franchise fee rate or other significant financial benefit to the Town contained in this Franchise. United Power shall also report about such other provisions which may be beneficial to the Town.

If the Town Board of Trustees decides the Franchise fee or other significant financial benefit should be incorporated into the Franchise, then such change shall be agreed to in writing and approved by the Town Board of Trustees by ordinance.

3.10 Contract Obligation. This Franchise Agreement constitutes a valid and binding agreement between United Power and the Town. In the event that the franchise fee specified in this Agreement is declared illegal, unconstitutional or void for any reason by final judgment of any court (or other proper authority), United Power shall be contractually bound to pay monthly fees to the Town in an aggregate amount that would be equivalent to the amount which would have been paid by United Power as a franchise fee hereunder as consideration for use of the Town Streets and other Town property.

3.11 Payment of Taxes and Fees. United Power shall pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extra-ordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Agreement (“Impositions”), provided that United Power shall have the right to contest any such impositions and shall not be in breach of this section so long as it is actively contesting such impositions. The Town shall not be liable for the payment of taxes, late charges, interest or penalties of any nature other than pursuant to applicable Tariffs on file and in effect from time to time with the CPUC.

3.12 Changes in Utility Service Industries. The Town and United Power recognize that utility service industries are the subject of restructuring initiatives by legislative and regulatory authorities, and are also experiencing other changes as a result of mergers,

acquisitions, and reorganizations. Some of such initiatives and changes have or may have an adverse impact upon the franchise fee revenues provided for herein. In recognition of the length of the term of this Franchise, United Power agrees that in the event of any such initiatives or changes and to the extent permitted by law, upon receiving a written request from the Town, United Power will cooperate with and assist the Town in amending this Franchise to assure that the Town receives an amount in franchise fees or some other form of periodic compensation that is the same amount of franchise fee rate paid to the Town as of the date that such initiatives and changes adversely impact the future franchise fee revenue.

ARTICLE 4: ADMINISTRATION OF FRANCHISE

4.1 Supervision.

(A) **Town Designee.** The Town Administrator, or the Manager's designated representative, is hereby designated the official of the Town having full power and authority to take appropriate action for and on behalf of the Town and its inhabitants to enforce the provisions of this Franchise and to investigate any alleged violations or failures of United Power to comply with the provisions hereto or to adequately and fully discharge its responsibilities and obligations hereunder. The failure or omission of said official Town representative to so act shall not constitute any waiver or estoppel nor limit independent action by other Town officials. The Town Administrator may also designate one or more Town representatives to act as the primary liaison with United Power as to particular matters addressed by this Franchise and shall provide United Power with the name and telephone numbers of said Town representatives. The Town may change these designations by providing written notice to United Power. The Town's designee shall have the right, at all reasonable times, to inspect any United Power facilities in Town Streets.

(B) **United Power Designee.** United Power shall designate a representative to act as the primary liaison with the Town and shall provide the Town with the name, address, and telephone number for United Power's representative under this Franchise. United Power may change its designation by providing written notice to the Town. The Town shall use this liaison to communicate with United Power regarding electric service and related service needs for Town facilities.

(C) In order to facilitate such duties of the said official Town representative, United Power agrees as follows:

(1) To allow said official Town representative or his designee reasonable access to any part of United Power's plant that is directly used to serve the Town of Hudson, works and systems, and that said Town official may make and supervise tests to determine the quality of the electric service supplied the customers of United Power within the municipal boundaries of the Town of Hudson. Access to United Power facilities described in this paragraph and 4.1(C)(2) shall be on an "appointment made" basis during normal business hours. The Town official(s) provided access shall be accompanied by at least one employee of United Power of its choosing. The Town official(s) shall comply with all United Power requirements for such access, and particularly safety requirements. For safety reasons, United Power shall have the right to designate — at its sole discretion — the method, means, and timing of such access, which access United Power can terminate or deny at its discretion.

(2) To grant said official Town representative or his designee reasonable access to the books and records of United Power, insofar as they relate to matters covered by this Franchise, upon advance appointment made during normal business hours.

(3) To provide said Town official with such reasonable and necessary reports containing or based on information readily obtainable from United Power's books and records as the Town may from time to time request with respect to the electric service supplied under this franchise.

(4) To meet as requested with said official Town representative to share information useful in coordinating management, operation and repair of the facilities of United Power and the operations and property of the Town.

4.2 Coordination of Work.

(A) United Power agrees to meet with the Town's designee upon written request for the purpose of reviewing, implementing, or modifying mutually beneficial procedures for the efficient processing of United Power bills, invoices and other requests for payment.

(B) United Power agrees to coordinate its activities in Town Streets and on other Town Property with the Town. The Town and United Power will meet annually upon the written request of the Town designee to exchange their respective short-term and long-term forecasts and/or work plans for construction and other similar work which may affect Town Streets and other Town Property. The Town and United Power shall hold such meetings as either deems necessary to exchange additional information with a view towards coordinating their respective activities in those areas where such coordination may prove beneficial and so that the Town will be assured that all provisions of this Franchise, building and zoning codes, and air and water pollution regulations are complied with, and that aesthetic and other relevant planning principles have been given due consideration.

4.3 Examination of Records. The Parties agree that any duly authorized representative of the Town and United Power shall have access to and the right to examine any

directly pertinent non-confidential books, documents, papers, and records of the other party involving any activities related to this Franchise. All such records must be kept for a minimum of four (4) years. To the extent that either Party believes in good faith that it is necessary in order to monitor compliance with the terms of this Franchise to examine confidential books, documents, papers, and records of the other Party, the Parties agree to meet and discuss providing confidential materials, including but not limited to providing such materials subject to a reasonable confidentiality agreement which effectively protects the confidentiality of such materials.

ARTICLE 5: REPORTS

5.1 Reports of United Power Operations. United Power shall submit reasonable financial and operating reports containing or based on information available from United Power's books and records annually to the Town and other reports the Town may from time to time request with respect to the operations of United Power under this Franchise, provided that such information can be provided at a reasonable cost to the Town. Such form of reports may be changed from time to time as mutually agreed between the Town and United Power.

5.2 Annual Reports. United Power shall provide the Town on or before May 1 of each year beginning, for the preceding calendar year, after the effective date of this franchise:

- (A) United Power's then modified debt service calculation;
- (B) A report of margins collected by United Power; and
- (C) Short-term (three years or less) and long-term (over three years) plans for all major capital improvements, construction and excavation within the Town or affecting service to the Town and its residents.

5.3 Requested Reports. Upon request by the Town, United Power shall provide the Town:

(A) A list of real property and leasehold interests in real property owned by United Power within the municipal boundaries of the Town, for the purpose of calculating property taxes; and

(B) A map (paper or electronic copy) indicating the major location of United Power facilities within and contiguous of the municipal boundaries of the Town of Hudson.

(C) A report regarding the reliability indexes of United Power's electric service.

(D) A list of all Town electrical accounts and account numbers and items metered.

(E) A list of street lights in the Town energized by United Power.

5.4 Copies of Tariffs and Regulatory Filings. United Power shall notify the Town of all proposals to change rates relating to service by United Power to its customers located within the Town. Upon request by the Town, United Power shall provide the Town with copies of all rules, regulations, rate tariffs, and policies. Town acknowledges that United Power is a not-for-profit electric cooperative formed primarily to distribute electrical energy, and its utility rates are not subject to regulation by the CPUC and are largely determined by the cost of acquiring electric power from its supplier(s).

ARTICLE 6: SUPPLY, CONSTRUCTION AND DESIGN

6.1 Adequate Supply at Lowest Reasonable Cost. United Power shall work with its wholesale power suppliers to take all reasonable and necessary steps to assure an adequate supply of electricity to United Power's customers at the lowest reasonable cost consistent with long term supply reliability.

6.2 Service Reliability.

(A) United Power shall operate and maintain United Power facilities efficiently and economically and in accordance with general utility practices and best systems, methods, and skills consistent with the provision of adequate, safe, and reliable electric service. United Power recognizes and agrees that, as part of its obligations and commitments under this Franchise, United Power shall carry out each of its performance obligations in a timely, expeditious, efficient, economical, and workmanlike manner.

(B) United Power shall be excused from the performance of its obligations hereunder, to the extent that performance of said obligations are delayed due to: failure of high voltage transmission facilities needed to serve the Town which are beyond United Power's responsibility and control; strikes; acts of public enemies; war; order of military authority; insurrections; riots; acts of epidemics; tornadoes; landslides; earthquakes; floods; any Act of God; or any other reason beyond United Power's control. Notwithstanding the foregoing, if the supply of electricity to United Power's customers should be interrupted due to any circumstance beyond United Power's control, United Power shall take all necessary and reasonable actions to restore such supply at the earliest practicable time.

6.3 Planned Outage. If the supply of electricity to United Power's customers should be interrupted due to a planned outage, except cases of emergency outage repair, United Power shall notify, consistent with the provisions of Section 6.7, its customers as soon as practical in advance of the planned outage. United Power agrees that it will in good faith try to contact all customers at least forty-eight (48) hours prior to a planned outage.

6.4 Town Participation. The Town shall have the right to approve major facility site plans within the Town. Upon reasonable notice to United Power, the Town shall have the right

to hold public hearings related to United Power's facilities, site selection, under-grounding of overhead lines, construction and service quality. United Power agrees to fully participate in such public hearings as requested by the Town and to provide to the Town information available to United Power that relates to the hearings described in this paragraph.

6.5 Compliance with Town Requirements. Representatives of the Town and United Power shall meet annually to discuss annual and long-term planning for capital improvement projects contemplated by each within the Town. United Power shall include within its capital improvement projects the plans of the Town relating to same. United Power and the Town shall exchange copies of their reports or plans regarding annual and long-term planning for capital improvement projects with descriptions of construction activities including, to the extent known, the timing and method of construction.

6.6 Excavation, Construction, and Maintenance and Repair Work. United Power shall be responsible for obtaining, paying for, and complying with all applicable permits including, but not limited to, excavation, street closure and street cut permits, in the manner required by the laws, ordinances, and regulations of the Town. All construction, excavation, maintenance and repair work done by United Power shall be done in a timely manner, which minimizes inconvenience to the public and individuals. When United Power does any work in or affecting the Town Streets, it shall, at its own expense, promptly remove any obstructions there from and restore such Town Streets or other Town Property to a condition that meets applicable Town standards. If weather or other conditions do not permit the complete site restoration for work done pursuant to this Section, United Power may with the approval of the Town, temporarily restore the affected Town Streets or other Town Property, provided that such temporary site restoration is at United Power's sole expense and provided further that United

Power promptly undertakes and completes any necessary permanent site restoration when the weather or other conditions no longer prevent such permanent restoration. All site restoration work under this section shall be subject to inspection by the official Town representative and compliance by United Power with reasonable remedial action required by said official pursuant to inspection and left in equivalent or better conditions as found. Upon the request of the Town, United Power shall restore the Streets or other Town Property to a better condition than existed before the work was undertaken, provided that the Town shall be responsible for any additional costs of such site restoration. If United Power fails to promptly restore the Town Streets or other Town Property as required by this Section, and if, in the reasonable discretion of the Town, immediate action is required for the protection of public health and safety, the Town may, upon giving reasonable notice to United Power that is commensurate with the danger posed, restore such Town Streets or other Town Property or remove the obstruction there from; provided however, Town actions do not unreasonably interfere with United Power facilities. United Power shall be responsible for the actual cost incurred by the Town to restore such Town Streets or other Town Property or to remove any obstructions there from. In the course of its site restoration of Town streets or other Town property under this Section, the Town shall not perform work on United Power facilities unless specifically authorized by United Power in writing on a project by project basis and subject to the terms and conditions agreed to in such authorization.

6.7 Outages and Restoration of Service.

(A) **Customer Notification.** Upon request, United Power shall provide annually to the Town Administrator a written protocol that addresses the process for customer notification of power outages, including the specific provisions to be included in the notice, the

estimated time for restoration, the manner by which such notice shall be provided, and the contact names and telephone numbers associated therewith. The notification shall be included in the Annual Report.

(B) **Town Notification.** United Power shall provide to the Town daytime and nighttime telephone numbers of a designated United Power representative from whom the Town designee may obtain status information from United Power on a twenty-four (24) hour basis concerning interruptions of electrical service in any part of the Town.

(C) **Restoration.** In the event United Power's electric system, or any part thereof, is partially or wholly destroyed or incapacitated, United Power shall use due diligence to restore such systems to satisfactory service within the shortest practicable time, or provide a reasonable alternative to such system if United Power elects not to restore such system.

6.8 Installation and Maintenance of United Power Facilities.

(A) **United Power Facilities.** Except for emergencies, the construction, excavation, installation, maintenance, renovation, repair and replacement of any facilities by United Power within the municipal boundaries of the Town shall be subject to permitting, inspection and approval of locations by the official Town representative. Such regulation shall include, but not be limited to the following matters: location of facilities in the streets, alleys and dedicated easements; disturbance and reconstruction of pavement, sidewalks and surface of streets, alleys, dedicated easements and driveways. All United Power facilities shall be installed so as to cause a minimal amount of interference with such property. United Power facilities shall not interfere with any water mains or sewer mains or Town telecommunications facilities, traffic signal lights, parks, or any other municipal use of the Town's streets and right-of-ways except to the extent the Town agrees through the permit process. United Power shall erect and maintain its

facilities in such a way as to minimize interference with trees and other natural features and vegetation. United Power and all its subcontractors shall comply with all permitting, local regulations and ordinances. In emergency situations, United Power shall, after the fact, comply with permitting and inspection requirements of the Town. United Power shall install, repair, renovate and replace its facilities with due diligence in good and workmanlike manner, and United Power's facilities will be of sufficient quality and durability to provide adequate and efficient electric service to the Town and its residents.

(B) **Town Projects.** Where United Power performs construction projects requested by the Town, United Power shall provide in advance a cost estimate for such work in sufficient detail to justify the estimated total cost. The Town shall deposit funds with United Power in the amount of the cost estimate prior to commencement of the work. Construction project change orders shall be limited to significant changes in project scope that are requested by and approved by the Town. United Power will promptly invoice any Town approved change orders to the Town and the Town will promptly pay the change order invoice. Upon completion of the agreed work, United Power will provide a final detailed report to the Town, reconciling the original projected cost estimates, including any approved change orders, to the actual costs incurred in completing the project. Upon reconciliation of the construction of the extension, the construction deposit shall be compared to the actual cost of the design and construction as entered in to the books of United Power. If the actual cost is less than originally estimated, United Power shall promptly refund the portion of the construction deposit greater than the actual costs, without interest, to the Town. United Power will exercise commercially reasonable means to keep the cost of projects performed for the Town to a minimum, and will bill the Town for such construction projects at costs that are reasonably comparable to using qualified

personnel and industry standards for similar work. Where projects requested by the Town, that are located on a Town owned parcel, require removal of electrical facilities, United Power will not reasonably withhold approval of the Town to perform such work, so long as United Power has determined that said work can be accomplished in as safe manner as to not cause harm to any of its distribution system, or other electrical facilities.

6.9 Obligations Regarding United Power Facilities.

(A) **United Power Facilities.** All United Power facilities within Town Streets shall be maintained in good repair and condition.

(B) **United Power Work Within the Town.** All work within Town Streets performed or caused to be performed by United Power shall be done:

- (1) In a high-quality manner;
- (2) In a timely and expeditious manner;
- (3) In a manner which minimizes inconvenience to the public; in a cost-effective manner, which may include the use of qualified contractors; and in accordance with all applicable laws, ordinances, and regulations.

(C) **Permit and Inspection.** The installation, renovation, and replacement of any United Power facilities in the Town Streets or other Town Property by or on behalf of United Power shall be subject to permit, inspection and approval by the Town. Such inspection and approval may include, but shall not be limited to, the following matters: location of United Power facilities, cutting and trimming of trees and shrubs, and disturbance of pavement, sidewalks, and surfaces of Town Streets or other Town Property. United Power agrees to cooperate with the Town in conducting inspections and shall promptly perform any remedial action lawfully required by the Town pursuant to any such inspection.

(D) **Compliance.** United Power and all of its contractors shall comply with the requirements of all municipal laws, ordinances, regulations, permits, and standards, including but not limited to requirements of all building and zoning codes, and requirements regarding curb and pavement cuts, excavating, digging, and other construction activities. United Power shall assure that its contractors working in Town Streets or other Town Property hold the necessary licenses and permits required by law.

(E) **Increase in Voltage.**

(1) **Customer Notification.** United Power shall use best efforts to notify affected customers if there will be facility changes that result in a material increase in voltage of the service to such customers.

(2) **Town Facilities.** United Power shall reimburse the Town for the cost of upgrading the electrical system or facility of any Town building or facility that uses electric service where such upgrading is caused or occasioned by United Power's decision to increase the voltage of delivered electrical energy unless such change is caused by, requested or mandated by the Town.

(F) **As-Built Drawings.** Upon reasonable written request of the Town designee, United Power shall provide within ninety (90) days of the request, as-built drawings of any United Power facility installed within the Town Streets or contiguous to the Town Streets. As used in this section, as-built drawings refers to the facility drawings as maintained in United Power's geographical information system or any equivalent system. United Power shall not be required to create drawings that do not exist at the time of the request.

6.10 Relocation of United Power Facilities.

(A) **Relocation Obligation.** United Power shall at its sole cost and expense temporarily or permanently remove, relocate, change or alter the position of any United Power facility in Town streets or in other Town Property whenever the Town shall determine that such removal, relocation, change or alteration is necessary for the completion of any public project. For all relocations, United Power and the Town agree to cooperate on the location and relocation of United Power facilities in the Town Streets or other Town Property in order to achieve relocation in the most efficient and cost-effective manner possible. Upon request of the Town, United Power will exercise commercially reasonable means to relocate facilities in a shorter period of time for good cause shown by Town and United Power shall not unreasonably deny such relocation. Notwithstanding the foregoing, once United Power has relocated any United Power facility at the Town's direction, if the Town requests that the same United Power Facility be relocated within two (2) years, the subsequent relocation shall not be at United Power's expense.

(B) **Private Projects.** United Power shall not be responsible for the expenses of any relocation required by the Town's direct or indirect assistance for private projects, and United Power has the right to require the payment of estimated relocation expenses from the affected private party before undertaking such relocation. Upon completion, the parties shall perform a "true-up" to ensure United Power has been fully compensated for all work performed.

(C) **Relocation Performance.** The relocations set forth in Section 6.10(A) of this Franchise Agreement shall be completed within a reasonable time, not to exceed ninety (90) days from the later of the date on which the Town designee requests in writing that the relocation commence, or the date when United Power is provided all service application submittal

requirements. United Power shall be entitled to an extension of time to complete a relocation where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including without limitation fire, strike, war, riots, acts of governmental authority, acts of God, forces of nature, judicial action, unavailability or shortages of labor, materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(D) **Town Revision of Supporting Documentation.** Any revision by the Town of all service application submittal requirements provided to United Power that causes United Power to substantially redesign and/or change its plans regarding facility relocation shall be deemed good cause for a reasonable extension of time to complete the relocation under the franchise.

(E) **Completion.** Each such relocation shall be deemed complete only when United Power actually relocates the United Power facilities, restores the relocation site in accordance with Sections 6.6 and 6.7 of this Franchise or as otherwise agreed with the Town, and removes from the site or properly abandons on site all unused facilities, equipment, material and other impediments.

(F) **Scope of Obligation.** Except as otherwise set forth herein, the relocation obligation set forth in this Section shall only apply to United Power facilities located in Town Streets or other Town Property and shall not apply (i) to United Power facilities located on property owned by United Power in fee, (ii) to United Power facilities located in Town property whose ownership or use was donated to the Town by United Power, and (iii) to United Power

facilities located in privately-owned easements or public utility easements, unless such public utility easements are on or in Town-owned property.

(G) **Underground Relocation.** Underground facilities shall be relocated underground. Above ground facilities shall be placed above ground unless United Power is paid for the incremental amount by which the underground cost would exceed the above ground cost of relocation, or the Town requests that such additional incremental cost be paid out of available funds under Article 8 of this Franchise.

(H) **Coordination.** When requested in writing by the Town or United Power, representatives of the Town and United Power shall meet to share information regarding anticipated projects which will require relocation of United Power facilities in Town Streets or other Town Property. Such meetings shall be for the purpose of minimizing conflicts where possible and to facilitate coordination with any timetable established by the Town for any public project.

(I) **Proposed Alternatives Or Modifications.** Upon receipt of written notice of a required relocation, United Power may propose an alternative to or modification of the public project requiring the relocation in an effort to mitigate or avoid the impact of the required relocation of United Power facilities. The Town shall in good faith review the proposed alternative or modification. The Town's acceptance of the proposed alternative or modification shall be at the sole discretion of the Town, provided however that such acceptance shall not be unreasonably withheld. In the event the Town designee accepts the proposed alternative or modification, United Power agrees to promptly compensate the Town for all additional costs, expenses or delay that the Town reasonably determines that it has incurred as a direct result of implementing the proposed alternative.

6.11 Service to New Areas. If, during the term of this Franchise, the municipal boundaries of the Town are expanded within United Power's service area, United Power shall extend service to residents of the newly incorporated areas, and United Power shall be paid therefor, in accordance with United Power's extension policy set forth in its Tariffs at the earliest practicable time. Service to annexed areas shall be in accordance with the terms of this Franchise Agreement, including payment of franchise fees as defined in Section 3.1 of this franchise.

6.12 New or Modified Service to Town Facilities. In providing new or modified electric service to Town facilities, United Power agrees to perform as follows:

(A) **Performance.** United Power shall complete each project requested by the Town within a reasonable time. The Parties agree that a reasonable time shall not exceed one hundred eighty (180) days from the date upon which the Town designee makes a written request and provides all service application submittal requirements as described in this section. Upon request of the Town, United Power may complete electric service to Town facilities in less than one hundred eighty (180) days for good cause shown and United Power shall not unreasonably deny such expedited service. United Power shall be entitled to an extension of time to complete a project where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to fire, strike, war, riots, acts of governmental authority, acts of God, forces of nature, judicial action, unavailability or shortages of materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town designee may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(B) **Town Revision of Supporting Documentation.** Any revision by the Town of supporting documentation provided to United Power that causes United Power to substantially redesign and/or change its plans regarding new or modified service to Town facilities shall be deemed good cause for a reasonable extension of time to complete the relocation under the franchise.

(C) **Completion/Restoration.** Each such project shall be complete only when United Power actually provides the service installation or modification required, restores the project site in accordance with the terms of the franchise or as otherwise agreed with the Town and removes from the site or properly abandons on site any unused facilities, equipment, material and other impediments.

6.13 Modifications to United Power Facilities. United Power shall modify United Power facilities, including manholes and other appurtenances in Town Streets and other Town Property, to accommodate Town street maintenance, repair and paving operations at no cost to the Town. In providing such modifications to United Power facilities, United Power agrees to perform as follows:

(A) **Performance.** United Power shall complete each requested modification within a reasonable time, not to exceed thirty (30) days from the date upon which the Town makes a written request and provides to United Power all information reasonably necessary to perform the modification. United Power shall be entitled to an extension of time to complete a modification where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to fire, strike, war, riots, acts of governmental authority, acts of God, judicial action, unavailability or shortages of materials or equipment and

failures or delays in delivery of materials. Upon request of United Power, the Town may also grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(B) **Completion/Restoration.** Each such modification shall be complete only when United Power actually adjusts United Power facility to accommodate the Town operations in accordance with Town instructions and, if required, readjusts, following Town paving operations.

(C) **Coordination.** As requested by the Town or United Power, representatives of the Town and United Power shall meet regarding anticipated street maintenance operations which will require such modifications to United Power facilities in Town Streets or other Town Property. Such meetings shall be for the purpose of coordinating and facilitating performance under this Section.

6.14 Third Party Damage Recovery.

(A) **Damage to United Power Interests.** If any individual or entity damages any United Power facilities that United Power is responsible to repair or replace, to the extent permitted by law, the Town will notify United Power of any such incident and will provide to United Power within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

(B) **Damage to Town Interests.** If any individual or entity damages any United Power Facilities for which the Town is obligated to reimburse United Power for the cost of the repair or replacement of the damaged facility, to the extent permitted by law, United Power will notify the Town of any such incident and will provide to the Town within a

reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

(C) **Meeting.** United Power and the Town agree to meet periodically, upon written request of either party, for the purpose of developing, implementing, reviewing, improving and/or modifying mutually beneficial procedures and methods for the efficient gathering and transmittal of information useful in recovery efforts against third parties for damaging United Power facilities.

6.15 Technological Improvements. United Power may install future improvements and technological advances to its equipment and service within the Town, at United Power's discretion (but upon reasonable notice to the Town), when such improvements and advances are technologically and economically feasible, and safe and beneficial to the Town.

ARTICLE 7: COMPLIANCE

7.1 Town Regulation. The Town expressly reserves, and United Power expressly recognizes, the Town's right and duty to adopt, from time to time, in addition to the provisions herein contained, such provisions, ordinances and rules and regulations ("New Provisions") as may be deemed necessary by the Town, in the exercise of its police power, to protect the health, safety and welfare of its citizens and their properties. However, adoption of such new provisions shall not be inconsistent with the provisions in this Agreement. Town shall give United Power 180 days written notice of any provisions, ordinances, rules or regulations which may affect United Power's rights, obligations, and performance hereunder, and shall not implement the same until United Power has the ability to meet and confer with the Town concerning such New Provisions. If the New Provisions alter the parties' rights, obligations or performance hereunder in any way, the parties shall meet and confer on either modifying this Agreement or terminating it.

7.2 Compliance with Regulatory Agencies. United Power shall assure that its distribution facilities comply with the standards promulgated by all regulatory agencies with jurisdiction over United Power's services.

7.3 Continued Compliance with Air and Water Pollution Laws. United Power shall use its best efforts to take measures which will result in its facilities and operations meeting the standards required by applicable Town, county, state and federal air and water pollution laws, and laws regulating transportation of hazardous materials. Upon the Town's request, United Power will provide the Town with a status report of such measures.

ARTICLE 8: UNDERGROUND CONSTRUCTION AND OVERHEAD CONVERSION

8.1 New Lines Under-grounded. United Power shall place all newly constructed electrical distribution lines underground unless approved otherwise by the Town.

8.2 Overhead Conversion of Electrical Lines. United Power agrees to allocate an annual amount, equivalent to one and one-half percent (1-1/2%) of the preceding calendar year's electric revenues derived from customers within the Town, for the purpose of under-grounding United Power's existing overhead electric distribution facilities within the Town, at the expense of United Power, as requested by the Town (the "Under-grounding Funds"). Any unexpended portion of the one and one-half percent (1-1/2%) revenues shall be carried over to succeeding years. Until three (3) years from the conclusion of this Agreement and upon request by the Town, United Power agrees to anticipate amounts to be available for up to three (3) years in advance to be used to underground its overhead distribution facilities, as requested by the Town. Any amounts so advanced shall be credited against amounts to be expended in succeeding years until such advance is eliminated. Except as provided in Section 6.10(G) no relocation expenses which United Power would be required to expend pursuant to Article 6 of this Franchise Agreement shall be charged to this allocation. United Power shall not withhold approval of the

plans of the Town except where essential for safety, or protection of the operating integrity of United Power's electric system. If, after any and all undergrounding of United Power lines has taken place and no more United Power overhead lines remain in the Town, there are any undergrounding funds remaining, or, if at any time the Town and United Power mutually agree in writing, undergrounding funds may be used by the Town for other mutually agreed electric utility related projects in the Town mutually agreed upon by the Town and United Power.

8.3 Planning and Coordination of Under-grounding Projects. The Town and United Power shall mutually plan in advance the scheduling of under-grounding projects to be undertaken according to this Article as a part of the review and planning for other Town and United Power construction projects. In addition, the Town and United Power agree to meet, as required, to review the progress of then-current under-grounding projects and to review planned future under-grounding projects. The purpose of such meetings shall be to further cooperation between the Town and United Power to achieve the orderly under-grounding of United Power facilities. At such meetings, the parties shall review:

(A) Undergrounding, including conversions, public projects and replacements which have been accomplished or are underway, together with United Power's plans for additional undergrounding;

(B) Public projects anticipated by the Town; and

(C) Such meetings shall be held to achieve a continuing program for the orderly under-grounding of electrical lines in the Town.

8.4 Cooperation with Other Utilities. When undertaking a project of under-grounding, the Town and United Power shall work with other utilities or companies which have their lines overhead to attempt to have all lines under-grounded as part of the same project.

When other utilities or companies such as cable television and telephone companies or other utilities with overhead facilities embark upon a program of underground construction where United Power has overhead facilities, United Power shall cooperate with these utilities and companies and undertake to underground United Power facilities as part of the same project at no cost to the Town. United Power shall not be required to pay for the cost of under-grounding the facilities of other companies or the Town.

8.5 Town Requirement to Underground. In addition to the provisions of this Article, the Town may require any above ground United Power Facilities to be moved underground at the Town's expense.

(A) **Undergrounding Performance.** Upon receipt of a written request from the Town, United Power shall, to the extent of monies available in the Fund and as otherwise provided herein, underground United Power facilities in accordance with the procedures set forth in this Section 8.5.

(B) **Performance.** United Power shall complete each under-grounding project requested by the Town within a reasonable time, not to exceed one hundred eighty (180) days from the later of the date upon which the Town designee makes a written request and the date the Town provides to United Power all service application submittal requirements. United Power shall be entitled to an extension of time to complete each under-grounding project where United Power's performance was delayed due to a cause that could not be reasonably anticipated by United Power or is beyond its reasonable control, after exercise of best efforts to perform, including but not limited to, fire, strike, war, riots, acts of governmental authority, acts of God, forces of nature, judicial action, unavailability or shortages of materials or equipment and failures or delays in delivery of materials. Upon request of United Power, the Town may also

grant United Power reasonable extensions of time for good cause shown and the Town shall not unreasonably withhold any such extension.

(C) Town Revision of All Service Application Submittal Requirements.

Any revision by the Town of all service application submittal requirements provided to United Power that causes United Power to substantially redesign and/or change its plans regarding an undergrounding project shall be deemed good cause for a reasonable extension of time to complete the under-grounding project under the franchise.

(D) Completion/Restoration. Each such undergrounding project shall be deemed complete only when United Power actually undergrounds the designated United Power facilities, restores the undergrounding site in accordance with Sections 6.6 and 6.7 of this franchise or as otherwise agreed with the Town designee and removes from the site or properly abandons on site any unused facilities, equipment, material and other impediments.

(E) Estimates. Promptly upon receipt of an undergrounding request from the Town and all service application submittal requirements necessary for United Power to design the undergrounding project, United Power shall prepare a detailed, good faith cost estimate of the anticipated actual cost of the requested project for the Town to review and, if acceptable, issue a project authorization. United Power will not proceed with any requested project until the Town has provided a written acceptance of United Power estimate.

(F) Report of Actual Costs. Upon completion of each under-grounding project, United Power shall submit to the Town a detailed report of United Power's actual cost to complete the project and United Power shall reconcile this total actual cost with the accepted cost estimate.

(G) **Audit of Underground Projects.** The Town may require that United Power undertake an independent audit of any under-grounding project for five hundred thousand dollars (\$500,000.00) or greater. The cost of any such independent audit shall reduce the amount of the fund. United Power shall cooperate fully with any audit and the independent auditor shall prepare and provide to the Town and United Power a final audit report showing the actual costs associated with completion of the project. If a project audit is required by the Town, only those actual project costs, including reasonable internal costs and overhead as charged to the project by United Power's normal cost accounting rules and protocols, confirmed and verified by the independent auditor as commercially reasonable and commercially necessary to complete the project shall be charged to the fund.

8.6 Audit of Underground Fund. Upon written request of the Town, but no more frequently than once every three (3) years, United Power shall audit the fund for the Town. Such audits shall be limited to the previous three (3) calendar years. United Power shall provide the audit report to the Town and shall reconcile the fund consistent with the findings contained in the audit report. If the Town has concerns about any material information contained in the audit, the parties shall meet and make good faith attempts to resolve any outstanding issues. If the matter cannot be resolved to the Town's reasonable satisfaction, United Power shall, at its expense, cause an independent auditor, selected by agreement with the Town, to investigate and determine the correctness of the charges to the underground fund. The independent auditor shall provide a written report containing its findings to the Town and United Power. United Power shall reconcile the fund consistent with the findings contained in the independent auditor's written report. If the independent auditor's report confirms United Power's allocations, costs and

expenses, the Town shall be responsible for fifty percent (50%) of the cost for the independent auditor's work and report.

ARTICLE 9: ENVIRONMENT AND CONSERVATION

9.1 Environmental Leadership. United Power is committed to using the earth's resources wisely; supporting the advancement of emerging technologies, and helping its customers use energy as efficiently as possible. United Power shall strive to conduct its operations in a way that avoids adverse environmental impacts where feasible, subject to constraints faced by a cooperative utility. In doing so, United Power shall consider environmental issues in its planning and decision making, and shall invest in environmentally sound technologies when such technologies are deemed prudent and feasible. United Power shall continue with its voluntary carbon reduction program to reduce greenhouse gas emissions and shall continue to explore ways to reduce water consumption at its facilities. United Power shall continue to work with the U.S. Fish and Wildlife Service to develop and implement avian protection plans to reduce electrocution and collision risks by eagles, raptors and other migratory birds caused by transmission and distribution lines.

9.2 Energy Conservation and Efficiency.

(A) Energy Efficiency Programs.

(1) **General.** The Town and United Power recognize and agree that energy conservation and efficiency programs offer opportunities for the efficient use of energy and reduction of customers' energy consumption and costs. United Power recognizes and shares the Town's desire to advance the implementation of cost-effective energy conservation and efficiency programs, which direct opportunities to United Power's customers to manage more efficiently their use of energy and, thereby, create the opportunity to reduce their energy consumption, costs, and impact on the environment. United Power shall seek to develop and

offer energy efficiency programs to its customers. United Power commits to offer Demand Side Management (DSM) programs and similar succeeding programs, which provide customers the opportunity to reduce their energy usage. In doing so, United Power recognizes the importance of (i) implementing cost-effective programs, the benefits of which could otherwise be lost if not pursued in a timely fashion and (ii) developing cost-effective energy management programs for the various classes of United Power's customers. United Power commits to offer programs that attempt to capture market opportunities for cost-effective energy efficiency improvements such as municipal specific programs that provide cash rebates for efficient lighting, energy design programs to assist architects and engineers to incorporate energy efficiency in new construction projects, and recommissioning programs to analyze existing systems to optimize performance and conserve energy. United Power shall advise the Town and United Power's customers of the availability of assistance that United Power makes available for investments in energy conservation, and may do so through dissemination of such information through its District Representatives, newsletters, newspaper advertisements, bill inserts and energy efficiency workshops and by maintaining information of these programs on United Power's website.

(2) **Town Improvements.** United Power agrees to work with the Town to implement periodic grant or other financial assistance programs or mechanisms to assist the Town in defraying costs incurred by the Town in making technology changes and/or modifications to Town facilities or purchasing equipment to provide energy efficiencies and/or conservation. A mutually cooperative process including discussion during the June to August time frame for each ensuing budget year to include such expenditures in the next annual budget cycle will materially assist the parties in best utilizing such grant or other financial assistance programs. Both parties must agree on the program uses, terms, conditions and funding

mechanisms for all such grant or other financial assistance programs before United Power will advance any funds for such program.

(B) **Renewable Resource Programs.** United Power agrees to invest in clean, renewable electric power and include renewable resource programs as an integral part of United Power's provision of electric service to its customers. United Power will continue to promote existing or new programs in its service territory and take the following steps to encourage participation by the Town and United Power's customers in available renewable resource programs.

- (1) Notify the Town regarding eligible renewable resource programs;
- (2) Provide the Town with support regarding how the Town may participate in eligible renewable resource programs; and
- (3) Advise customers regarding participation in eligible renewable resource programs.

(C) **Five Year Review.** The Town and United Power agree to meet no less frequently than every five (5) years during the term of the Franchise to review and exchange information concerning new and additional energy conservation and efficiencies that may be implemented to further the stated intention of this Article 9.

ARTICLE 10: USE OF UNITED POWER FACILITIES

10.1 Town Use of United Power Facilities. The Town shall be permitted to make use of United Power's distribution facilities such as poles and conduits in the Town at no cost to the Town for the placement of Town equipment or facilities necessary to serve a legitimate police, fire, emergency, communications, public safety or traffic control purpose, or for any other purpose consistent with exercise of the Town's municipal powers and services. The Town shall notify United Power in writing in advance of its intent to use United Power facilities and the

nature of such use. The Town shall be responsible for its materials costs and any costs associated with modifications to United Power facilities to accommodate the Town's joint use of such United Power facilities and for any electricity used. No such use of United Power facilities shall be required if it would constitute a safety hazard or would interfere with United Power's use of United Power facilities. Any such Town use must comply with the National Electric Safety Code and all other applicable laws, rules and regulations. Subsequently, if United Power determines that it will no longer utilize the shared facilities, Town will be responsible, at its cost, for procuring alternatives for its facilities. United Power will be required to provide at least one hundred eighty (180) days' notice if it intends to abandon any shared facility, unless such change is occasioned by external circumstances beyond United Power's control. In that event, reasonable notice is all that is required.

10.2 Use of United Power Land. United Power shall grant to the Town use of distribution and transmission rights-of-way which it now, or in the future, owns or has an interest in within the Town for the purposes set forth in the Colorado Parks and Open Space Act of 1984, provided that United Power shall not be required to allow such use in any circumstance where such use would interfere with United Power's use of the distribution and transmission rights-of-way. Such grant shall be made only if United Power is given at least sixty (60) days advance notice of the Town's desired use. Any use by the Town pursuant to this Section 10.2 shall be made at the Town's sole expense, and shall be subject to any safety or other requirements imposed by United Power. The Town hereby expressly understands that United Power's rights-of-way contain electrical lines that could prove deadly if contact is made with any electrical current. The Town shall hold harmless and indemnify United Power for any and all liability and damages associated with the Town's use of United Power's distribution and

transmission rights-of-way, conduits and poles, including the payment of United Power's reasonable attorney and expert witness fees, if applicable, except if the loss is caused by United Power's own negligence.

10.3 Third Party Use of United Power Facilities. If requested in writing by the Town, United Power may allow other companies who hold Town franchises, or otherwise have obtained consent from the Town to use the streets, to utilize United Power facilities for the placement of their facilities upon approval by United Power and agreement upon reasonable terms and conditions including payment of fees established by United Power. No such use shall be permitted if it would constitute a safety hazard or would interfere with United Power's use of United Power facilities. United Power shall not be required to allow the use of United Power facilities for the provision of utility service except as otherwise required by law.

10.4 Emergencies. Upon request, United Power will cooperate with the Town in developing an emergency management plan. In the case of any emergency or disaster, United Power shall, upon verbal request of the Town, make available United Power facilities for temporary emergency use during the emergency or the disaster period. Such use of United Power facilities shall be of a limited duration and will only be allowed if the use does not interfere with United Power's own use of such United Power facilities.

ARTICLE 11: RIGHT OF FIRST PURCHASE/USE OF UNITED POWER LAND

11.1 Right of First Purchase. If at any time during the term of this franchise, United Power proposes to sell or dispose of any of its real property located within the Town, it shall grant to the Town the right of first purchase of same. United Power shall obtain an appraisal by a qualified appraiser on any such real property and the Town shall have sixty (60) days after receipt of the qualified appraisal in which to exercise the right of first purchase at the appraised value by giving written notice to United Power. If the Town is not satisfied with the appraisal

tendered by United Power, the Town may obtain, within thirty (30) days of United Power's tender of its appraisal, and at the Town's cost, a second appraisal which, upon receipt, shall be tendered to United Power. If United Power is satisfied with the Town's appraisal, then, upon notice, the Town shall purchase the property at the price set forth in the second appraisal. If United Power is not satisfied with the second appraisal, then the appraisers issuing the first and second appraisals shall choose a third appraiser who will also appraise the property. The Town and United Power shall share the cost of the third appraiser equally and shall be bound by the value concluded by the third appraiser. The sixty (60) day time period by which the Town may have the first right to purchase the property shall be extended thirty (30) days from the dates of the second or third appraisal (as the case may be), and the Town shall close on the sale and pay the value set forth in the controlling appraisal within said thirty (30) days. Should the Town not provide the required written notice that it wishes to purchase the subject property within the time frames above, United Power may proceed to negotiate with others for the sale of such property, provided that United Power may not sell such property for an amount less than ninety-five percent (95%) of the appraised value without first providing the Town an opportunity to purchase such property at such lesser price, in which instance the Town shall have thirty (30) days to determine if it wishes to purchase such property.

ARTICLE 12: INDEMNIFICATION OF TOWN

12.1 Town Held Harmless. United Power shall construct, maintain and operate its facilities in a manner which provides reasonable protection against injury or damage to persons or property. United Power shall not be obligated to hold harmless or indemnify the Town for claims, demands, judgments or losses which a court of competent jurisdiction has found to have arisen out of or in connection with any act of any nature, or failure to act of any nature, of the Town or its officers, contractors, agents or employees.

12.2 Notice to United Power. Within sixty (60) days after receipt of the same by the Town Attorney, the Town will provide notice to United Power of the pendency of any claim or action against the Town arising out of the exercise by United Power of its franchise rights. United Power will be permitted, at its own expense, to appear and defend or to assist in defense of such claim.

12.3 Indemnification.

(A) **Town Indemnified.** United Power shall indemnify, defend and hold the Town harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of or arising from the grant of this franchise, the exercise by United Power of the related rights, or from the operations of United Power within the Town, and shall pay the costs of defense plus reasonable attorneys' fees. The Town shall (a) give prompt written notice to United Power of any claim, demand or lien with respect to which the Town seeks indemnification hereunder and (b) unless in the Town's judgment a conflict of interest may exist between the Town and United Power with respect to such claim, demand or lien, shall permit United Power to assume the defense of such claim, demand, or lien with counsel satisfactory to the Town. If such defense is assumed by United Power, United Power shall not be subject to any liability for any settlement made without its consent. If such defense is not assumed by United Power or if the Town determines that a conflict of interest exists, the parties reserve all rights to seek all remedies available in this franchise against each other.

Notwithstanding any provision hereof to the contrary, United Power shall not be obligated to indemnify, defend or hold the Town harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or intentional act or failure to act of the Town or any of its officers or employees.

12.4 Immunity. Nothing in this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the Town may have under the Colorado Governmental Immunity Act (§4-10-101, et seq., C.R.S.) or of any other defenses, immunities, or limitations of liability available to the Town by law.

12.5 Waiver of Subrogation. The Town and United Power hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to their respective property resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Town and United Power. These waivers and releases shall apply between the Town and United Power, and they shall also apply to any claims under or through either one as a result of any asserted right of subrogation. All policies of insurance covering property damage obtained by either the Town or United Power concerning the property shall waive the insurer's right of subrogation against the other party.

ARTICLE 13: TRANSFER OF FRANCHISE

13.1 Consent of Town Required.

(A) United Power shall not sell, transfer or assign this franchise or any rights under this Franchise to another, by stock exchange, merger, or otherwise, excepting only corporate reorganizations of United Power not involving a third party, unless the Town shall approve in writing such sale, transfer or assignment of rights. Approval of the sale, transfer or assignment shall not be unreasonably withheld. The charging or collection of the transfer fee hereinafter set forth is conclusively deemed reasonable.

(B) In order that the Town may share in the value this Franchise adds to United Power's operations, any such transfer or assignment by United Power of rights under this franchise requiring Town approval under Section 13.1(A) shall require that the transferee

promptly pay to the Town an amount that is equal to the lesser of (i) Three dollars (\$3.00) per metered account located within the municipal boundaries of the Town or (ii) three times the most recent twelve (12) months of franchise fees collected by the Town from United Power. In the event only a portion of United Power's service area within the municipal boundaries of the Town is transferred, the transfer fee shall be calculated by multiplying the greater of (i) and (ii) above by number of customers transferred, divided by the then current number of customers served by United Power in the Town before said transfer. Such transfer fee shall not be recovered from the Town or from the Town residents or property owners through electric rates of customers in the Town or by a surcharge of the Residents of the Town by the transferee or United Power.

(C) Any sale, transfer or assignment of electric facilities which cause degradation of electric service within United Power's Service Area or results in a significant increase in rates to Town customers, shall constitute a violation of this Franchise.

ARTICLE 14: MUNICIPALLY-PRODUCED UTILITY SERVICE

14.1 Municipally-Produced Utility Service.

(A) **Town Reservation.** The Town expressly reserves the right to engage in the production of utility service to the extent permitted by law. United Power agrees to negotiate in good faith long term contracts to purchase Town-generated power made available for sale, consistent with CPUC and established United Power Board requirements and considering the then existing agreements with United Power's current providers.

(B) **Franchise Not to Limit Town's Rights.** Subject to the provisions of Part 2 of Title 40, Article 9.5 of the Colorado Revised Statutes, nothing in this Franchise prohibits the Town from becoming an aggregator of utility service or from selling utility service to customers should it be permissible under law.

ARTICLE 15: PURCHASE OR CONDEMNATION

15.1 Town's Right to Purchase or Condemn. The right of the Town to construct, purchase or condemn any public utility works or ways, and the right of United Power in connection therewith, as provided by the Colorado Constitution and Statutes, are hereby expressly reserved. The Town shall have the right during the term of this Franchise and using the procedures set forth herein, to purchase United Power facilities, land, rights-of-way and easements now owned or to be owned by United Power located within the municipal boundaries of the Town.

15.2 Notice of Intent to Purchase or Condemn. The Town shall provide United Power no less than one (1) year's prior written notice of its intent to purchase or condemn United Power facilities. Nothing in this section shall be deemed or construed to constitute consent by United Power to the Town's purchase or condemnation of United Power facilities.

15.3 Negotiated Purchase Price or Condemnation Award. Upon the exercise of the Town's option to purchase, the parties shall negotiate in good faith to determine a mutually acceptable purchase price. This purchase price will be calculated by the methodology set forth in § 40-9.5-201, C.R.S.

15.4 Continued Cooperation by United Power.

(A) In the event the Town exercises its option to purchase or condemn, United Power agrees that it will continue to supply in whole or in part any service it supplies under this Franchise Agreement and the ordinance adopting the same, at the Town's request, for the duration of the term of this Agreement. United Power's facilities shall be available for continued service until nine months after final order is entered in a condemnation proceeding or the effective date of a purchase agreement between the parties; provided however, said obligation to maintain facilities shall not exceed a twenty-four (24) month period after the termination of the

franchise. United Power shall continue to provide service pursuant to the terms of this Agreement for said twenty-four (24) months until the Town has either purchased or condemned United Power's facilities, or alternative arrangements have been made to supply electricity to the Town and its residents, whichever date shall occur earlier. The Town shall not pay for any services no longer required.

(B) United Power shall cooperate with the Town by making available then existing pertinent United Power records, which are not privileged, to enable the Town to evaluate the feasibility of acquiring United Power facilities. United Power shall not be obligated to conduct studies or accrue data without reimbursement by the Town, but will make such studies if reimbursed its actual costs for the same. United Power shall take no action, which could inhibit the Town's ability to effectively or efficiently use the acquired systems. At the Town's request, United Power shall supply electricity for use by the Town in a Town-owned system.

ARTICLE 16: CHANGING CONDITIONS.

United Power and the Town recognize that many aspects of the electric utility business are currently the subject of discussion, examination and inquiry by different segments of industry and affected regulatory authorities and that these activities may ultimately result in fundamental changes in the way United Power conducts its business and meets its service obligations. In recognition of the present state of uncertainty respecting these matters, United Power and the Town agree, on request of the other, to negotiate in good faith an amendment of this franchise or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of such developments.

ARTICLE 17: UNCONTROLLABLE FORCES.

Neither the Town nor United Power shall be in breach of this Franchise Agreement if a failure to perform any of the duties under this franchise is due to uncontrollable forces, which

shall include but not be limited to accidents, breakdown of equipment, shortage of materials, acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government and other causes or contingencies of whatever nature beyond the reasonable control of the party affected, which could not reasonably have been anticipated and avoided.

ARTICLE 18: BREACH AND REMEDIES

18.1 Non-Contestability. The Town and United Power agree to take all reasonable and necessary actions to assure that the terms of this Franchise are performed and except as may be specifically provided in this Franchise Agreement neither will take any unilateral legal action to secure the modification or amendment of this Franchise.

18.2 Breach/Notice/Cure/Remedies. Except as otherwise provided in this Franchise, if a party (the “breaching party”) to this Franchise fails or refuses to perform any of the terms or conditions of this Franchise (a “breach”), the other party (the “non-breaching party”) may provide written notice to the breaching party of such breach. Upon receipt of such notice, the breaching party shall be given a reasonable time, not to exceed thirty (30) days, in which to remedy the breach and except as provided under Article 17. If the breaching party does not remedy the breach within the time allowed in the notice, the non-breaching party may exercise the following remedies for such breach:

- (A) Specific performance of the applicable term or condition; and
- (B) Recovery of actual damages from the date of such breach incurred by the non-breaching party in connection with the breach, but excluding any consequential damages.

18.3 Termination of Franchise by Town. In addition to the foregoing remedies, if United Power fails or refuses to perform any material term or condition of this Franchise (a “material breach”), and such failure is not an occurrence by force majeure under Article 17, the

Town may provide written notice to United Power of such material breach. Upon receipt of such notice, United Power shall be given a reasonable time, not to exceed ninety (90) days, within which to remedy the material breach. If United Power does not remedy the material breach within the time allowed in the notice, the Town may, at its sole option, terminate this Franchise. This remedy shall be in addition to the Town's right to exercise any of the remedies provided for elsewhere in this franchise. Upon such termination, United Power shall continue to provide electric service to the Town and its residents until the Town makes alternative arrangements for such service and be paid for such service in accordance with United Power's Bylaws. United Power shall also be entitled to collect from Residents and shall be obligated to pay the Town, at the same times and in the same manner as provided in the Franchise, an aggregate amount equal to the amount which United Power would have paid as a franchise fee as consideration for use of the Town streets.

18.4 United Power Shall Not Terminate Franchise. In no event, other than caused by the Town's material breach of this Agreement, does United Power have the right to terminate this Franchise but may transfer its rights hereunder after notice to Town and as otherwise set forth in Article 13.

18.5 No Limitation. Except as provided herein, nothing in this Franchise shall limit or restrict any legal rights or remedies that either party may possess arising from any alleged breach of this Franchise.

ARTICLE 19: UNITED POWER OPERATIONS

19.1 Corporate Structure. Unless otherwise required by law, United Power shall continue its operations hereunder as a Colorado nonprofit corporation and cooperative controlled by its customers and as generally provided under § 40-9.5-101, et seq., C.R.S. This subsection

shall not limit the power of United Power to engage in other lawful business ventures through the use of subsidiary or controlled entities, including for profit ventures.

ARTICLE 20: AMENDMENTS

20.1 Amendment to Franchise. This Franchise Agreement represents the entire Franchise Agreement between the parties and, except as otherwise specified in this Agreement and the granting of the Franchise Fees and matters related thereto, there are no oral or collateral agreements or understandings.

This Franchise Agreement may be amended only by an instrument in writing signed by United Power and the Town.

20.2 Proposed Amendments. At any time during the term of this Franchise, the Town or United Power may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired. However, nothing contained in this Section 20.2 shall be deemed to require either Party to consent to any amendment proposed by the other Party.

ARTICLE 21: EQUAL OPPORTUNITY

21.1 Equal Opportunity. United Power is an equal opportunity employer. United Power will comply with all federal, state and Town laws regarding employment, contracting and operating its business activities with a policy of non-discrimination with people of all race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws.

21.2 Contracting. United Power agrees to require all of its contractors to comply with all federal, state and Town laws regarding employment, contracting and operating their business activities with regards to non-discrimination with people of all race, color, religion, national

origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws.

21.3 Economic Development. The parties agree that promoting economic development with the Town is in the best interest of all parties. United Power is committed to the principle of stimulating, cultivating and strengthening the participation and representation of under-represented groups in the local Hudson business community. United Power believes that increased participation and representation of under-represented groups will lead to mutual and sustainable benefits for the local economy. United Power is also committed to the principle that the success and economic well-being of United Power is closely tied to the economic strength and vitality of the diverse communities and people it serves. United Power believes that contributing to the development of a viable and sustainable economic base among all United Power customers is in the best interests of United Power and its member-owners and will keep these goals in mind in formulating its economic development strategies, programs and policies.

ARTICLE 22: IMMIGRATION

22.1 Illegal Aliens. At all times during the term of this Franchise Agreement, United Power agrees that it will comply with all applicable Federal, State and Town laws prohibiting the employment of, or contracting with, undocumented workers or illegal aliens.

22.2 Employment Prohibited. United Power shall not knowingly employ or contract with an undocumented worker or illegal alien to perform work for United Power that is or may be related to this Franchise Agreement or knowingly contract with a subcontractor who knowingly employs or contracts with undocumented workers (illegal aliens) to perform work under this franchise.

22.3 Affirmative Action. United Power agrees to take affirmative action to ensure that it does not employ or contract with undocumented workers or illegal aliens to perform work on this franchise.

22.4 Subcontractors.

(A) United Power shall require all subcontractors of United Power to certify in writing to United Power that the subcontractor does not knowingly employ or contract with undocumented workers or illegal aliens and further to agree in writing not to knowingly employ or contract with an undocumented worker or illegal alien to perform work that is or may be related to this Franchise Agreement.

(B) United Power shall not enter into a contract with a subcontractor that fails to certify to United Power that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work that is or may be related to this Franchise Agreement.

(C) If United Power obtains actual knowledge that a subcontractor performing work under this franchise agreement knowingly employs or contracts with an illegal alien, United Power shall:

(1) Notify the subcontractor and the Town within three (3) days that United Power has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to Section 21.4(C)(2), the subcontractor does not terminate the employment or contract with the illegal alien; except that United Power shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor

provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

22.5 Compliance. United Power shall comply with any reasonable request by the Town or the Colorado Department of Labor and Employment made in the course of an investigation that the Town or the Department is undertaking for the purpose determining the immigration status of all newly hired employees or contractors working on this franchise, including, but not limited to:

(A) Inspections and/or interviews at such locations as this contract is being performed;

(B) Review documentation related to the immigration status and/or employment eligibility of all newly hired employees or contractors performing work which is or may be related to this franchise; or,

(C) Any other reasonable steps as necessary to determine whether United Power or subcontractor is complying with the provisions of this franchise related to the employment of or contracting with undocumented workers or illegal aliens.

22.6 Documentation. United Power shall, upon request, provide to the Town copies of documentation and verification of immigration status and employment eligibility received by United Power for itself or from subcontractors; and, if requested, copies of information received from a subcontractor submitted to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

22.7 Violation. If United Power violates a provision of this Article 22, such violation may constitute a breach of this Franchise Agreement and the Town, in its sole discretion, may

terminate the Franchise for breach of contract. If the Franchise is so terminated, United Power shall be liable for actual damages to the Town.

ARTICLE 23: MISCELLANEOUS

23.1 No Waiver. Neither the Town nor United Power shall be excused from complying with any of the terms and conditions of this franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions. Further, neither the Town nor United Power waives any rights under the laws, statutes and/or constitution of the State of Colorado or of the United States except as otherwise specifically set forth herein.

23.2 Successors and Assigns. The rights, privileges, franchises and obligations granted and contained in this Agreement shall inure to the benefit of and be binding upon United Power, its successors and assigns as same may succeed to the rights of United Power pursuant to Article 13.

23.3 Notice and Representatives. Both parties shall designate from time to time in writing, representatives for United Power and the Town who will be the person(s) to whom notices shall be sent regarding any action to be taken under this Agreement. Notice shall be in writing and forwarded by certified mail, or hand delivery, facsimile or electronic transmission with proof of delivery, to the persons and addresses as hereinafter stated unless the names and addresses are changed at the written request of either party, delivered in the manner provided herein. Until any such change shall hereafter be made, notices shall be sent to the following:

For the Town of Hudson:
Town Administrator
Hudson Town Hall
557 Ash Street, P.O. Box 351
Hudson, CO 80642-0351
With a faxed copy to: (303) 536-4753

For United Power:
Chief Executive Officer
United Power, Inc.
500 Cooperative Way
Brighton, CO 80603

With a faxed copy to: (303) 659-2172

23.4 Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided however, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a replacement provision that will achieve the original intent of the parties hereunder.

23.5 Entire Agreement. This Agreement constitutes the entire agreement of the parties. There have been no representations made other than those contained in this Agreement.

23.6 Third Parties, Rights to Third Parties. Nothing herein contained shall be construed to provide rights or benefits to third parties.

23.7 Prevailing Party. In any judicial or administrative action to enforce any of the terms or conditions of this franchise, the party that substantially prevails as determined by the court shall be entitled to recover its costs and expenses incurred in such action, including reasonable attorney fees.

23.8 Headings for Reference Only. The headings used in this franchise are for references only and convey no substantive rights or impose no substantive obligations on the Parties.

23.9 Responsibility for Language. The Parties hereby acknowledge during the drafting of this document each has been represented by legal counsel and that each party bears equal and identical responsibility for the language of this Agreement. In case of ambiguity, there

shall be no presumption based upon responsibility for drafting this franchise, and the Agreement shall not be construed against one party in favor of another.

23.10 Authority. Each party represents and warrants that except as set forth below, it has taken all actions that are necessary or that are required by its ordinances, regulations, procedures, bylaws, or applicable laws, to legally authorize the undersigned signatories to execute this Agreement on behalf of the parties to its terms. The persons executing this Agreement on behalf of each of the parties warrant that they have full authorization to execute this Agreement.

23.11 Applicable Law. Colorado law shall apply to the construction and enforcement of this franchise. The parties agree that venue for any litigation arising out of this franchise shall be in the District Court for Weld County, State of Colorado.

ARTICLE 24: APPROVAL

TOWN APPROVAL. This grant of Franchise shall not become effective unless approved and granted by ordinance of the Town Council.

UNITED POWER APPROVAL. United Power shall file with the Town Clerk its written approval of this Franchise and of all of its terms and provisions at least ten (10) days prior to public hearings set for consideration of the Ordinance by the Town Council. United Power shall file with the Town Clerk its written ratification thereof within ten (10) days after the approval of this Franchise Agreement by the Town Council. The acceptance and ratification shall in form and content be approved by the Town Attorney. If United Power shall fail to timely file its written acceptance or ratification as herein provided, this Franchise shall be and become null and void.

IN WITNESS WHEREOF, the parties have executed this agreement this ____ day of _____, 2015.

UNITED POWER, INC.,
a Colorado nonprofit corporation

TOWN OF HUDSON, COLORADO
a municipal corporation

By: _____
United Power CEO

By: _____
Mayor

ATTEST:

Town Clerk



TOWN OF HUDSON

557 Ash Street, P.O. Box 351, Hudson, CO 80642

Phone: (303)536-9311 Fax: (303)536-4753

www.hudsoncolorado.org

MEMORANDUM

To: Mr. Mayor and Members of the Town Board

CC: Joe Racine, Town Administrator
Corey Hoffman, Town Attorney
Becky Utecht, Town Clerk, Treasurer and Court Clerk

From: Teresa Ablao, Municipal Judge

Date: October 17, 2015

RE: Hudson Municipal Court Report – October 16, 2015

Dear Mayor and Board Members:

Below is the update for you on the activities of the Hudson Municipal court since my last report. Please do not hesitate to let me know if you have any questions or if there is different or additional information you would like to have presented after each Court session.

**October 16, 2015 Docket:
The Town was represented by Corey Hoffman.**

TRIALS: There was one defendant set for a trial to the Court. Her cases involved multiple animal violations. The Defendant was represented by counsel and withdrew her request for trial and pled guilty to a one count of dog at large and one count of animal disturbance per a plea bargain with the prosecutor. She was assessed a fine of \$400 plus court costs and restitution of \$378.93 to the town for animal impound fees. \$350 of the fine was suspended on the condition that she have no animal violations, keep the dogs on leash if outside, keep the fence in good repair and pay restitution to the victim (if any owed).

ARRAIGNMENT: There were 9 cases set for arraignment. Each defendant was first advised of their rights in general and of the specific charge(s) against them. They were then given the opportunity to speak with the Town Attorney or enter a plea.

Case Types:

- 7 traffic violation cases
- 2 Animal violation cases

Disposition:

- Animal: The defendant with the two animal cases did not appear and a bench warrant issued on each case.
- Traffic:
- Speeding tickets:
 - One defendant paid her ticket before court
 - Four pled guilty and were given standard fines and court costs.
 - Two failed to appear and a default judgment was entered against them.

I appreciate the opportunity to serve the Town as your judge. As always, please feel free to contact me anytime if you have any questions or concerns.

Respectfully submitted,

Teresa Ablao

Teresa Ablao
Municipal Judge