

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Saturday, January 26, 2008

8:45 a.m. • **Call to order; determine quorum**

9:00 a.m. **Bull Mountain Natural Gas Pipeline, SG Interests I Ltd., continued joint public hearing/no action,** request for Bull Mountain Natural Gas Pipeline; a proposed 20-inch diameter buried steel natural gas pipeline and related aboveground facilities within a 50-foot right-of way (ROW) on Bureau of Land Management (BLM) public lands and National Forest System (NFS) lands, Grand Mesa, Uncompahgre and Gunnison (GMUG) National Forests, northwest Gunnison County

Applicant Presentation - As continued from Friday, January 25, 2008 or as necessary for follow-up

- Access Roads
- Public Roadway and Traffic Impacts
- Water Quality
- Waterbody Setbacks
- Drainage and Erosion Control
- Technical Infeasibility Waiver
- Wildlife and Wildlife Habitat
- Emergency Response
- Cultural and Historic Resources
- Wildfire Hazards
- Geologic Hazards
- Livestock and Livestock Grazing
- Recreation Impacts

10:30 a.m. Break

10:45 a.m. **Continued Applicant Presentation**

Noon **Lunch**

1:30 p.m. **Continued Applicant Presentation**

3:00 p.m. Break

3:15 p.m. **Continued Applicant Presentation**

Adjourn

GUNNISON COUNTY PLANNING COMMISSION
January 26, 2008 Meeting

The Gunnison County Planning Commission conducted a regular meeting, in the Commissioners' Meeting Room in the Blackstocks Government Center, Planning Commission meeting room. **Present were:**

Chairman- Ian Billick	Director of Planning-Joanne Williams
Vice- Chairman -Ramon Reed	Assistant Director of Planning-Neal Starkebaum
Commissioner- Nick Lypps	Planner-Cathie Pagano
Commissioner- Richard Karas	Administrative Assistant-Beth Baker
Commissioner-David Owen	
Commissioner-Sam Lumb	Others present as listed in text

Absent was: John Messner

With a quorum present Chairman Ian Billick opened the meeting of the Gunnison County Planning Commission at 8:45 a.m.

BULL MOUNTAIN NATURAL GAS PIPELINE; The Planning Commission and Board of County Commissioners conducted a continued joint public hearing; meeting with applicants' representatives Brad Robinson and Lee Fyock with Gunnison Energy, Robbie Guinn with SG Interests, legal counsel Ken Wonstolen, and Trigon representatives Catherine Dickert, and Brett Hurlbut. They reviewed the request for the Bull Mountain Natural Gas Pipeline; a proposed 20-inch diameter buried steel natural gas pipeline and related aboveground facilities within a 50-foot right-of way (ROW) on Bureau of Land Management (BLM) public lands and National Forest System (NFS) lands, Grand Mesa, Uncompahgre and Gunnison (GMUG) National Forests, northwest Gunnison County. Board of County Commissioner members Jim Starr and Paula Swenson, County Attorney David Baumgarten, and special counsel to the Board Barbara Greene attended the hearing.

With a quorum present Chairman Ian Billick opened the continued joint public hearing at 8:50 a.m.

The commissioners continued the review using the standards as listed:

- Access Roads
- Public Roadway and Traffic Impacts
- Water Quality
- Waterbody Setbacks
- Drainage and Erosion Control
- Technical Infeasibility Waiver
- Wildlife and Wildlife Habitat
- Emergency Response
- Cultural and Historic Resources
- Wildfire Hazards
- Geologic Hazards
- Livestock and Livestock Grazing
- Recreation Impacts

Access Roads- Compliance with the access roads standard was reviewed at the previous meeting, on January 25, 2008. There was no further discussion.

Public Roadway and Traffic Impacts – Compliance with the public roadway and traffic impacts was reviewed at the previous meeting, on January 25, 2008. There was no further discussion.

Water Quality- The water quality standard was reviewed at the previous meeting, on January 25, 2008. There was no further discussion.

Drainage and Erosion Control- Billick asked how the applicant will address this requirement; not causing significant erosion. Forest Service representative Levy Broyles pointed out that there are differences between significant effects and

significant issues. Gunnison Energy representative Lee Fyock said that there were several significant issues addressed in the EIS.

Commissioner Richard Karas asked the difference between criteria and specifications. Broyles explained that the criteria are more general than the specifications.

Billick asked if there had been instances of extensive erosion problems; Broyles replied that some of the coal mines pads have slid, and needed reseeding multiple times. Broyles added that there are generally some minor problems. Billick asked specifically about erosion problems at Ragged Mountain; Broyles said that he is aware of only one. Billick asked if the standards placed on the Bull Mountain pipeline were higher or the same as the Ragged Mountain pipeline; Broyles replied that the standards are now higher.

Commissioner Ramon Reed stated that there is a need for a storm water management plan for the compressor station. He said that he had observed sites of erosion in the photos of the Ragged Mountain pipeline ROW provided by the applicants. He was concerned that the areas were described as cattle trails. He pointed out that cattle in the area could wipe out the water-bars. Broyles replied that on both sides of the notch it had been a stock driveway prior to the pipeline being constructed. Guinn explained that there is no pipeline in that area. Biologist for the applicants Eric Pederson said that SG does do daily patrols to keep cows away from the silt fences, in order to ensure they comply with their storm water management obligations. Broyles confirmed that monitoring is done. Dickert said they apply the same measures in their design criteria.

Billick asked about the erosion mitigation measures used. Broyles said instead of installing water-bars, they bring in all the cut-down greenery that is possible- laying trees down etc.; maximizing the roughness of the slopes. This will ensure that the animals can not come straight down, but rather wind their way down. It also makes it difficult for ATVs to travel on the slopes.

County Commissioner Jim Starr pointed out that the final reclamation stage at the Peanut Mine also maximized surface roughness. Broyles replied that each individual project is different and it depends on the scale and soil type.

Billick asked how the standards will be converted into conditions of approval; Special counsel to board Barbara Greene explained that if there is an impact in a given area, mitigation measures will be incorporated. This will result in proposed conditions of approval that will be crafted by the county planning and legal staff.

Starr asked if the general standards of reclamation change according to different soil types; Broyles replied, "Not to my knowledge."

Commissioner Nick Lypps noted his lack of expertise; stating that it makes him uncomfortable, because he does not know that the mitigation measures outlined will work. He suggested an on-site individual that works with the applicant. Dickert pointed out that the environmental compliance plan outlines a chain of command; Lypps would like that made clearer. She suggested that he could contact public works representative Allen Moores; Moores inspects storm water management plans.

Waterbody Setbacks & Technical Infeasibility Waiver-Reed noted that there is a conflict between the county regulations and the waivers requested. He questioned which basis they were pursuing P-1 preemption, or P-2 no technology available. The burden is on the applicant to prove the need for the waiver. Attorney for the applicant Wonstolen said that according to the *Gunnison County Temporary Regulations for Oil and Gas Operations* they are eligible for Technical Infeasibility Waivers applying either P1-conflict with state or federal regulation, or P2- no technology available. Greene explained that given the Federal Government's record of decision; this is the route that was chosen, and the route does not allow compliance with the standards.

Reed observed that there could be some misinformation, because all the crossings probably are not perpendicular to the streams. There also appear to be many linear crossings through wetlands. Dickert acknowledged that some are in the buffer area and not in the wetlands. Reed disagreed stating that the pipeline may be in the buffer, but construction activity will take place in the wetlands. Hurlbut explained that minimizing the total impact is the ultimate goal. Billick asked if the construction zones and right-of-ways go into the wetlands, in any areas; Hurlbut acknowledged that they do.

Billick pointed out that without the information detailing all the water bodies within 500 ft. of a wetland any discussion is limited. Greene suggested considering the reason for a 500ft setback as opposed to something that is rigidly applied. She encouraged the commission to look at the intent of the standard. Billick said it would be helpful for the commission

to review the wetlands within the 500 ft of the buffer. Broyles said the Forest Service has a setback standard, but ultimately their goal is to cause the least environmental damage as possible.

The commission reviewed the map submitted by the applicants. They observed the water bodies, which are defined as wetlands, along the pipeline starting at the compressor station. The first creek is one of three active crossings. Further along the proposed ROW to the left of the wetland; the pipeline will be at the edge of the wetlands, which is actually defined as a wet meadow. Reed observed that not only the right-of-way goes through the wetland but also the actual pipeline. Wonstolen referred to the *Gunnison County Temporary Regulations for Oil and Gas Operations* to review the definition of wetlands. Billick summarized that the commission is not including stock ponds, or any wetlands associated with man made stock ponds. He reiterated that the commission should know if the pipeline goes into the wetlands or only the buffer; or if the construction zone and right-of-way go through the wetlands. Billick noted that the commission needs to understand the main cases. Hurlbut pointed out that the private land owner's representative has directed the path of the line. Broyles said it was sited based on environmental concerns. Hurlbut said that using this route decreases the environmental disturbances.

Karas asked why the commission was discussing alternate routes, instead of considering the proposed one. Greene agreed and advised the commission that it is obligated to just review the suggested route; including what are the technical solutions available and why they will not work.

Board of County Commissioner Paula Swenson arrived at the meeting at 10:20 a.m.

Moved by Karas, seconded by Reed for the Commission to go into executive session with County Attorney David Baumgarten, Special Counsel to the Board Barbara Green, Assistant Planning Director Neal Starkebaum, Planning Commission, and Board of County Commissioners, for the purpose of discussing the interpretation of the *Gunnison County Temporary Regulations for Oil and Gas Operations* section P numbers 1 and 2- Technical Infeasibility Wavier. The motion passed unanimously.

The Commission went into executive session at 10:25 a.m. *Executive sessions of the Gunnison County Planning Commission are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).*

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2)(d.5)(II)(B), I attest that I am the Gunnison County Attorney; that I represent the Gunnison County Planning Commission; that I attended all of the above referenced executive session; that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____
David Baumgarten
Gunnison County Attorney

A. Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(2)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; that I attended all of the above referenced executive session; and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4).

Date: _____
Ian Billick, Chairperson

Gunnison County Planning Commission

The Commission came out of executive session at 10:50 a.m.

Billick asked if the pipeline could be moved out of the wetlands and remain consistent with the Federal decision document. SG Interests representative Robbie Guinn requested that the discussion move forward. They will confer with experts and get back to the commission with their response.

Wildlife and Wildlife Habitat – Dickert clarified that biologist Eric Pederson had crafted the responses to the questions that had been submitted earlier in the week. Pederson explained that they use cumulative impact. Forest Service representative Levy Broyles said that the Forest Service does have a tracking database, but the database for the ROW area might not be available yet.

Billick noted that the analysis of habitat in conjunction with federal standards, used in the EIS, might not always meet county standards. County attorney David Baumgarten referred to a letter from the Division of Wildlife (DOW,) dated January 18, 2008, and signed by Thomas E. Remington; interpreting the letter as the DOW deeming the mitigation as sufficient. Gunnison Energy representative Brad Robinson said that they have agreed to provide a study of mitigation measures used for big game that will include: moose, elk and deer. Baumgarten requested clarification of “long term” in the letter referred to above. Billick asked if the DOW letter was generated with the county standards in mind; the applicants are charged with establishing whether or not the county standards were considered. Robinson said the letter was written with the Gunnison County process in mind. Greene observed that the letter does not reference the county standards.

Billick expressed his concern that the Forest Service analysis was primarily focused on threatened and endangered species; it should include management indicators and address what is happening to the wildlife and sensitive species. Long term negative impacts are very important. Dickert did not agree that the letter was a narrow view. Billick said that the letter could cause ambiguity. He encouraged the applicants to attempt to clear up the ambiguity. Karas agreed that a letter of clarification would be very helpful. Robinson agreed to ask the DOW for clarification; but he cannot make the DOW comply. Billick recommended that the letter make specific references to the county standards and define the meaning of long term.

Billick asked if there had been any ex parte’ conversations; Lypps identified a conversation with the DOW representative Jay Wenum. Baumgarten noted that conversation can not be considered in the Commissioners’ analysis and recommendation.

Greene clarified that the commission should be concerned with conflicting evidence. The commission can now review the FEIS and the record of decision, which both contain mitigation measures, and additional mitigation has been offered. Given the evidence the commission is charged with deciding whether this evidence proves there will be no significant degradation to wildlife or wildlife habitat.

Starr asked if the corridor can really be blocked off from ATV travel, and if they have been successful in the past in closing off corridors to ATVs. Broyles acknowledged that there are areas in which they continue to have problems; several on Black Mesa and one on Ragged Mountain. Hurlbut explained that the amount of traffic in these areas is extremely low; increasing a bit in hunting season. Baumgarten pointed out that the conversation may be moot because the applicants are not opening up another access; the entrances and right-of-ways are exactly the same.

Billick questioned the cumulative impact on threatened and endangered fish species; Broyles said that the impacts have been determined to be under the threshold.

Owen asked if clearing the vegetation will negatively impact the wildlife. Pederson replied that the qualifier used was “significant,” and it was determined that the wildlife would not be significantly harmed because there is enough similar habitat available. Greene pointed out that it is from a list of issues and not a conclusion.

Billick asked if vehicles are being washed to prevent infestation of the ROW areas; Dickert said that they are.

High Country Citizens Alliance (HCCA) representative Dan Morse said that from the outset there have been concerns with wildlife and wildlife habitat. The county standards may in fact not be met by the mitigation measures suggested. Significant degradation to habitat could still occur. The DOW letters and comments are reviews that were prepared using a DOW procedure, they are not sufficient, because they did not refer to the county standards; therefore they have no way to underpin their conclusions. There is still a need for a report and an analysis; the DOW letters do not suffice. He said that the DOW field staff has expressed concerns with this project; there are better ways to do this. He asked why the most recent letter was written; no county request has been made. He noted that HCCA would prefer that the county request an analysis from the DOW, with conclusions based upon county standards. This area of the county is high quality wildlife habitat. It is one the most hunted units in the state of Colorado. Without an additional pipeline cutting through the

habitat the wildlife would be better off. He pointed out that biologically an acre in a roadless area is much more valuable than an acre along a road. He said allowing this pipeline would be foolhardy and bad for hunting. He reiterated HCCA's tremendous concern with the wildlife habitat issue. Wildlife is the cornerstone of what Gunnison County is all about. He urged the commissioners' strong and careful consideration.

Starr asked what equipment would be brought in if there was emergency repair needed; Robinson replied they would need a track hoe and a welding truck. Billick noted that if there was a "blow out," "there is an emergency valve shut off.

Commissioner Sam Lumb asked if the pipeline was marked or staked; Dickert said markers go down the center line.

Concerned citizen Butch Clark said that there is support needed for the DOW analysis. He observed that there had been no conversations dealing with endangered plant species; there are mitigation measures available. The BLM has suggestions on how to mitigate for endangered plant species. He noted that there is information available dealing with laying a pipeline, directional drilling beneath streams, and avoiding endangered species. He suggested making checks along the pipeline where there are sensitivity issues.

Karas said that he provided questions earlier in the week to the applicants. They focused on protection of public safety mitigation methods, protection of wildlife habitat, protection of livestock permitted, and degradation of habitat, and he would now take them up publicly.

Karas said that while construction activities would be temporary, the operation of the compressor station would be ongoing, noting his concern with the air quality, in the immediate vicinity of the compressor.

Karas questioned how the FEIS air quality modeling was done, and if it took into account factors such as the local topography, wind direction, and atmospheric temperature profiles. Dickert replied that the modeling is difficult to describe, it was done by "Air Resources", and she did not know much about the modeling. They have also done their own screening level analysis, which takes into account more current information- they know now what make and model the compressor will be. The results were below the threshold.

Karas reiterated his concern with the possible impacts to air quality. Dickert said they are required to obtain a state emissions permit.

Billick and Karas expressed their concerns that the air quality model's input data was not collected closer to the compressor station site. Karas asked the applicant to provide air quality information gathered in the vicinity of the compressor station.

Karas asked if there had been any modeling for secondary affects, particularly haze in the vicinity of the compressor station, which can be caused by NOx and SO2. Dickert replied that there has been no SO2 present. Wonstolen said the state has completed its first round of formulating a statewide haze regulation rubric, but under the regional haze regulations they look at engines of this size during phase two. Hurlbut explained that they are required to follow the guidelines of their emissions permit and test yearly. Anytime there are significant changes to the facility a new permit is required.

Karas asked if there is any intent to monitor the compressor station emissions and its affect on the habitat; Wonstolen said there was not. Billick asked if the compressor station is considered a major or minor emitter. Wonstolen replied that 80% of the pollution, in this district, is coming from out of state. Karas reiterated that he would be interested in knowing if the emissions standards would be exceeded in the direct vicinity of the compressor station, which is in Gunnison County; Wonstolen agreed to provide that information.

Emergency Response-Reed said that the safety plan should be expanded to include the operation and ongoing maintenance of the pipeline and compressor station, and safety references should be ongoing and included after the construction. It should also include hazardous materials. Hurlbut explained that any hazardous materials are locked and contained.

Baumgarten asked if the pipelines are periodically pigged. Robinson confirmed that they do use a smart pig, but not often. Reed said the FEIS refers to monthly pigging.

Lypps questioned why they would fuel trucks within 100 ft of a water body vs. the required 500 ft; Dickert explained that they have used a different standard.

Cultural and Historic Resources-Lumb asked about HR3; Dickert said it is in Mesa County, not Gunnison County.

Wildfire Hazards- Reed was concerned that the plan did not address fire danger, in the operation of the compressor station. Dickert agreed to correct that. Karas expressed a concern with possible willful acts of sabotage. Baumgarten referred the commission to the Emergency Services Manager Scott Morrill's letter, which was signed off. Starr asked who would respond in case of a wildfire; Pederson replied Ragged Mountain Fire District.

Butch Clark asked if there was a way to make the locals aware of where the pipeline is; so they do not hit it. Fyock said the Department of Transportation (DOT) requires markers at the line of site.

Geologic Hazards-Billick asked what could cause a break in a pipeline; Hurlbut said any movement would have to be rapid and quite a bit of movement; he knows of only one occurrence, in Southern California. The Department of Transportation (DOT) regulations deal with the strength of the pipe. They are complying with the DOT regulations; there has been no consultation with the DOT. Once it is built the DOT generally comes out and inspects it. Broyles said that there is seismic activity in the area.

Lumb asked if water injection caused seismic activity; Hurlbut explained that there are regulations by which they are allowed to inject water.

Livestock and Livestock Grazing- Billick asked how many permittees will be impacted; Dickert was not aware; they do not have letters from the permittees yet. Petterson said there are two range allotments. Baumgarten asked the applicants to contact the permittees before a decision is made. Karas asked if blasting will be done; Hurlbut said only if completely unavoidable. Karas noted that blasting would scare livestock; Hurlbut said that there is a very low probability, but not zero. They would notify the ranchers if they were going to blast.

Lypps asked how long they monitor the project after completion. Broyles replied that the applicant will continue to monitor for the life of the right-of-way. Fyock said they have seen some weeds in the Ragged Mountain area. They have used chemicals for weed control, but a certified applicator is always used.

Recreation Impacts- Billick asked if hunting guide and outfitting operations would be affected: Guinn has assured the outfitter that there will be a way for the horses to cross the ditch by his camp. The outfitting camp is in Mesa County, but they could travel into Gunnison County.

The commission was concerned that hunting could be impacted during the construction of the pipeline. Dickert said they are limited to no later than October 1st, which will be muzzle loading and archery season.

Guinn entered a list of inventoried roadless areas and analysis into the public record.

Robinson entered a map of the Forest Service areas and roadless areas into the public record.

Reed referred to the view shed, and observed that the beauty of the area draws tourists. The compressor station should include a landscaping plan to minimize the visual impacts including the staging area, and specifically include the reclamation of the staging area.

Baumgarten asked what would be placed aboveground; Dickert replied that there would be markers and valves.

Karas summarized the proponents' argument as the following: affected inventoried roadless area is a region that already contains trails, roads and a pipeline and therefore, that the proposed pipeline does not significantly increase the impacts already present. Hurlbut replied that the new pipeline will not add to the number of roads, and it will not significantly add to the amount of disturbance because they are staying close to existing pipeline.

Starr asked if this line will increase the likelihood that there will be more wells drilled within five miles of the pipeline; Guinn responded that it could. Robinson explained that the limiting factor is the rough topography. He said that any additional wells drilled in the inventoried roadless area would have to come back to the county for approval.

Starr suggested that applicants consider a master plan; Guinn said they are getting closer to a master development plan, for approximately 50 to 55 wells. Guinn noted his concern that an approval would be good for only one year. Greene assured Guinn the time frame could be worked with. Baumgarten noted that the developer could achieve certainty, assure a time frame and save money; with the development of a master development plan. It would also give the

community a chance to comment. Billick summarized that a master development plan would aid the county and applicants in determining the total build out, independent of this process.

Starr asked why bow hunting season was not considered in their construction time frame. Broyles said most of the archery hunters come from the other side of the mountain, they do not see the bow hunting traffic in the Ragged Mountain area very often. There is a spike in activity during rifle season.

Dan Morse said that he has recreated in this area. He and his party only encountered two other individuals- it was a memorable experience. Coming across the gas wells and pads would have decreased the joyful experience. If there were more wells and roads it would harm the recreation experience. .

Attorney Wonstolen agreed to provide a matrix and spreadsheet for the next meeting, which will identify impacts and mitigations measures. It will explain whether the standard is met or will be met before the next meeting, or if it will be done preapproval or preconstruction. The applicant asked for at least three weeks to prepare for the next meeting. Starkebaum said that the commission could meet on February 29, 2008, for the entire day. Billick suggested that staff work out the details and identify any ambiguous issues that remain. Baumgarten, Starkebaum and Greene agreed this would be preferable.

Billick directed the applicants to explain their request for the technical infeasibility waivers, and if they could move the pipeline out of the wetlands, the applicants need to be ready to explain the infeasibility waiver requests in more detail.

Billick noted that compliance was an issue raised several times; the applicants should convince the commission that the mitigation measures will work. The applicants should lay out a plan and tie it to the mitigation matrix. They should be proactive in anticipating what will really work.

Billick identified the need for additional expertise to determine the effect that methane has on water quality. The applicants agreed to add that baseline issue to the mitigation matrix.

Billick noted that the commission has been charged with identifying areas that are complex; and trying to manage the risk. He said that when the matrix is complete the commission will decide what additional expertise will be needed.

Guinn stated that they appreciated everyone's efforts in providing the two days of hearings.

Billick continued the joint public hearing to February 29, 2008 @ 9:00 a.m.

The meeting of the Gunnison County Planning Commission was adjourned at 4:50 p.m.

/S/ Beth Baker
Administrative Assistant
Gunnison County Planning