

RECEIVED OCT 6 2009

Resolution No. 87-2009

RESOLUTION
of the
MONTROSE COUNTY BOARD OF COUNTY COMMISSIONERS
concerning:
SPECIAL USE APPLICATION No. SU-08-0047
For
THE PINON RIDGE URANIUM MILL

WHEREAS, Energy Fuels Resources Corporation has submitted an application for a special use permit to build and operate a uranium and vanadium ore processing mill in Montrose County on an 880 acre site know as the Pinon Ridge site and located on the south side of State Highway 90 approximately 12 miles west of Naturita and approximately 7 miles east of Bedrock, the address of which is 31525 Highway 90, Bedrock, Colorado ("the special use application"); and

WHEREAS, the Montrose County Planning Commission conducted a public hearing on the special use application commencing on May 19, 2009 at the Nucla High School, continuing the public hearing to June 10, 2009 at Friendship Hall in Montrose and again to July 1, 2009 at Friendship Hall in Montrose, and following the closing of said public hearing and based on the evidence, testimony, exhibits, content of the file before the Planning Commission, comments of the Montrose County Planning and Development Department, comments of public officials and agencies, and the public, the Planning Commission recommended a conditional approval of the special use application; and

WHEREAS, the Board of County Commissioners conducted a public hearing on the special use application on August 13, 2009 at Nucla High School in Nucla, Colorado, commencing at 5:30 pm, and continuing the public hearing to September 9, 2009 at Friendship Hall in Montrose Colorado at 9:00 am to consider the special use application; and

WHEREAS, the Board of County Commissioners closed the public hearing on September 9, 2009 but continued consideration of the special use application to September 30, 2009 at 10:00 am; and

WHEREAS, based on the evidence, testimony, exhibits, contents of the file before the Board, comments of the Montrose County Planning and Development Department, comments of public officials and agencies, the recommendation of the Montrose County Planning Commission, and comments from interested parties and persons, the Board of County Commissioners of the County of Montrose, State of Colorado, hereby finds as follows:

1. That proper publication and public notice, including notice to surrounding property owners as required under the Montrose County Zoning Resolution and by law was

provided for the public hearings before the Planning Commission and the Board of County Commissioners.

2. That the special use application is complete and all submittal requirements as specified in the Montrose County Zoning Resolution (12/3/2003) have been submitted to the Planning and Development Department.
3. That the proposed Uranium and Vanadium Mill as described in the special use application is a new mineral resource development and extraction operation and facility as contemplated in Section IV(B)(3)(I) of the Montrose County Zoning Resolution (12/1/2003).
4. That in determining whether to adopt, adopt with modifications or conditions, or disapprove the proposed special use application, in accordance with the Montrose County Zoning Resolution, the following criteria have been considered by the Board of County Commissioners and the Board makes the following findings relative to such criteria:
 - a. The use and its location as proposed and subject to the conditions of approval as provided herein are in conformance with the County's Master Plan as the area in which the mill is to be located is in an area that has a long history of mining related operations and facilities;
 - b. All the application documents and technical reports present a clear picture of how uses are to be developed and arranged on site;
 - c. The site plan conforms to the district design standards of the Zoning Resolution and other applicable regulations and any variations are approved as part of the special use conditional approval;
 - d. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements, buffering, mandatory compliance with state and/or federal licensing requirements, conditions of approval as specified herein and other mitigation measures implemented by the applicant;
 - e. The special use, subject to the conditions of approval and compliance with state and/or federal regulation and licensing requirements, promotes the best interest of the general public's health, safety and welfare as set by federal, state or county regulation;
 - f. The special use proposed is not planned to be developed on a nonconforming parcel;
 - g. The applicant has willingly forwarded to the County all pertinent technical information, has disclosed adequate financial resources to implement the project as prior to any operations applicant will be required by state and/or federal law and regulation to provide financial security adequate to guarantee compliance with site closure obligations, and has paid or agreed to pay all fees and review costs levied by the County in a timely manner for application processing and review.

5. That in determining whether to adopt, adopt with modifications or conditions, or disapprove the proposed special use application, the BOCC makes the following additional considerations and additional findings of fact:
 - a. That the public, including surrounding property owners have had adequate and appropriate notice of the special use application and the deliberations on the special use application, and has had ample opportunity to comment on the proposed special use application;
 - b. That the proposed special use addresses a demonstrated community need in fostering job creation and economic development on the west end of Montrose County; and
 - c. That the geographic and geological nature of the area is suitable for the proposed special use.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Montrose, State of Colorado:

THAT the special use application submitted by Energy Fuels Corporation **be and is hereby granted with the following conditions:**

1. The permit shall be applicable only to the specific use and specific property for which it was issued.
2. The Special Use Permit (SUP) shall run with the land; however, if the application/facility changes ownership, the new owner/applicant shall be required to file an amendment to the SUP to provide the County with all information necessary to identify the new owner/applicant. The County also reserves the right to add additional conditions that may be reasonably necessary due to the change of ownership.
3. Prior to mill operation all applicable County, State and Federal permits shall be obtained, and maintained in good standing at all times for all mill operations through site closure.
4. Prior to mill operations an access permit shall be obtained from the Colorado Department of Transportation.
5. The development of the facility shall be in conformance with the site plan as shown in Figures 2, 5 and 6 which are included in the Special Use Permit Application submitted July 2008.
6. All exterior lighting shall be down directed with fixtures having a 90 degree cutoff.
7. If operation of the facility (processing of ore) has not commenced in seven years from the date of BOCC approval, the permit shall become null and void.
8. Prior to construction of the mill a report shall be submitted which provides information regarding the proposed water sources to be used for milling operations.
9. If construction/operation of the mill requires water from the Town of Naturita an agreement for 40 years shall be submitted, to coincide with the proposed life of the mill.

10. Only raw (unprocessed) uranium ore and/or uranium/vanadium ore shall be processed at the Piñon Ridge Mill. No other feedstock may be processed at the mill or directly disposed of in the tailings facility as a processing waste stream. Only 11e(2) by-product material generated at the facility as defined in section 25-11-201, Colorado Revised Statutes, may be disposed of at the facility and no non-11e(2) materials may be disposed of at the facility.
11. An adequate water supply amount, as set forth by the Applicant in the Special Use Permit Application, Pg. 4-8, §4.5.4, for all mill operations shall be obtained prior to beginning mill operations, and maintained through closure of the mill. Applicant and/or mill operator shall provide County with verification of all sources of the water, including copies of agreements with suppliers of the water, any agreements with holders of water rights to sell or permit use of the water by the Applicant and/or mill operator, Applicant's and/or mill operator's own private water supply, or any other source of water the Applicant and/or mill operator will be using for mill operations. Water rights for all wells to be used at the mill shall be obtained prior to operation of the facility.
12. Approval of this permit does not limit the power of the Board of County Commissioners to take legal or administrative action to enforce the conditions of this permit. In the event that it is alleged that there has been a violation or violations of the permit conditions or applicable provision of the County's rules and regulations, the Board by resolution, may terminate this permit after notice and opportunity to be heard at a public hearing has been provided to permittee, and the Board has determined by a preponderance of the evidence following the hearing that a violation has occurred. Providing there is no immediate risk to the health, safety or welfare of the citizens of Montrose County, permittee shall be granted 30 days in which to remedy the violation(s), and shall provide County with a plan of correction within 10 days following the hearing. At the end of the 30 days from the hearing date, if permittee has not corrected the violation(s), County may revoke or suspend the SUP, at the Board of County Commissioners sole and absolute discretion.
13. The mill operator and/or Applicant is responsible for implementing the well/spring monitoring and mitigation program including any subsequent changes as specified in this paragraph, outlined in the June 29, 2009, Technical Memorandum from Golder Associates. (note: the changes referenced in this paragraph to the Golder Report are only as follows: Page 4, Mitigation Measures, "Mill Operator" added after word hire, and 50% changed to 25% loss in productivity).
14. In the event a significant impact (as defined in the Technical Memorandum from Golder Associates, dated June 29, 2009 and referenced in the above condition) on a beneficial water use is established as resulting from Energy Fuels' operations, Applicant and/or mill operator shall mitigate the impact through establishing an alternate water supply, providing financial compensation, or a combination of the two. Mitigation actions shall be determined by consideration of the then-current beneficial uses that are affected, the projected term of the impact, the presence of alternative supplies of water for temporary or long term replacement, and the potential economic impact to the affected beneficial users. Mitigation actions as outlined in the Technical Memorandum from Golder Associates, dated June 29, 2009,

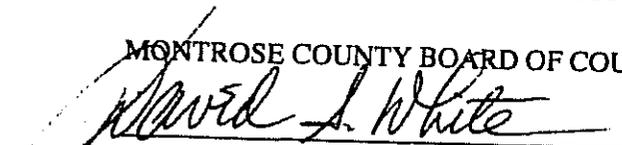
shall be required to begin immediately upon discovery of the significant impact, depending on the beneficial use, and the impact on the user.

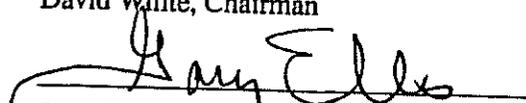
- 15. Upon request, the mill owner, operator, and/or Applicant shall provide truck haulage records to Montrose County for all materials delivered to the mill. The records will include the date of delivery, type and quantity of materials, and where feedstock originated, or other data the County deems necessary.
- 16. All mill operations shall be in compliance with applicable federal, state and local laws and regulations and in compliance with all federal and state permit requirements and conditions.
- 17. Applicant shall complete and submit to the Colorado Department of Public Health and Environment ("CDPHE") an environmental assessment as required under CRS 25-11-203(2)(b)(II) acceptable to CDPHE under applicable law and regulation; and following the completion of an independent environmental analysis by the County, as provided for in CRS 25-11-203(2)(b)(III), the County reserves the right to add further conditions to this approval as may be warranted by such independent environmental analysis.
- 18. The mill operator shall not process at the mill more than 500 tons per day of uranium and vanadium ore averaged annually. The mill operator and/or Applicant must seek an amendment of the special use permit to increase the mill operations beyond the annual average specified in this condition.
- 19. All material representations made by the Applicant in the project application and at the public hearing shall be adhered to and considered Conditions of Approval.

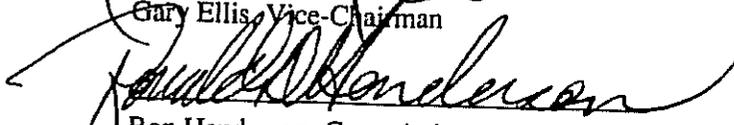
THAT, for the above stated reasons, the proposed special use application subject to the conditions set herein is found by the Board of County Commissioners to be in the best interest of the health, safety, convenience, order, prosperity, and welfare of the citizens of Montrose County, Colorado.

THIS RESOLUTION IS HEREBY ADOPTED this 30th day of September, 2009.

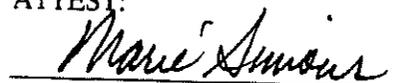
MONTROSE COUNTY BOARD OF COUNTY COMMISSIONERS:


 David White, Chairman


 Gary Ellis, Vice-Chairman


 Ron Henderson, Commissioner

ATTEST:


 Deputy County Clerk & Recorder

