

PROJECT REVIEW

May 17, 2010

REVISED

July 26, 2010

I. 2010-0040 CUP1 DIVIDE CREEK TREATMENT SITE CONDITIONAL USE PERMIT

Property Owner(s): SG Interests 1, Ltd

Representative(s): Catherine Dickert

Location: 2322 Divide Creek Rd, NE Mesa County (Divide Creek Rd)

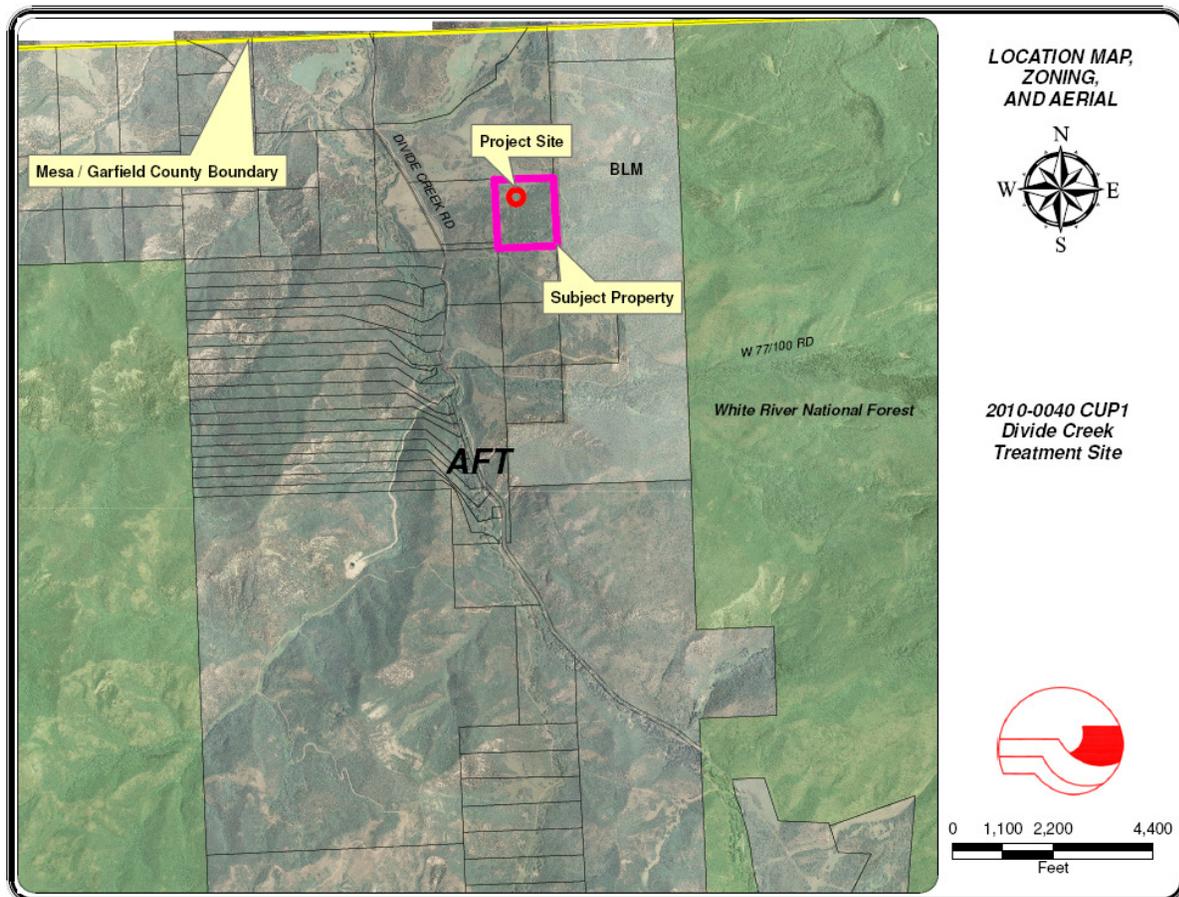
Parcel #: 2457-173-00-070

Zoning: AFT

Planner: Paul Sizemore, Senior Planner

Request: An amended request for approval of a Conditional Use Permit to construct and operate a natural gas treatment facility on AFT-zoned property. The application includes a request pursuant to LDC 3.8.7 A1 to increase allowable height from 35 feet to 45 feet for a compressor housing building, 45 feet for the amine treatment unit, and 37 feet for the glycol dehydrator unit.

Recommendation: Approval with Conditions



A NOTE ON PROJECT REVISIONS

This application has been amended since the first project review. In order to ensure continuity in the project history, all elements from the original review have been left intact.

An explanation of the changes that have been made since the initial review follows each section in underlining.

II. SURROUNDING LAND USE

ORIGINAL TEXT:

The subject property is located in the northeastern corner of Mesa County near the Garfield County border. The surrounding land use is primarily federally managed lands under the management of the USDA Forest Service (White River National Forest) and the Bureau of Land Management. Uses related to natural gas extraction are present in the nearby area, with the closest well pad located approximately one mile to the southwest. The remaining land is in private ownership and is primarily of seasonal residential and recreational use. The Bull Mountain Natural Gas Pipeline runs east to west along the northern boundary of this property. The zoning of all surrounding property is Agricultural, Forestry, Transitional (AFT) and the Future Land Use recommendation is Rural/Agricultural 35 acres or greater (R/A 35+).

REVISIONS BASED ON NEW SUBMITTAL:

In the new submittal the applicant has clarified the extent of the natural gas extraction activity in the vicinity of this project. The project narrative indicates that the Colorado Oil and Gas Conservation Commission (COGCC) lists 16 wells within a two mile radius of the project site. Four of these wells are currently producing. The applicant indicates that the entire area is a part of the Divide Creek Federal Unit which is owned by the Encana Corporation. In order to maintain the federal unit, Encana is obligated to drill two new wells within the designated area each year.

III. PROJECT DESCRIPTION:

ORIGINAL TEXT:

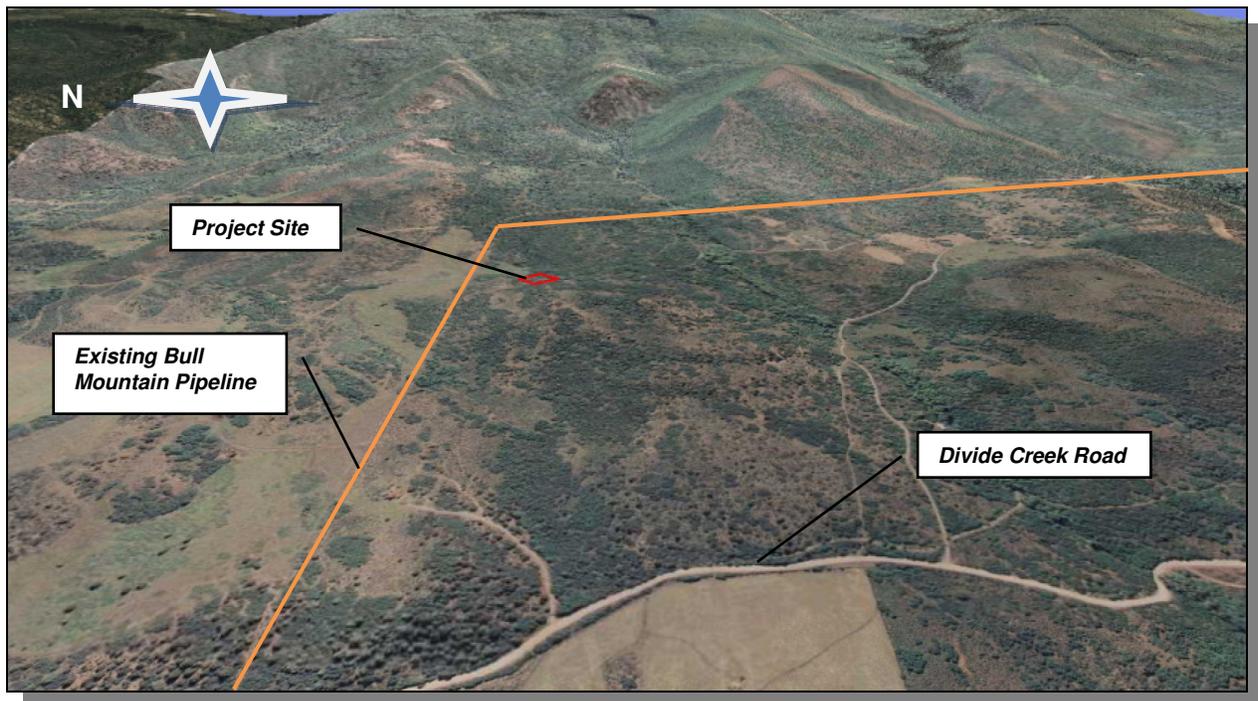
This application is a request for approval of a Conditional Use Permit for the construction and operation of a natural gas treatment facility as a part of the Bull Mountain Pipeline Project (2008-0190 CUP1). Land Development Code Table 5.1 indicates that “all other mining” uses may be allowed as conditional uses within the AFT zone.

The Bull Mountain Natural Gas Pipeline transports natural gas from Gunnison County through Delta and Mesa Counties and on to Garfield County where it interconnects with larger interstate pipeline systems. Originally it was anticipated that a treatment facility would be constructed in Gunnison County; however, the Federal Energy Regulatory Commission (FERC) has advised the applicant that placement of the compressors and treatment facilities at the beginning of the pipeline would alter its non-jurisdictional status as a common carrier gathering line under the Mineral Leasing Act. The pipeline permits issued by BLM and the USDA Forest Service were conditioned upon the pipeline maintaining common carrier status, so a change to a jurisdictional interstate pipeline regulated by FERC under the Natural Gas Act could jeopardize these federal

permits. SG Interests I, Ltd, is now seeking to locate this facility within 5 miles of the end of the pipeline to maintain its non-jurisdictional status, which would place the compressors and treatment facility in Mesa County.

REVISIONS BASED ON NEW SUBMITTAL:

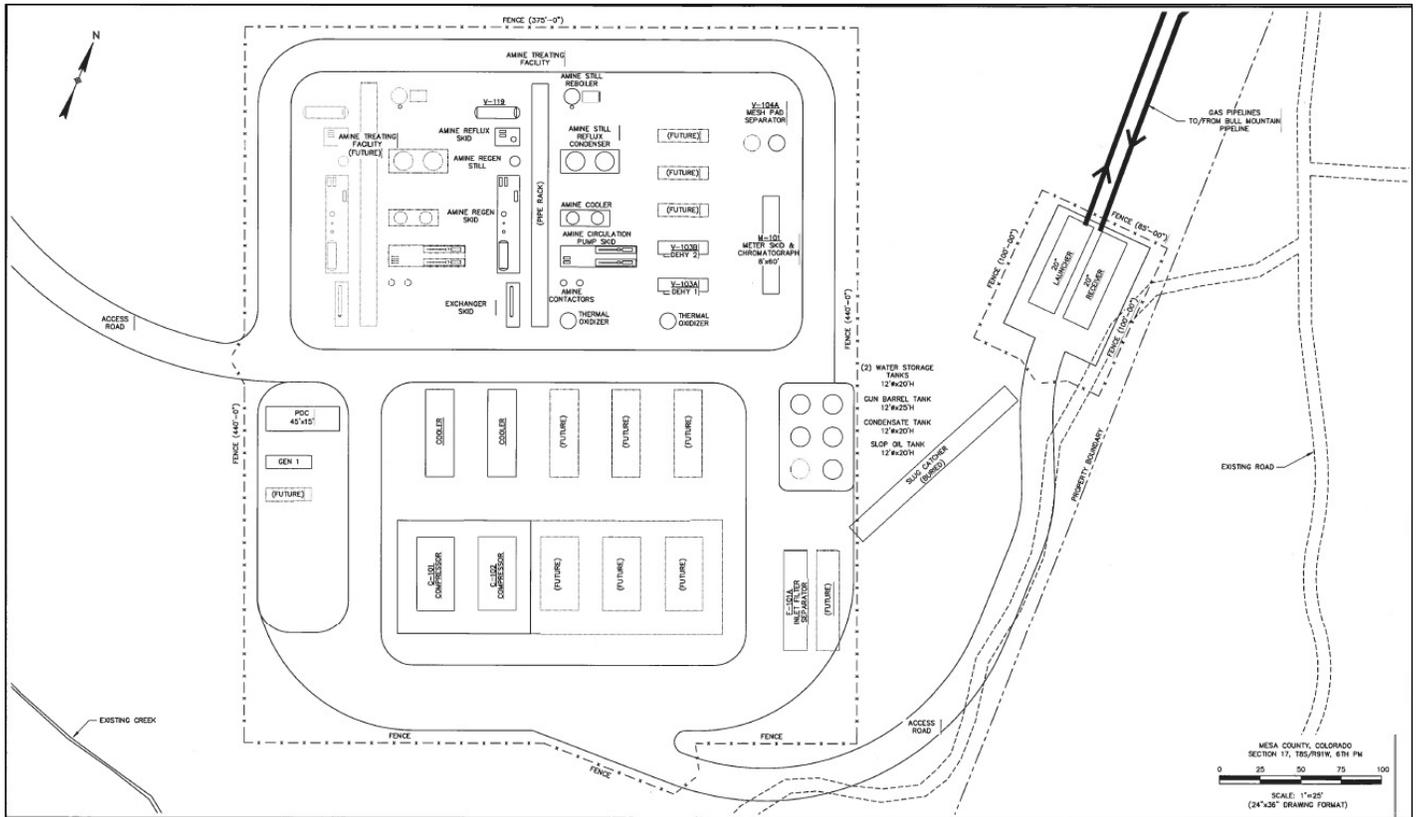
In the revised submittal, the applicant has provided a copy of the FERC order indicating that placement of the compression and treatment facilities at the southern terminus as originally planned would make the pipeline jurisdictional. This would require further analysis and permitting through FERC, and there is no guarantee that the certificate of authority would be granted. The applicant concludes that the possibility of a denial could result in an inability to use the pipeline or develop the mineral leases it is intended to serve.



ORIGINAL TEXT:

The subject property is a 40 acre parcel accessed via private driveways from Divide Creek Road, also known as 79 Road. A 20 inch diameter steel pipe is proposed to branch off of the Bull Mountain Pipeline to the north for approximately 1090 feet, where it will transport untreated gas to a 2.5 acre pad housing gas treatment equipment. The gas will be treated to sales standards and then transmitted under pressure through another 20 inch pipeline to the Bull Mountain line, where it will continue on to the sales point. Approximately 1,100 feet east of the driveway's intersection with 79 Road, a two track road forks to the north towards the project site. The applicant proposes to upgrade this existing path by constructing a new access road capable of supporting operating equipment. Currently deeded access through the parcel to the south does exist; however, at the time of the writing of this report the applicant is under negotiation for new easements to accommodate a reconstructed roadway that will serve the needs of the site. A conceptual road plan has been provided to illustrate one possible alignment. The operation of the facility will involve one operator traveling to and from the site six days per week in a pickup truck. Additionally, one water hauling truck and one service truck will visit the site each month for maintenance. Annually a small group consisting of a service truck, two mechanic trucks, and gravel trucks for road repair would visit the site.

REVISED Facility Layout



ORIGINAL TEXT:

The facility layout consists of a number of tanks, pipes, an incinerator, an anode bed, and one building to house the compressors. The compressor housing building is proposed to be 45 feet tall. The dehydration and amine treatment tanks will be 40 feet tall, and the remaining tanks on site will range between 12 and 20 feet tall. A line of sight plan has been submitted demonstrating how natural vegetation and topography will screen the structures from the nearby seasonal residences. Because these facilities are taller than the maximum height allowed by right in the AFT zone the applicant has submitted findings to justify the increased height as a part of the CUP approval. A preliminary drainage report has been submitted to address the need for on-site stormwater detention facilities. This report will be finalized prior to site plan approval.

REVISIONS BASED ON NEW SUBMITTAL:

Prior to the Planning Commission hearing on May 27, 2010, the applicant submitted information that the amine treatment unit had increased in height to 95 feet. This was the information submitted into the record at that hearing. In this new submittal, the amine units have been specially engineered to be two 45 foot tall structures rather than one 95 foot tall structure. The glycol dehydrator unit will be 37 feet tall. The compressor housing building will be the tallest structure on the site at 45 feet tall and will contain two compressor units. In a revised screening plan, the applicant indicates that views of these structures from the cabin to the west will be entirely screened by intervening topography. The view from the cabin to the south will be buffered in part by topography, berms, and a proposed natural fencing material. The pad level is lowered approximately 3 feet, which reduces the perceived height of the structures. The soil cut

from this location will then be used to build up berms to offer additional screening and noise mitigation. The berms will be vegetated, and an 8-10 foot tall fence constructed of aspen poles or other similar materials will be placed on top of the berm. The applicant expects that with these visual mitigation measures in place, only the top of the compressor housing building will be visible from the cabin to the south. The facility is configured to allow up to three additional compressor units as well as additional treatment equipment to increase capacity in the future.

Existing Access Road (From 79 Road)



View of Pipeline From Proposed Site



IV. COMPLIANCE WITH MESA COUNTY CODE REQUIREMENTS:

Section 3.8.7 and Section 3.1.17 of the Mesa County Land Development Code were used to evaluate this application.

Section 3.8.7 of the Land Development Code (2000, as amended) states that a Conditional Use Permit may be approved by the Board of County Commissioners after considering the following:

A. The proposed use is not significantly different from adjacent uses in terms of appearance, site design, operating characteristics (hours of operation, traffic generation, noise, odor, dust, and other external impacts) or, if the use is different, that any adverse impacts resulting from the use will be mitigated to the maximum extent practical and reclamation of the site will be adequate for appropriate future uses of the site where applicable.

This proposed use is different from the general character of the surrounding area, but it is not unique. There are other oil and gas facilities nearby, including the Bull Mountain Pipeline immediately to the north. The applicant has provided a line of sight diagram documenting the level of visibility that can be expected from the nearby seasonal residences. The diagrams indicate that the structures should be entirely screened from one residence by topography, and will be screened by existing trees from the other residence. Additionally, the applicant is proposing to paint the tanks and structures BLM Juniper Green to minimize the visual impact.

Traffic impacts to the site once operational will be minimal, with approximately one visit by regular pickup truck per day. The portion of pipeline crossing BLM property requires a Transportation and Utility Systems and Facilities on Federal Lands Permit from the BLM and the applicant is conducting a cultural and biological resources survey in order to obtain this

approval. Additionally, the applicant has applied for a Construction Permit from the Colorado Department of Public Health and Environment (CDPHE) Air Pollution Control Division. Prior to site plan approval, these permits should be provided for inclusion in the project file.

Noise levels on the site will adhere to the COGCC regulations for noise levels in residential and agricultural areas. Dust will be controlled on the access roads by water and magnesium chloride as needed. The applicant has developed a reclamation plan in cooperation with the USDA Forest Service for the Bull Mountain Pipeline, and that plan is also applicable to this site.

Additionally, because the applicant is requesting structure heights that are taller than the allowable 35 foot height under typical AFT dimensional standards, the following additional criteria under this section are applicable:

3.8.7 A 1. Applications which request an exception to the height limitations of a zone district as identified in Table 6.1 must demonstrate that:

a. The strict application of the provisions of this Land Development Code would result in practical difficulties to, and exceptional and undue hardship upon, the proposed use

The applicant indicates that there would be practical difficulties in implementing the AFT height restrictions because the components that make up the site are sized to accommodate the functions required by each element. The compressor housing must house the compressors, but also the crane that is used for maintenance and repair. There must be adequate space above the crane and compressors for ventilation and this cannot be accomplished with a smaller building. The size of the dehydration and amine treatment tanks are likewise sized based on the volume of gas anticipated to be treated, and they must be a certain height in order to provide adequate surface area to allow proper treatment.

b. The proposal is compatible with features in the area such as vegetation, topography or similar structures

The applicant has attempted to locate the site so that visibility is obscured from nearby cabins. The narrative indicates that structures will not be visible from 79 Road. Existing vegetation on the site, except for the disturbed area, will remain and equipment will be painted to blend into the environment.

c. The proposal will not have an adverse impact upon the properties located within the written notification area defined in Section 3.1.8 of the Code.

The applicant states that there are other natural gas facilities within view of the project site. The narrative response to these criteria indicate that adverse impacts are mitigated by placing the equipment to reduce visibility, locating the facility in a wooded area, and painting the structures to blend with the environment.

REVISIONS BASED ON NEW SUBMITTAL:

In the amended submittal, the following modifications to the plan have been proposed in order to mitigate visual and noise impacts associated with the use

1. Visual mitigation:
 - a. The site has been lowered three feet

- b. Two vegetated berms have been added
 - c. A screening fence is proposed at the top of the berms
 - d. The equipment has been engineered to be shorter in height
 - e. Equipment has been arranged on site so that compressor housing building is now the dominant feature.
2. Noise mitigation:
- a. Compressor housing building is located between equipment and existing cabins to act as a sound wall
 - b. Compressor valves will be placed inside the housing building
 - c. Berms located on-site to deflect noise
 - d. Propose to replace the generator engines with quieter turbines

In the amended submittal, the applicant affirms that the facility will comply with COGCC noise regulations, which are measured 350 feet from the source. Amended visual screening plans have been submitted to illustrate that the facility is visually shielded from the cabin to the west, and is partially shielded from the cabin to the south. The applicant indicates that these additional measures have mitigated adverse impacts to properties within the notification area.

This criterion **can be met** with conditions of approval.

B. Facilities and services (including sewage and waste disposal, recycling, domestic and irrigation water [where available], gas, electricity, security measures, police and fire protection, and roads and transportation, special fencing, and signage, as applicable) shall be available upon completion of the project to serve the subject property while maintaining adequate levels of service to proposed and existing development during regular, periodic, and peak usages.

Minimal services will be required for this facility. Portable toilets will be available for construction crews at all times and one toilet will remain during the operational phase to serve inspection visits. Electrical service will be provided by Holy Cross Electric. Impacts to County roads will be mitigated by improvement and maintenance specified by the Road and Bridge Department. The project site will be fenced for security and to prevent wildlife from entering the site. Signage will be limited to an identification sign to be hung on this fence, as well as tank markings required by COGCC.

REVISIONS BASED ON NEW SUBMITTAL:

In the amended submittal, the applicant indicates that initially electricity will be provided by on-site generators; however, the possibility remains that future service may be provided to the site by Holy Cross Electric. The applicant has hired an independent engineering consultant to evaluate 79 Road. The resulting report has been submitted to Mesa County Road and Bridge to facilitate the development of a detailed maintenance agreement.

This criterion **can be met** with conditions of approval.

C. Access will be provided as necessary to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

Consistent with the Manual on Uniform Traffic Control Devices, flagmen and signs are proposed during the construction phase of the project as heavy equipment is being transported to the site. The applicant has provided a Level One Traffic Impact Statement that indicates minimal traffic

to the site during the operational period. The Mesa County Road and Bridge Department has required upgrades to 79 Road to support the construction traffic, and maintenance with magnesium chloride for dust suppression will be provided as necessary.

REVISIONS BASED ON NEW SUBMITTAL:

The applicant indicates that during the construction phase, car pooling of equipment operators and construction personnel will be used as much as possible.

This criterion **can be met** with conditions of approval.

D. Adequate assurances of on-going maintenance have been provided.

The construction portion of the project will have on-going maintenance for the road access. This is anticipated to be a long term facility; when the site is no longer needed it will be reclaimed according to the most appropriate use of the site at that time.

REVISIONS BASED ON NEW SUBMITTAL:

The applicant indicates that stormwater inspectors will visit the site approximately once every two weeks until the site is fully stabilized. Weed control will occur on an as needed basis.

This criterion **can be met** with conditions of approval.

E. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent practical, including whether soils and geologic suitability are adequate for the proposed use, and whether prevailing winds might cause adverse impacts on site and off-site.

Any adverse impacts to the natural environment will be mitigated to the extent possible. As a part of the BLM permit for the project, an update to the Environmental Impact Statement for the Bull Run Pipeline project is being prepared. Preliminary biological resource surveys have been conducted and copies of the final reports should be provided for the project file when completed. As a minor source emitter, the site will require a Construction Permit from the CDPHE Air Pollution Control Division. The project narrative indicates that final foundation design will be based on site specific geotechnical analysis. The applicant has submitted a preliminary/conceptual drainage report as a part of this CUP application. The preliminary report calls for the construction of on-site detention ponds in order to maintain historic release rates. A final drainage report will be required prior to site plan approval.

REVISIONS BASED ON NEW SUBMITTAL:

Since the initial submittal, the biological resources surveys have been completed and they do not identify any threatened or endangered species. Cultural resource surveys indicate no important cultural resources will be affected by the project. The applicant indicates the use is classified by CDPHE as a “synthetic minor” source emitter because the equipment used on site contains emissions controls to reduce potential air emissions. The applicant indicates no air quality standards will be violated at or in the vicinity of the treatment site. Geotechnical analysis has been completed and the results will be incorporated into the final foundation and pad slope design.

This criterion **can be met** with conditions of approval.

F. There is a need for the use on a community wide basis.

The proposed project is needed to treat the natural gas being transported via the Bull Mountain Unit to the national market. Natural gas is a needed product for the region and nation.

REVISIONS BASED ON NEW SUBMITTAL:

The applicant has provided a revised narrative including in-depth discussion of the issues surrounding the FERC ruling that led to the selection of this site for the treatment and compression facilities. The narrative concludes that although the original plan for the Bull Mountain Pipeline anticipated that these facilities would be located in Gunnison County, doing so would alter the jurisdiction of the pipeline and would require re-permitting. The narrative indicates that this re-permitting would not include a guaranteed positive outcome and could result in an inability to use the pipeline.

This criterion **has been met**.

Section 3.1.17 General Approval Criteria must also be considered for Conditional Use Permit requests:

A. Complies with all applicable standards, provisions, and purposes of this Land Development Code;

It appears that this request complies or can comply with all applicable standards, provisions and purposes of the Land Development Code if all review agency comments and recommended conditions of approval are met.

REVISIONS BASED ON NEW SUBMITTAL:

There are no changes to the information described in this section.

This criterion **can be met** with conditions of approval.

B. Is consistent with review agency comments;

No concerns have been identified in review agency comments which could not be addressed by the review agency requests and the recommended conditions of approval.

REVISIONS BASED ON NEW SUBMITTAL:

There are no changes to the information described in this section.

This criterion **can be met** with conditions of approval.

C. Is consistent with applicable intergovernmental agreements (IGA) between the County and other entities.

This project is subject to MCA 97-18 between Mesa County and the Bureau of Land Management and MCA 2001-26 between Mesa County and the USDA Forest Service. These

IGAs promote cooperation in land development review. Review packages were provided to these agencies and as of the date of this report, no comments have been received.

REVISIONS BASED ON NEW SUBMITTAL:

There are no changes to the information described in this section.

This criterion **has been met**.

V. REVIEW COMMENTS:

All review agency comments received are attached to this project report.

VI. PUBLIC COMMENTS:

At the time of the writing of the initial project review no written public comments had been received. For the revised report, comments have been received from: Chris, Jeanette, Alan, and Laura Weller; Dana and Barbara King; Robert and Maureen Bratcher; and Roger and Beth Averitt. All written comments are attached to this project report.

VII. PROJECT RECOMMENDATION: The recommended conditions of approval for the amended submittal have not changed from those included in the original project review.

The Mesa County Department of Planning and Economic Development staff recommends **approval** of this Conditional Use Permit subject to the following conditions:

1. All review agency comments not in conflict with the conditions of approval shall be addressed.
2. The applicant shall improve and maintain County roads used for access during construction according to the requirements of the Mesa County Road and Bridge Department. Maintenance and oversized load permits shall be obtained as required. Magnesium chloride shall be applied to access roads as necessary to control dust.
3. Prior to final site plan approval, the applicant shall provide copies of the Transportation and Utility Systems permit from BLM and the Construction Permit from CDPHE for inclusion in the project file.
4. The applicant, owner, and operator shall consistently comply with all applicable provisions of the Mesa County Land Development Code.
5. The applicant shall comply with all current and future applicable rules and regulations of the Colorado Oil and Gas Conservation Commission including but not limited to noise levels for the “Residential/Agricultural/Rural” Zone. Noise levels from the compression facility shall be measured from the noise source as stipulated by COGCC regulations.
6. A sound study shall be submitted to the Department of Planning and Economic Development within 2 months after the facility is operational to demonstrate that the facility does not

exceed the permissible noise levels. If additional noise mitigation measures are necessary to achieve compliance with noise requirements, mitigation shall be completed within 2 months of the initial noise study. Documentation shall be submitted to the Department of Planning and Economic Development demonstrating that the noise has been mitigated and does not exceed permissible noise levels.

7. The applicant, owner and operator shall not significantly deviate from the site plan and documents submitted with this application. Any modification or expansion of this facility, not including minor modifications as determined by the Planning Director, shall require an amendment of the Conditional Use Permit.
8. During the construction phase, portable toilets shall be provided on site. During the operation stage, a minimum of one portable toilet shall remain on site for inspection visits.
9. Prior to final site plan approval, the applicant shall provide a final drainage report meeting the specifications of the Development Engineering Division.

Basis for recommendation:

The petition demonstrates compliance or the ability to comply with with the criterion in Section 3.8.7A – F and Section 3.1.17.A – C of the Mesa County Land Development Code (2000, as amended).

Review Summary

<u>CUP Approval Criteria:</u>	<u>Condition#</u>
3.8.7. A (compatibility with surrounding property) - can be met	1,3,4,5,6
3.8.7. B (facilities and services) - can be met	1,2,4,8,9
3.8.7. C (adequate access) - can be met	1,2
3.8.7. D (maintenance) - can be met	1,2,4,7
3.8.7. E (impacts mitigated) - can be met	1,3,4,5,6,9
3.8.7. F (community-wide need) - has been met	

General Approval Criteria:

3.1.17. A (compliance with the Land Development Code) - can be met	1-9
3.1.17. B (consistency with review agency comments) - can be met	1
3.1.17. C (consistency with IGAs) – has been met	

VIII. MCPC ACTION (ORIGINAL SUBMITTAL) (5/27/10): Denial 6-1
MCPC ACTION (AMENDED SUBMITTAL) (8/5/10):

IX. BOCC ACTION: (8/24/10):