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At a regular meeting of the Board of County Commissioners for Garfield County, Colorado, held in the Commissioners' Meeting Room, Garfield County Administration Building, in Glenwood Springs on Thursday, 16<sup>th</sup> day of November A.D., 2017, there were present:

<u>John Martin</u>	, Commissioner Chairman
<u>Mike Samson</u>	, Commissioner
<u>Tom Jankovsky</u>	, Commissioner
<u>Tari Williams</u>	, County Attorney
<u>Kelly Cave</u>	, Assistant County Attorney
<u>Jean Alberico, absent</u>	, Clerk of the Board
<u>Kevin Batchelder</u>	, County Manager

when the following proceedings, among others were had and done, to-wit:

**RESOLUTION NO.** \_\_\_\_\_

**A RESOLUTION OF APPROVAL FOR A SPECIAL USE PERMIT FOR EXTRACTION  
AND PROCESSING OF A NATURAL RESOURCE, GRANTED TO BATTLEMENT  
MESA LAND INVESTMENTS LLC (SURFACE OWNER) AND URSA OPERATING  
COMPANY LLC (OPERATOR) TO DEVELOP A WATER STORAGE FACILITY  
KNOWN AS THE URSA BMC F TEMPORARY WATER STORAGE FACILITY,  
LOCATED IN SECTION 16, TOWNSHIP 7 SOUTH, RANGE 95 WEST OF THE 6<sup>TH</sup>  
PRINCIPAL MERIDIAN, GARFIELD COUNTY**

*Parcel Numbers 2407-081-00-152*

## Recitals

A. The Board of County Commissioners of Garfield County, Colorado (“Board”) received an Application for a Special Use Permit for Extraction and Processing of a Natural Resource for Development of a Water Storage Facility known as the Ursa BMC F Temporary Water Storage Facility located within the Battlement Mesa PUD (File No. MIPA-05-17-8554). The Applicant is Battlement Mesa Land Investments LLC (“Surface Owner”) and Ursa Operating Company LLC (“Operator”). The site is further described in Exhibit A, Site Plan.

B. The Ursa BMC F Temporary Water Storage Facility is approximately 2.5 acres in size and located on an overall parcel approximately 1,248.8 acres in size. The site is located off of

Gardner Lane (County Road 303), approximately 3 miles east of the Town of Parachute. The site is further described in Exhibit B, Legal Description.

C. The subject property is located within unincorporated Garfield County in the Low Density Residential Zone District within the Battlement Mesa Planned Unit Development (PUD).

D. The Board is authorized to approve, deny or approve with conditions Special Use Permits within the Battlement Mesa PUD, pursuant to the Garfield County Zoning Resolution of 1978, as Amended on October 15, 1979 in Resolution No. 79-132, processed as a Major Impact Review Land Use Change Permit pursuant to the Garfield County Land Use and Development Code of 2013, as amended.

E. The Garfield County Planning Commission opened a public hearing on the aforementioned application on September 13, 2017 and continued the public hearing to September 26, 2017. The Planning Commission then closed the public hearing on September 26, 2017 and moved to recommend approval to the Board by a vote of 6 to 1.

F. The Board opened a public hearing on November 14, 2017, for consideration of whether the proposed Special Use Permit should be approved, denied or approved with conditions, during which hearing the public and interested persons were given the opportunity to express their opinions regarding the request. The public hearing was continued to November 16, 2017.

G. The Board closed the public hearing on the 16<sup>th</sup> day of November, to make a final decision.

H. The Board, on the basis of substantial competent evidence produced at the aforementioned hearing, has made the following determinations of fact:

1. That proper public notice was provided as required for the hearing before the Board of County Commissioners.
2. The hearing before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at the hearing.
3. For the above stated and other reasons, the proposed Special Use Permit for Extraction and Processing of Natural Resources – Ursa BMC F Temporary Water Storage Facility is in the best interest of the health, safety, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. That with the adoption of conditions the application is in general conformance with the 2030 Comprehensive Plan, as amended.

5. That with the adoptions of conditions, and with the granting of waivers from Section 7-107 Access & Roadways, regarding cross section slope, and Section 7-1001 Industrial Use Standards, regarding setbacks and hours of operation, the application has adequately met the Special Use Permit Criteria contained in the Garfield County Land Use Resolution of 1978, as amended and the standards contained in the Garfield County Land Use and Development Code of 2013, as amended.

### RESOLUTION

**NOW THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Garfield County, Colorado, that:

- A. The forgoing Recitals are incorporated by this reference as part of the resolution.
- B. The Special Use Permit for Extraction and Processing of Natural Resources in the Battlement Mesa PUD for the Ursa BMC F Temporary Water Storage Facility is hereby approved subject to compliance with the following conditions:
  - 1. That all representations of the Applicant, either in testimony or the submitted application materials, shall be considered conditions of approval unless specifically altered by the Board of County Commissioners.
  - 2. If future extraction and processing activity (additional to what is being permitted herein) are proposed, an amended Special Use Permit shall be required prior to that activity occurring on the site.
  - 3. Ursa Operating Company LLC (“the Operator”) acknowledges that the County has performance standards in place that could lead to revocation of the Special Use Permit if violation of the permit occur.
  - 4. Operation of the facility must be in accordance with all Federal, State, and local regulations and permit governing operation of the facility.
  - 5. The County commits to notifying the Operator of any compliance concerns. This may include direct notice by Garfield County to other permitting agencies if necessary depending on the compliance concern.
  - 6. The County can request a site inspection with reasonable notice to the Operator. Full access to any part of the site will be granted. On request, all paperwork must be shown. The County shall not request a large number of inspections that would interfere with normal operation without cause.

7. All extraction and processing activities shall be required to comply with the following performance standards:

a. Volume of the sound generated: Every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed 70 dB(A) from 7:00 a.m. to 7:00 P.m. and 65 dB(A) from 7:00 p.m. to 7:00 a.m., measured 350 feet from the edge of the well pad. As set forth in COGCC Regulation 802(b), the noise levels shall be subject to an increase by 10 dB(A) for a period not to exceed 15 minutes in any one (1) hour period shall not exceed 65 dB(A) for shrill or periodic impulsive noise. Compliant protocols shall be governed by COGCC Rule 802(c).

b. Vibration generated: Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located;

c. Emission of smoke and particulate matter: 1) Every use shall be so operated so as to comply with all Federal, State, and County air quality laws, regulations, and standards; and 2) The Operator shall have water trucks onsite for dust abatement during construction.

d. Emission of heat, glare, radiation, fumes: Every use shall be so operated that it does not emit heat, flare, radiation or fumes which substantial interfere with the existing use of the adjoining property or which constitutes a public nuisance or hazard. Flare of gases, aircraft warning signals, reflective painting of storage tanks, or other such operation which may be required by law as safety or air pollution control measures shall be exempted from the is provision.

e. Storage areas, salvage yard, sanitary land-fill, and mineral waste disposal areas:

- 1) Storage of flammable, or explosive solids, or gases, shall be in accordance with accepted standards and laws and shall comply with the National Fire Code.
- 2) At the discretion of the County Commissioners all outdoor storage facility for fuel, raw materials, and products shall be enclosed by a fence or wall adequate to conceal such facility from adjacent property.
- 3) No materials or wastes shall be deposited upon the property in such form or manner that they may be transferred off the property by any reasonable foreseeable natural cases or forces.
- 4) All materials or wastes which might constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors in accordance with applicable State Board of Health Regulations.

f. Water pollution: In a case which potential hazards exist, it shall be necessary to

install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operation of the facility may begin.

8. All lighting, except as demonstrated for safety reasons, shall be directed inward and downward and be shaded in order to prevent direct reflection on adjacent property and residences in the area. LED lights will be used when possible and practical. Workers will be advised when moving light plants to ensure that the light is focused directly on the work being done. Safety considerations will take precedence.

9. The construction of the BMC F Water Storage Facility shall be limited to the hours of 7:00 a.m. to 7:00 p.m. with the exception of emergencies and episodic events beyond the Operator's control.

10. The Operator shall comply with the CDPHE regulations and air quality permit conditions for emission controls considering technically and economically feasible BMP's.

If required by CDPHE Permitting, all facilities onsite shall be subjected to an instrument based leak detection and repair (LDAR) inspection at least monthly during drilling and completion and quarterly during production. If a leak over 10,000 ppm hydrocarbons is discovered, the first attempt to repair the leak shall be made as soon as reasonable possible and in accordance with state law. The operator shall conduct ongoing walk through inspections by qualified individuals on a daily basis to identify any vapor or odor concerns along with potential sources of emissions from the tanks. An inspection log shall be maintained and where vapors or odors are noted the Applicant shall immediately notify the County Oil and Gas Liaison and shall immediately take action to mitigate and eliminate the odors and/or leaks.

11. The Operator commits to using carbon blankets, or equivalent or better technology, over thief hatches on temporary storage tanks to reduce odors.

12. Once construction begins, the Operator shall treat the site for all listed A, B, C noxious weeds within the well pad site perimeter and along access roads according to Ursa's noxious weed management plan. This shall include up to three treatments annually by a licensed and certified herbicide applicator, with the number of treatments subject to approval by the County Vegetation Manager.

13. The Operator shall commit to ensuring truckloads of dirt, sand, aggregate materials, drilling cuttings, and similar materials are covered to reduce dust and PM emissions during transport.

14. The Applicant shall utilize recycled asphalt, also referred to as black base for surfacing of the water storage area and access roadways.

15. The Operator shall provide a formal update to the Board of County Commissioners on a quarterly basis as to the progress of the project, including but not limited to a) advancement and utilization of odor and emissions technology, (b) Operator's technologies utilized to reduce

emissions and odors on the well pad(s), and c) review of complaints from neighboring property owners and Community Count's 24/7 response system. This update shall be coordinated through the Garfield County Community Development Department specifically including the Oil and Gas Liaison's office. Updates shall begin at the beginning of construction and continue through drilling and completion operations and cease once the pad is in full production operations.

16. No Special Use Permit shall be issued to the Applicant/Operator (and no activity shall occur on the site) until all required local, state, and federal permits, except those permits which are obtained only after construction is complete, have been obtained and tendered to the County Community Development Department. A violation of any of the terms and/or conditions of these local, state and federal permits shall also be considered a violation of the Special Use Permit. The Air quality permit shall be submitted as soon as it is received.

17. In accordance with referral comments from the CDPHE the Ursa BMC F Water Storage Facility may require an APEN Air Quality Permit. The Applicant shall provide information to the CDPHE on the estimated produced water volumes to be handled/processed and documentation of sampling to be used in the determination regarding APEN Air Quality Permitting requirements.

18. The Operator shall provide a draft site specific SPCC plan for the BMC F Water Storage Facility within 30 days of installation of tank containment structures. The Operator shall provide a final site specific SPCC Plan for the BMC F Water Storage Facility within six months of installation of the tank containment structure per EPA regulations. The site specific plan shall include information on storage tank sizes and the volume of secondary containment required/ calculated.

19. The Operator (Ursa Operating Company LLC) shall provide a one-time contribution in an amount of \$55,000 (unless the contribution has previously been paid for another Phase II Well Pad Permit) based on the County's Expenses for on-going operation of the County's site specific air quality monitoring program as designed, owned and operated by Garfield County. The monitoring program shall be funded through the duration of the anticipated drilling and completion period (3 years) and an additional ½ year of well production. The sampler will collect a suite of 78 volatile organic compounds (VOCs) based on the EPA's TO-12 method which include the BTEX compounds. Results of the air quality monitoring will be publically available and reported to the Board of County Commissioners on a regular basis. The Applicant shall provide the Garfield County Environmental Health Department with at least 2 weeks advance notice prior to drilling and completions activity. Permission shall be granted to Garfield County by the land owner (Battlement Mesa Land Investments and Battlement Mesa Partners) for location of the sampling unit. The letter agreement to the terms of the program shall be updated and executed prior to the issuance of the special use permit.

20. The Ursa BMC F Water Storage Facility shall be limited to a three year operation period.

The period shall begin after construction is completed and the facility begins operation. Notification shall be provided to the County at such time.

21. The preferred/primary haul route for the BMC F Water Storage Facility shall be the (I-70 Exit #75), County Road 300N, County Road 300E, County Road 308, to County Road 303. The lower route (I-70 Exit #72) shall be a secondary route. The Applicant shall construct improvements to the haul route consistent with the recommendation of their Traffic Study prepared by Olsson and Associates, dated July 2017. The improvements shall be in place prior to initiation of well pad or pipeline construction and subject to obtaining all required permits from the County Road and Bridge Department and compliance with any conditions contained in said permits. The required improvement for the BMC F Water Storage Facility is sight distance improvements including vegetation removal at the County Road 300E and Sippelle/County Road 308 intersection. Vegetation removal shall be required only if approved by the County Road and Bridge Department or the property owner as applicable. In addition the Traffic Report shall be updated to include background traffic from the Ursa Phase I development and the Access Road Assessment shall be updated with the Engineer's Stamp.

22. Prior to initiating construction, the Applicant shall obtain all required permits from the County Road and Bridge Department including but not limited to utility or access permits, heavy haul or oversize vehicle permits. Said permits shall include any required improvements and traffic control plans.

23. The following conditions address revegetation and reclamation:

- a. Applicant shall maintain compliance with the Revegetation Plan and Weed Management Plan and shall comply with the reporting and application requirements outlined in the County Vegetation Managers referral comments dated September 19, 2017.
- b. The Applicant shall comply with the recommendations contained in the Westwater Engineering reports dated April 2017 and October 2016 on preservation of native vegetation and prevention of weed infestations.
- c. The Applicant shall update Appendix C-1 the Battlement Mesa section of the Reclamation Plan to include all required elements and mapping.

24. The Applicant shall comply with the Battlement Mesa Wildlife Mitigation Plan - Agreement between Ursa Operating Company and CPW including any wildlife protection or mitigation requirements.

25. Documentation of legal access as may be required by the County Attorney's Office shall be provided.

26. Upon the issuance of all Special Use Permits for the Ursa Phase II Development, including BMC A Well Pad (with 24 gas wells), BMC A Small Injection Well (one small injection well), BMC A Pipeline (connecting to existing pipelines in the vicinity of the BMC B Well Pad), the

BMC L Well Pad (with 31 gas wells), the BMC L Pipeline (connecting to the existing Tompkins Pipeline), and the BMC F Water Storage Facility (temporary facility with 60,000 barrels of water storage), the Applicant shall remove any remaining well pads from the their future development plans with the Battlement Mea PUD, in particular the well pad known as the Ursa BMC M Well Pad will no longer be implemented by the Applicant.

27. Prior to issuance of the Special Use Permit, the Applicant shall provide additional operational procedures for monitoring protocol for associated pipelines for leak or spill detection. Said procedures will be included in the Emergency Response Plan, as an addendum to said plan or in separate operations plans. Said procedures shall include the following during pipeline operations:

- a. 24 hour personnel on site to observe, monitor, and record all water movements.
- b. Staffing of at least one person on the sending and one person on the receiving ends of the line during water transfer activities.
- c. All water that is sent shall be accounted for at both ends of the pipeline.
- d. Constant pressure monitoring with pressure changes resulting in immediate action to troubleshoot the cause.

28. Prior to the issuance of the Special Use Permit, the Applicant shall address the referral comments from the County Consulting Engineer, Chris Hale, Mountain Cross Engineers dated August 16, 2017.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_\_.

ATTEST:

GARFIELD COUNTY BOARD OF  
COMMISSIONERS,  
GARFIELD  
COUNTY, COLORADO

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Chairman

Upon motion duly made and seconded the foregoing Resolution was adopted by the following vote:

COMMISSIONER CHAIR JOHN F. MARTIN, Aye  
COMMISSIONER MIKE SAMSON, Aye  
COMMISSIONER TOM JANKOVSKY, Aye



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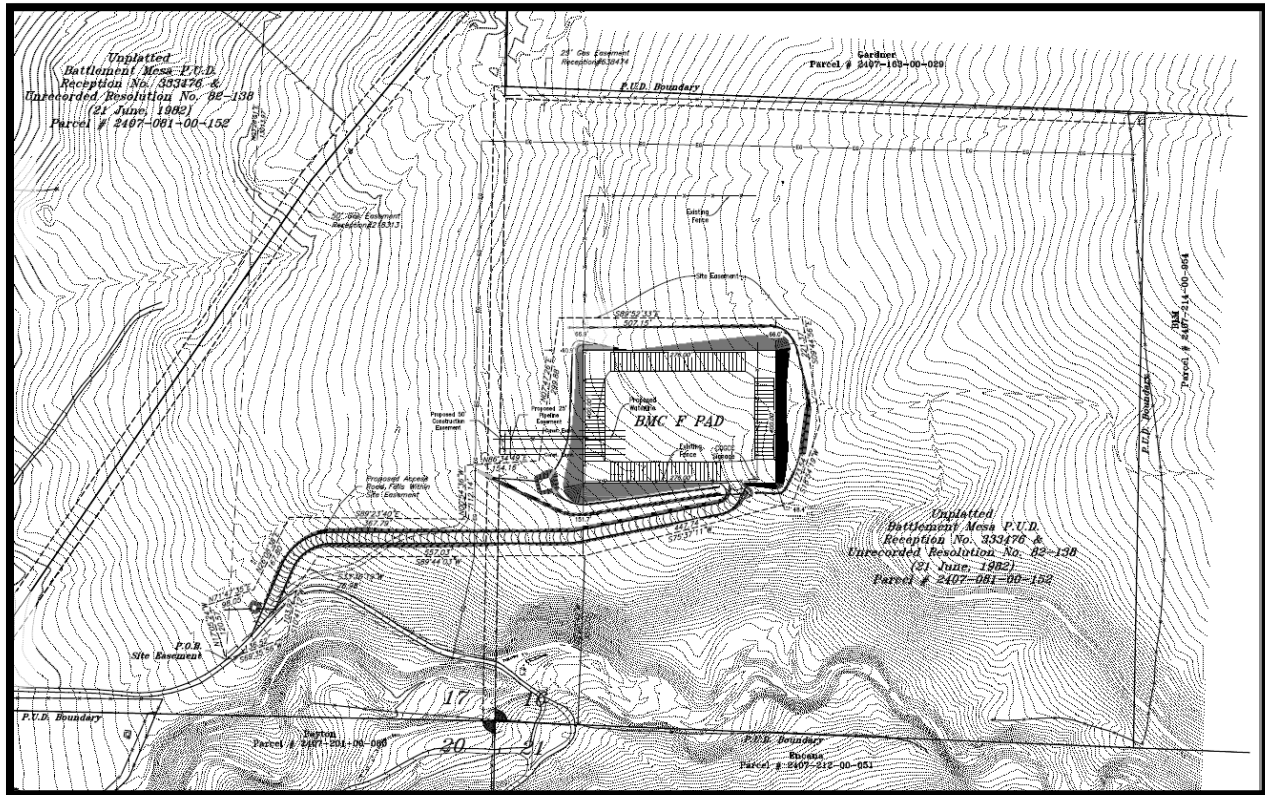
I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of County Commissioners, in and for the County and State aforesaid, do hereby certify that the annexed and foregoing Resolution is truly copied from the Records of the Proceeding of the Board of County Commissioners for said Garfield County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Glenwood Springs, this \_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_.

County Clerk and ex-officio Clerk of the Board of County Commissioners

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(pg. 1 of 2)



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## EXHIBIT B – LEGAL DESCRIPTION

### **BMC A, BMC A UIC, and BMC F**

Section: 8 Township: 7 Range: 95 ALL THAT PROPERTY LOCATED IN SEC 5, 6, 7, 8, 9, 10, 16, 17, 18, 19 IN 7-95. ALSO THAT PROPERTY LOCATED IN SEC 13 & 24 7-96 ALL WITHIN THE BATTLEMENT MESA PUD. EXCEPT A TR CONT 6.20 AC DESC IN REC #502259. EXCEPT TOWN CENTER FL #5 AS DESC IN REC #513419 CONT 22.370 AC. ALSO A TR OF LAND CONT 18.574 AC +/- AS DESC IN BNDY LINE ADJ BK 1703/327, 330 EXCEPT A TR OF LAND CONT. 37.65 AC +/- AS DESC ON THE FINAL PLAT, STONE QUARRY COMMONS, A RE-SUB OF LOTS 5-1 & 5-2 OF BATTLEMENT MESA PUD REC #691907. EXCEPT A TR OF LAND CONT 35.461 AC +/- AS DESC IN WD BK 1877/16 EXCEPT A TR OF LAND CONT 35.33 AC +/- AS DESC IN SWD BK 1947/706. EXCEPT A TR OF LAND CONT. 11.81 AC +/- AS DESC IN THE TOWN CENTER, FLG #6, BATTLEMENT MESA PUD, REC # 743233 & GWD #743971. EXCEPT FOR 6 TRACTS OF LAND - PARCEL 1, 57.68 AC +/-: PARCEL 2, 76.26 AC +/-: PARCEL 3, 52.80 AC +/-: PARCEL 6, 35.67 AC +/-: PARCEL 7, 56.17 AC +/- AND OLD HIGH SCHOOL PARCEL, 41.35 AC +/- AND DESC IN SWD REC #740

#### *- BMC F Site Easement Legal Description*

*An Easement located within the Battlement Mesa Planned Unit Development (hereinafter referred to as P.U.D.) as described in that document recorded as Reception No. 333476 in Garfield County Records (hereinafter referred to as G.C.R.) and amended by unrecorded Resolution No. 82-138 dated 21 June, 1982, said Easement also lies within the SE  $\frac{1}{4}$  of Section 17, and SW  $\frac{1}{4}$  Section 16, Township 7 South, Range 95 West, of the 6th Principal Meridian, Garfield County, Colorado, more particularly described as follows:*

*COMMENCING at the most Northeasterly corner of the said P.U.D., being the Point of Beginning of the legal description contained in said Reception No. 333476 also being the East Quarter Corner of Section 5, Township 7 South, Range 95 West, of the 6th Principal Meridian, from which the Southeast corner of said Section 5 bears S 00°15'43" W a distance of 2605.35 feet (Basis of Bearings for this description); THENCE S 03°26'51" W for a distance of 13013.97 feet to the POINT OF BEGINNING;*

*Thence N 17°05'24" W a distance of 120.57 feet;  
Thence N 71°47'35" E a distance of 98.05 feet;  
Thence N 26°08'38" E a distance of 167.80 feet;  
Thence S 89°23'40" E a distance of 367.79 feet;  
Thence N 00°54'36" W a distance of 112.14 feet;  
Thence N 86°34'49" E a distance of 154.16 feet;  
Thence N 07°47'26" E a distance of 299.88 feet;  
Thence S 89°52'33" E a distance of 507.15 feet;  
Thence S 09°44'56" E a distance of 221.37 feet;  
Thence S 18°54'19" W a distance of 173.54 feet;  
Thence S 75°37'11" W a distance of 447.74 feet;  
Thence S 89°44'03" W a distance of 557.03 feet;  
Thence S 33°36'19" W a distance of 76.98 feet;  
Thence S 10°41'12" W a distance of 103.92 feet;  
Thence S 69°35'56" W a distance of 136.52 feet to the POINT OF BEGINNING.*

*Said Easement contains 7.56 acres (329,383 sq.ft) more or less.*