

OURAY COUNTY RESOLUTION #2002- 011

STATEMENT OF PURPOSE:

THIS RESOLUTION IS ESTABLISHED TO OUTLINE THE NUMEROUS COMPLEX FACTORS INVOLVED IN BRINGING FORWARD THE DECISION TO ENTER A REAL ESTATE PURCHASE CONTRACT WITH THE TRUST FOR PUBLIC LANDS. THE TRUST FOR PUBLIC LANDS HAS BEEN INVOLVED WITH THE COUNTY FOR THE PAST THREE YEARS AS PART OF THE RED MOUNTAIN TASK FORCE IN STRATEGIES TO RETURN PRIVATE MINE "IN-HOLDINGS" TO PUBLIC OWNERSHIP. THE RED MOUNTAIN TASK FORCE HAS BEEN IN EXISTANCE FOR MORE THAN THREE YEARS TO STUDY THE PROBLEMS PRESENT IN THE FORMER RED MOUNTAIN MINING DISTRICT AND SURROUNDING AREA AND WORK ON SOLUTIONS TO THESE PROBLEMS. THIS WHOLE PROJECT IS ABOUT PROTECTING THE ENVIRONMENT, THE COMMUNITY, AND THE ECONOMY, OF OURAY AND SURROUNDING COUNTIES. THE PROPERTIES OWNED BY THE GARARD FAMILY ARE THE SUBJECT OF THIS RESOLUTION AND THOSE PROPERTIES HAVE PARTICULAR VALUE TO THE OVERALL PROJECT AND TO OURAY COUNTY. THE RED MOUNTAIN PROJECT IS A MAJOR PROJECT INVOLVING THE FEDERAL GOVERNMENT, THE STATE OF COLORADO, THE COUNTIES OF OURAY, SAN MIGUEL, AND SAN JUAN, NUMEROUS HISTORICAL INTERESTS, AND COOPERATIVE PRIVATE AND CORPORATE PROPERTY OWNERS, AS WELL AS OTHER INTERESTED PERSONS AND GROUPS. THIS RESOLUTION IS AN ATTEMPT TO QUANTIFY AND QUALIFY THE COUNTY'S DECISION TO COMPLETE A SERIES OF TRANSACTIONS LEADING TO COUNTY OWNERSHIP OF THE APPROXIMATELY 111 ACRES INVOLVED IN THE GARARD PORTION OF THIS PROJECT. THE HISTORY OF THE REGION, WHICH LED TO THE FORMATION OF THE RED MOUNTAIN TASK FORCE, IS IMPORTANT NOT ONLY INTRINSICALLY, BUT IN HELPING DEFINE THE SENSE OF COMMUNITY THAT IS ALSO AN IMPORTANT ASSET ALONG WITH THE PHYSICAL BEAUTY AND ENVIRONMENTAL HEALTH OF THE REGION.

WHEREAS:

- Prior to various treaties transferring the Red Mountain Region to the United States Government in the late 1800's, the indigenous Ute Peoples were generous in allowing access to the region for explorers, fur trappers, and prospectors. Therefore the longer history of the land is that it was open to the public, at least those who were perceived as friendly.
- Once in the hands of the United States, the mineral wealth of the Red Mountain Mining District and other regions of the San Juan Mountains were critical to our growing Nation and laws such as the 1872 Mining Law were applied to insure that these resources were developed.
- Early in the 20th Century the United States realized that this land contained other resources such as timber, and the San Juan and Uncompahgre National Forests were established. The entire Red Mountain Project with all of its mining claim inholdings lie within these two National Forests, including the "Garard Properties" as further described in the Purchase Agreement between the County and the Trust for Public Lands.
- Being surrounded by National Forest and containing interesting structural relics of the mining era, the Garard Properties currently receive thousands of visitors each year. They either stop along U.S. 550 to view and take pictures of the Larson Mine adit or the adjacent building (thought to be the old Ironton School); or they traverse the old 4WD road to the Ironton Townsite in summer, or on skis in winter as part of the Nordic Trail system.
- The Historical Societies of Ouray and San Juan Counties, along with the Forest Service have identified numerous historical landmarks in the Red Mountain area that are on private inholdings which makes it difficult to provide protection for these parts of our local, State, and National history. The Garard Property contains some of these landmarks.
- The Red Mountain Task Force was formed by the Counties, the Historical Societies, and interested and concerned citizens, to try to find a solution to protecting not only the history, but the environment, the communities and the local economies.

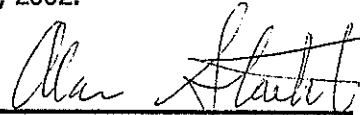
- The Red Mountain Task Force, with the help of the Fort Lewis College, Office of Community Service, made contact with the national Trust for Public Land (TPL) and the Forest Service to seek help in finding a solution.
- The Forest Service and TPL thought that it was possible that funding could be arranged to purchase properties if landowners were willing to sell.
- The Red Mountain Task Force queried landowners and discovered that at least some of them would be interested in divesting their properties since mining was no longer a viable enterprise for a variety of reasons.
- The Red Mountain Task Force defined an area of roughly 10,500 acres of privately held land that would appropriately be returned to public ownership from willing sellers.
- The Forest Service has subsequently determined that protection of this area is their top National priority for expenditure of Land and Water Conservation Funds.
- The United States Congress made a first year appropriation of \$5 million dollars to begin the purchase process and has subsequently approved another \$4.6 million for a second phase and is in the process of possibly awarding another \$5 million as a third and probably final funding phase.
- The TPL has negotiated and purchased more than 3,000 acres from the largest single landowner, Idarado Mining Company. The Forest Service has agreed to receive this land from TPL as well as other properties.
- This whole region was part of an extensive environmental review by the EPA and Colorado State Health Dept., which initiated approved clean-up operations by Idarado on their property and other properties in the vicinity which were deemed to require clean-up.
- The Garard Properties were not among those deemed to require clean-up at that time.
- The Forest Service is convinced, on a large scale, that it is in the public interest to take ownership of mine sites in this region, even where potential remediation may be required.
- TPL has determined that their risk of clean-up liability is minimal in participating in the interim ownership of these parcels and has acquired title to all the available Idarado properties, and is prepared to move forward in assisting with other Red Mountain Project acquisitions including the Garard property.
- Ouray County prepared proposals and grants for funding to obtain two properties with special interests for the County which border on the Idarado purchase. These funding bodies have approved the required amount of funding subject to certain conditions, which are in the process of being met.
- Ouray County has engaged a new land trust group known as the Trust for Land Restoration (TLR) which specializes in the issue of reclaiming mine related lands, to administer a conservation easement on the Garard property if it is acquired.
- The County is working with the Trust for Public Lands, the Trust for Land Restoration, and Great Outdoors Colorado to establish a permanent conservation easement for the purpose of maintaining the scenic, historic, natural, and cultural values of the property, and insure that historic recreational uses of the land continue.
- The County is working on a Management Plan which will also serve to protect the above described values and will be the basis for the County management of this open space.
- Ouray County has obtained an environmental survey which indicates the types of materials and acidic run-off that would be expected to be present on abandoned mine properties in this region.
- Ouray County Clerk and Recorder file number 158929 is a copy of Colorado Division of Minerals and Geology Mine Reclamation Program access consent which indicates that no lien against the property for reclamation work is anticipated. See attachment "A"

- Previous EPA regulations under CERCLA allowed for a process of establishing a PPA, or pre-purchase agreement which would limit liability of an entity taking ownership of a known "contaminated" site for public benefit or cleanup. Very recently, Congress has passed, and the President has signed into law, legislation known as "Brownfields Legislation". This law has the effect of a PPA for our purposes, as least as well as can be determined at this time by legal counsel, before regulations and case law can be part of the Brownfields legal picture.
- In addition to legal protection for the County, the Brownfields Legislation also provides for substantial funding to be accessed for the purpose of cleanup where it is needed.
- No one involved in the Red Mountain Project believes that any possible mitigation on these properties would be extensive, if necessary at all.
- These properties have been abandoned for many decades, and the minerals and seasonal run-off appear to be part of a unique and healthy ecosystem in Ironton Park known as an "Iron Fen". This is only one of 7 known in the United States and the local chemistry is possibly part of the ecological success of this interesting wetland.
- A letter from the Colorado Natural Heritage Program confirms that before any upstream disturbance were to be undertaken that extensive research and review by the Army Corps of Engineers, the EPA, and the U.S. Fish and Wildlife Service would be required. Any disturbance could affect what they describe as an "Ironton Park Potential Conservation Area". See attachment "B"
- The chairman of the Red Mountain Task Force has submitted a comprehensive letter which helps to explain to the County the reasons why moving forward with the Garard purchase are compelling. This document is attached and is an important factor in the County decision process. See attachment "C"
- A significant point within the Red Mountain Task Force Letter is a description of the potential for immediate development of this land if sold for development purposes. The cost to the County of providing basic governmental services in this remote area would be prohibitive as well as difficult to provide.
- TPL has also submitted a letter providing further explanation as to their evaluation of the legal risks in acquisition of these properties. This letter is also attached and is part of the decision process. See attachment "D"
- The Red Mountain Project and the Garard portion of it clearly are related to the County Master Plan. The Master Plan is attached by reference.
- On January 28th, 1999, COLORADO PRESERVATION INCORPORATED notified the Red Mountain Task Force that the Red Mountain Mining District had been selected and placed on the 1999 list of "MOST ENDANGERED PLACES". See attachment "E"
- One of the primary functions of County Government as described in C.R.S 30-11-101(b) is to buy and sell land for County purposes. C.R.S. 30-11-101(b) is attached by reference.

THEREFORE, THE OURAY COUNTY BOARD OF COUNTY COMMISSIONERS FINDS AS FOLLOWS:

- That the Red Mountain Project is of the utmost importance to the County and Regional environment, economy, and sense of Community.
- That the Garard Purchase is an important part of that overall plan.
- That the Red Mountain Project and the Garard Purchase are consistent in achieving the goals of the County Master Plan in all relevant aspects, and that the public interest will be advanced and protected by the purchase of the Garard Property.
- That while the County cannot avoid some theoretical risk in taking ownership of any property where a question has been raised as to local environmental concerns, that risk is deemed minimal on the Garard Property, and is clearly outweighed by the importance of acquisition.
- That the County is willing to engage in access restriction, signage, and/or material removal from the site, containment and/or treatment of seasonal runoff, or other measures to make it safe should scientifically based review make any of these measures appropriate.
- That in light of all these considerations and the importance of protecting the environment, the economy, and the Communities affected, we authorize Commissioner Alan Staehle to sign the Real Estate Purchase Contract (see attachment F) for the Garard Property with The Trust for Public Lands, with the understanding that depending upon receipt of already promised funding from the Idarado Mitigation Fund and Great Outdoors Colorado, that the County will proceed to pay for and receive title to the Garard properties from The Trust for Public Lands on or before May 20th, 2002 or as soon thereafter as possible.

REVIEWED AND PASSED UNANIMOUSLY THIS 25TH DAY OF MARCH, 2002.



Alan Staehle, Commissioner

STATE OF Colorado
COUNTY OF Ouray

I, Michelle Olin, 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 Order is truly copied from the records of the proceedings of the Board of County Commissioners for said Ouray County, Now in my office.

In witness whereof, I have hereunto set my Hand and affixed the seal of said County, at Ouray, this 25th day of March, A.D. 2002.



Michelle Olin, County Clerk & Recorder