

Board of County Commissioners of Lincoln County
Agenda for November 10, 2016

9:30 Call to order and Pledge of Allegiance

9:30 Mark McMullen, Principal/Project Manager, American Environmental Consulting, L.L.C.,
to discuss matters relating to the county landfill

10:00 Telephone conference call with the Colorado Department of Public Health and
Environment regarding the county landfill

1. Approve the minutes from the November 7, 2016, meeting
2. Review and act upon a recommendation to purchase a replacement road packer
3. Review and act upon a recommendation to purchase a replacement staff vehicle
4. Review and act upon proposed Resolution Number 932; A Resolution Granting The Approval Of A Use By Special Review And Development Permit For The Construction, Operation, And Maintenance Of A Wind Energy Generating Facility
5. Review and act upon proposed Resolution Number 933; A Resolution Granting The Approval Of A Use By Special Review And Development Permit For The Construction, Operation, And Maintenance Of A Transmission Line, As Well As Ancillary Facilities
6. Old business
7. New business

The Board of Lincoln County Commissioners met for a special meeting at 9:30 a.m. on November 10, 2016. The following attended: Chairman Greg King, Commissioners Doug Stone and Ed Schiffers, County Administrator Gary Ensign, County Attorney Stan Kimble, Clerk to the Board Corinne M. Lengel, and commissioner-elect Steve Burgess.

Chairman King called the meeting to order and asked Landfill Manager Mick Jaques to lead the Pledge of Allegiance.

Mark McMullen, Principal/Project Manager with American Environmental Consulting, LLC, then proceeded to address the Draft Compliance Order on Consent from the Colorado Department of Public Health & Environment. The state waste department keeps all records on file so he has obtained the available records for the Lincoln County landfill and scanned and copied a great majority of them. He will organize them according to cells, inspections, and financial assurance so the county will be able to access them more readily, if necessary. He will also provide an electronic copy to Mr. Ensign. The financial assurance covers closure costs and post-closure costs, and Mr. McMullen said there is no evidence the plan was filed, or even if it's been done since 2010. It is supposed to be submitted to the state every five years; the state reviews the costs and approves them, and then returns the documentation to the county with a request for the county to prove how it will cover the costs. The financial assurance plan is also required to take into consideration the rate of inflation within the five years between filings, so the county would need to take the 2010 costs and update them through 2016 for inflation. Mr. McMullen said he will go through the county's Engineering, Design and Operations Plan (known as the EDOP) to find out what was originally approved. He added that the EDOP is basically the county's bible and must be followed or modified and approved if not followed. Mr. McMullen said the state is claiming the county never closed Cell 2 and explained that closure proceedings must be started within thirty days of the final refuse grades being reached. He could not find evidence of that being done and stated that the county should request an extension of that thirty day requirement. Mr. Burgess commented that he was sure a final grade was established on Cell 2 and Mr. McMullen responded that it was possible it wasn't documented properly. Soil testing, surveys, field and lab work all must be documented and then stamped by a professional engineer that everything was done according to the county's approved plan. New cell construction and final cover must be given approval by the state and that, too, has to be documented. Mr. McMullen stated he would find out what the county's final cover is supposed to be and it wouldn't take much to do some test borings in order to find out if Cell 2 was ever properly closed. He could file a report that the county appears to have completed closure in accordance with the approved plan. Re-vegetation is also a requirement and he suggested asking NRCS to provide that information as they will do it at no cost to the county.

As for daily cover issues, Mr. McMullen said that pictures are great for that but the requirement is a minimum of six inches of soil per day, although alternative daily cover is also acceptable. Mick Jaques commented that the county did use the alternate daily cover machine at one time. Mr. McMullen added that the state will see it as a violation if they observe any blowing trash, as well as if trash is visible through the cover. Intermediate cover actually requires a minimum of one foot of soil. Mr. McMullen went on to say that the county was cited for having ponded

water, which he felt was a misinterpretation of the requirement. There can be no ponded water on trash or touching trash, so Mr. McMullen suggested making sure everything is sloped. An alternative would be to build a berm and make sure any water would pond on the side of the berm opposite of the trash. He added that the state has even started looking for ponded water and blowing trash using Google Earth, so everything should be documented that may defer from the original approved plan. If there are extenuating circumstances, such as the landfill getting four inches of rain, it should be documented so that the county can prove it is at least attempting to follow the regulations.

In regard to the closure of Cell 2, Mr. McMullen suggested hiring a third party engineer, such as his company, to verify the cell was closed and write the ensuing report to the state.

Mr. McMullen commented that the state has put together an Integrated Solid Waste Management Study where they looked at all solid waste facilities in Colorado. They developed a map and spreadsheet listing non-compliant facilities and are identifying landfills that cannot afford, or refuse, to operate under the regulations. He feels the overall objective is to close those landfills down and force counties to use regional landfills or make them put in transfer stations. He suggested the commissioners talk with other county commissioners and get together as they would have a better chance with the state that way.

At 10:00 a.m., the commissioners received a call from the Colorado Department of Public Health & Environment regarding the Draft Compliance Order on Consent for the Lincoln County Landfill. On the call were Ed Smith, Compliance Assurance Unit Leader, Jennifer Reynolds with the Hazardous Materials and Waste Management Division, and Jennifer Robbins, Office of the Attorney General. Mr. Smith asked if the county commissioners had any changes they would like to see made to the Consent Order and Mr. Ensign said that while the Board had no dispute with the factual basis of the order, they were most interested in the compliance requirements. The first concern was with the stipulation that the county would ensure that adequate daily cover—at least six inches of earthen material or other suitable material—is applied to exposed solid waste at the landfill at the end of every operating day. Mr. Ensign said that it would be almost impossible to do so during a rain storm, due to the slickness of the soil. Ms. Reynolds stated that tarping is also an option. Mr. Ensign argued that with a staff of two and extremely windy conditions, applying a tarp would also be nearly impossible. Mr. Smith stated that the county could certainly address issues such as those in their EDOP provisions by working with a permitting group to find a potential resolution.

Mr. Ensign asked that they go through the items individually and the group agreed that Compliance Requirement #27 would be resolved as long as adequate daily cover is applied. Regarding Requirement #28, Mr. Burgess asked if alternate daily cover could be used for intermediate cover and was told it cannot. As for Requirement #29, concerning requesting a waiver, Mr. Ensign agreed to prepare a letter from the Board. Mr. McMullen asked if it would be acceptable to perform a field study since the county seems to think that Cell 2 was closed but cannot find documentation. Ms. Reynolds said Mr. Jaques had told her at one time that the county would be closing Cells 2 and 3 simultaneously but since there is some confusion as to

whether or not Cell 2 has been closed, the county could either request an extension or amend Requirement #29. Since he needs to conduct an investigation, Mr. McMullen asked if they could amend the requirement, which was acceptable to the state officials, but he was told that there may be a possibility that Heather Barbary, the permit engineer, would require that a specific timeframe be met.

Compliance Requirement #30 requires the county to replace the original cost estimates for closure and post-closure care of the landfill with new cost estimates every five years, unless otherwise required by the Division, and to adjust those estimates to account for inflation or deflation. Since it should have been done in 2015, and the EDOP will need to be updated and approved anyway, Ms. Reynolds said it may be wise to wait until that is done. Mr. McMullen said it could take up to a year and a half to accomplish that and the state has only given 180 days to review the EDOP. He added that he wants everyone to be aware of the timing, adding that he didn't know if the state would approve the financial assurance plan prior to approving the EDOP. Mr. Smith said they would discuss the timeframes internally and it was agreed to change the wording of Requirement #30 to state that the new cost estimate must be submitted within 30-60 days of EDOP approval.

Requirement #31, pertaining to maintenance of the surface water control system, can be handled with temporary solutions to prevent stormwater from coming into contact with the trash, according to Mr. McMullen. He added that they wouldn't know if the landfill will be redesigned after the EDOP is updated but surface water control design can cost between \$3,000 and \$4,000, depending on the landfill design. He stated he understands the requirement to keep ponding water away from refuse but does not understand the issue of other ponding located elsewhere at the site.

The commissioners had no dispute with Requirement #32 as long as they have the right to extend the 180 days for justifiable reasons. Mr. Smith said an extension could be granted as long as written requests are submitted.

Requirement #33 refers to maintaining records at the county landfill, and Mr. Ensign stated that the intent going forward is to not only maintain a record at the landfill but one at the county courthouse as well, in order to avoid future problems with loss of records.

Mr. Ensign said there were no issues with Requirement #34 except that when the Consent Order might be finalized. He explained that Mr. King will leave his position as chairman of the board on January 10, 2017. Mr. Smith felt it would be done prior to that time.

As for the Administrative Penalty section, #35, Mr. Ensign asked if the state really required payment by certified or cashier's check and would not accept the county's check. He was told that it would not be a problem and that it could be amended on the Order. Mr. Smith asked if the county is interested in a Supplemental Environmental Project, or SEP, adding that qualifying projects would be above and beyond normal recycling projects or regulatory requirements. Mr. Ensign responded that it would require additional staff time and that the commissioners are

currently working with Progressive 15 for a \$50,000 grant to expand recycling efforts at the landfill. Ms. Reynolds stated that options would include pharmaceutical take-backs, an electronic waste round-up, or even replacing lights in school buildings. Mr. Ensign asked how much savings there would be in the total penalty if the county did initiate a SEP. Mr. Smith said the cost to the county is basically the same; it's just a matter of the distribution of the funds. The Board agreed they would rather keep 70% of the penalty in the county and will speak with Lauren McDonell, the CDPHE SEP Coordinator for the Division of Environmental Health and Sustainability, about a Supplemental Environmental Project idea. Mr. Smith also stated that the county could simply choose to pay the \$27,495 penalty up front and would receive a 20% credit, or \$5,499, making the total penalty \$21,996. Mr. King again stated they would prefer to keep the money in the county and Ms. Reynolds said they would re-write the paragraph to allow more time to establish a SEP.

Under the Dispute Resolution section, Mr. McMullen stated that fifteen days isn't nearly enough time to submit a new plan if the state disapproves it. Ms. Reynolds explained that the section doesn't mean a new plan has to be submitted within fifteen days, they have three options to basically respond. Mr. McMullen argued that it didn't read that way and that it appears to him that the county would be required to submit a new plan within fifteen days.

Mr. Ensign stated that #60 under Reimbursement of Costs seemed rather open-ended and was told that document reviewers bill \$150 per hour but it is only time spent reviewing the submissions from the county and they are obligated to comply by state statute. Any preparation for the settlement conference and the conference itself are not billable items. Mr. Ensign also asked that notice be sent to the county commissioners, not the landfill in #58 under Notices. He added that #64 under the Binding Effect and Authorization to Sign states the county agrees to provide a copy of the Consent Order to any contractors and other agents performing work pursuant to the order, and wondered if that were in perpetuity. Ms. Reynolds responded that it is until the Order is closed out. Once the requirements of the Order are met and the payment of the penalty has been received, the state will provide the county with a notice of completion letter.

Mr. Ensign asked if the Consent Order would be amended and a new copy sent to the Board and it was agreed to send a red-line copy to Mr. Ensign for commissioner approval. Mr. Smith added that if the county does find a workable SEP, a copy of the donation letter should be sent to the state.

The call ended and Mr. Burgess commented that it seemed like it would be better to close the landfill and put in a transfer station. Mr. McMullen reiterated that it appears to be what the state is aiming for and added that they would not need a Certificate of Designation in that case; however, they would have to provide security at the facility and stormwater drainage plan controls. He explained that a transfer facility is generally an enclosed steel building with a cement floor and tunnel. It would also require a Waste Identification Screening Plan in order to keep prohibited components out of the station. He added that the state needs to realize that their regulations are not realistic in eastern Colorado. He went on to provide costs for lining

the landfill, estimating \$3 per cubic yard for the lining alone, which didn't include testing and oversight costs. The lining system would be approximately \$15,000 to \$20,000 per acre in his estimation. Excavation costs would run \$1.50 to \$2.00 per cubic yard and lining with synthetic material would be around \$24,000 an acre. Mr. McMullen said he would be happy to provide the Board with design and construction costs if they plan to keep the landfill open but it would be cheaper to put in a transfer station, depending on how sophisticated they wanted to make it. Mr. Ensign commented that the county would still be responsible for the ongoing costs of paying someone to haul the trash away. Mr. McMullen's final comment was that Cheyenne, Washington, Kit Carson, and possible other counties are all having the same problems.

After Mr. McMullen left, Mr. Stone asked for a clarification in the minutes from the meeting held on November 7, 2016, and "it" was changed to "their meeting". Mr. Stone made a motion to approve the minutes from the meeting held on November 7, 2016, as corrected. Mr. Schifferns seconded the motion, which carried unanimously.

The Board reviewed a recommendation to purchase a replacement road packer as discussed by Chris Monks in a previous meeting. Mr. Ensign stated that Mr. Monks had looked at the packer and agreed to the purchase but Mr. King had wanted to formalize the action at the next meeting. Since there is not enough money left in the capital leases line item, Mr. Ensign proposed the expenditure be taken from the Road & Bridge District 4 Bridge Maintenance line item. Mr. Schifferns made a motion to purchase a 2012 Rosco Tru-Pac 915 roller with 130 hours on it from MacDonald Equipment for \$47,950, and to pay for it out of the Road & Bridge District 4 Bridge Maintenance line item. Mr. Stone seconded the motion, which carried unanimously.

The Board also reviewed information for a 2017 Dodge Grand Caravan SE wagon to replace the current van used by courthouse staff and commissioners. Mr. Ensign stated that for an additional \$200, the vehicle would come with a power driver's seat, which was a request from the department head meeting. Mr. Stone made a motion to approve the purchase of a 2017 Dodge Grand Caravan SE wagon from Korf Continental Fleet Department in the amount of \$23,208, and to replace the vehicle driven by Public Health with the silver van currently at the courthouse. Mr. Schifferns seconded the motion, which carried unanimously.

The Board reviewed a proposed resolution granting the approval of a Use by Special Review and Development Permit for the construction, operation, and maintenance of a wind energy generating facility. Mr. Burgess asked about speed limits, pointing out that the speed limit is 55 on a county road but Mr. Kimble said there would be no way for Sheriff Nestor to enforce it if they changed the speed limit in the resolution. He added that they may be able to address it in the Road Use Agreement, however.

Mr. Stone made a motion to adopt a resolution granting the approval of a Use by Special Review and Development Permit for the construction, operation, and maintenance of a wind energy generating facility. Mr. Schifferns seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado, held in Hugo, Colorado, on November 10, 2016, there were present:

Greg King, Chairman	Present
Douglas D. Stone, Vice Chairman	Present
Ed E. Schifferns, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Gary Ensign, County Administrator	Present

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

RESOLUTION #932 It was moved by Commissioner Stone and seconded by Commissioner Schifferns to adopt the following resolution:

A RESOLUTION GRANTING THE APPROVAL OF A USE BY SPECIAL REVIEW AND DEVELOPMENT PERMIT FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A WIND ENERGY GENERATING FACILITY OF APPROXIMATELY 200 MW (UP TO APPROXIMATELY 134 MW OF WHICH WOULD BE LOCATED IN LINCOLN COUNTY), TOGETHER WITH PAD MOUNT TRANSFORMERS, BURIED AND OVERHEAD CABLE, SUBSTATIONS, PRIVATE GRAVEL ROADS, METEOROLOGICAL TOWERS, OPERATIONS AND MAINTENANCE FACILITIES, RELATED EQUIPMENT AND STRUCTURES, RIGHTS-OF-WAY, TEMPORARY BATCH PLANT AND A TRANSMISSION LINE, AND OTHER ANCILLARY FACILITIES, AND USES IN PORTIONS OF TOWNSHIP 10S RANGE 52W, SECTIONS 13, 22, 23, 24, 25, 26, 34, and 35; TOWNSHIP 11S RANGE 52W, SECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 35, and 36; and TOWNSHIP 12S RANGE 52W, SECTION 1 IN LINCOLN COUNTY, COLORADO.

WHEREAS, Rush Creek Wind Energy II LLC ("Rush Creek II Wind") has applied for the approval of a Use By Special Review and Development Permit ("Project Approvals") to construct a wind energy generation facility in accordance with the Lincoln County Application for Use By Special Review Permit submitted by Rush Creek II Wind, dated 5 August 2016 (the "Application"). The property subject to the Project Approvals is described in the attached Exhibit A (the "Property").

WHEREAS, the property is currently zoned Agricultural under the Lincoln County Zoning Resolution; and

WHEREAS, Section 2-220 of the Lincoln County Zoning Resolution allows for the approval of a Use By Special Review and Development Permit within the Agricultural Zoning District in accordance with the provisions of Article 3 of the Lincoln County Zoning Resolution; and

WHEREAS, Rush Creek II Wind has obtained the consent of the owners of the Property to the Application and the Project Approvals in the form of leases and/or easement agreements which authorize Rush Creek II Wind to construct the Wind Energy Generation Facility and to obtain the Project Approvals; and

WHEREAS, at a public hearing held on 29 September 2016, the Lincoln County Land Use Board recommended approval of the Use By Special Review and Development Permit; and

WHEREAS, pursuant to Section 3-110 of the Lincoln County Zoning Resolution the Lincoln County Board of County Commissioners chose to review the Application, together with the staff report and the Decision of the Land Use Board; and

WHEREAS, at a meeting of the County Board of County Commissioners held on 24 October, 2016, the Lincoln County Board of County Commissioners held a public meeting at which it considered the Application, the staff report on such Application, the recommendation of the Land Use Board, the record of proceedings before the Land Use Board, and such other information as was brought before the Board of County Commissioners at such hearing; and

NOW BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, COLORADO:

I. APPROVAL:

The application of Rush Creek Wind Energy II LLC for a Use By Special Review and Development Permit is GRANTED, subject to the conditions set forth below. The Use By Special Review and Development Permit, including the applicant's right to construct, repair, maintain, and operate the Wind Energy Generation Facility, shall remain valid for a period of __ years, or until such time as Rush Creek II Wind, its transferees, successors and assigns no longer own, lease, or otherwise occupy an interest in the Property described in Exhibit A, whether by lease, easement, or otherwise, whichever occurs last.

II. FINDINGS OF FACT:

1. That proper notice has been provided as required by law for the public hearing before the Board.
2. That the information contained in the record of proceedings and presented to the Board at the public hearing is extensive and complete, and that all pertinent facts, matters and issues were submitted and considered by the Board.
3. That the Wind Energy Generation Facility, as described in the Application, is consistent with the minimum zoning requirements set forth in the Lincoln County Zoning Resolution.
4. That the Wind Energy Generation Facility is consistent with the goals and strategies set forth in Lincoln County's Comprehensive Plan.

5. That the Wind Energy Generation Facility will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The Wind Energy Generation Facility has been designed to mitigate any potential noise, odor, vibration, glare and similar impacts associated with the proposed land use.
6. That the Wind Energy Generation Facility will not cause undue traffic, congestion, dangerous traffic conditions, or other vehicle-related impacts due to the implementation of project-wide Best Management Practices and effective traffic control measures during construction.
7. That the Wind Energy Generation Facility will not require a level of community services or facilities that is not available, and the Applicant will provide the necessary improvements to address any deficiencies to facilities and services that the use would cause. All public roads, utilities, bridges and septic systems to be developed in connection with the Wind Energy Generation Facility will comply with County standards.
8. The operating characteristics of the Wind Energy Generation Facility shall not create a nuisance and the project has been designed to minimize impacts on neighboring properties with respect to noise, odor, vibrations, glare, and similar conditions.
9. That an adequate water supply is available to provide water to the Wind Energy Generation Facility either through a public water supply system or wells adequate in quality and quantity to serve the development and approved by the State Engineer. The water supply will comply with all applicable requirements of the Colorado Water Quality Control Division and the State Engineer.
10. That the Wind Energy Generation Facility will not cause significant deterioration of surface or groundwater resources. The Wind Energy Generation Facility has been designed and will be constructed to:
 - a. Prevent any changes to patterns of water circulation, conditions of the substrate, extent and persistence of suspended particulates, and the clarity, odor, color or taste of water
 - b. Comply with applicable water quality standards
 - c. Control levels of point and nonpoint source pollution
 - d. Prevent any changes in seasonal flow rates and temperature for affected streams

- e. Prevent changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces
11. That the Wind Energy Generation Facility will not significantly degrade wetlands or other aquatic habitat and riparian areas. The Wind Energy Generation Facility is designed to avoid such areas or to minimize disturbance in these areas. Specifically, the Wind Energy Generation Facility will not:
 - a. Cause any significant changes to the structure and function of wetlands and to unique, rare, delicate or irreplaceable riparian areas, vegetation, forest or woodlands
 - b. Cause any significant changes to the filtering and nutrient uptake capacities of wetlands and riparian areas
 - c. Cause any significant changes to aerial extent of wetlands and evolution of wetland species to upland species
 12. That the Wind Energy Generation Facility will not cause significant deterioration of grasslands or farmland.
 13. That the Wind Energy Generation Facility will preserve the integrity of existing and natural drainage patterns. Where required by County standards, a stormwater retention system shall be provided to retain stormwater runoff in excess of historic flows and shall be designed for a 100-year flood.
 14. That to the extent necessary, the Wind Energy Generation Facility will be served by an adequate wastewater treatment system that meets all applicable County, state and federal standards.

III. CONDITIONS:

1. The original wind turbine locations were selected in order to set wind turbines back from raptor nests that were identified during the Spring 2016 raptor nest survey in accordance with the attached Colorado Parks and Wildlife (CPW) buffer recommendations. However, the final wind turbine layout will include consideration of raptor nest setbacks along with wind resource, geotechnical surveys, FAA regulations, and landowner lease agreements, among others. Rush Creek II Wind agrees to contact CPW if any issues arise with the final wind turbine layout as it relates to these recommended raptor nest setbacks from wind turbines and will work with CPW to resolve those issues to the extent practicable.

Wind turbine setbacks, as measured from the center of the base of a wind turbine to the center of a nest:

- a. 0.5 miles from bald eagle nests
 - b. 0.5 miles from golden eagle nests
 - c. 0.25 miles from osprey nests
 - d. 0.5 miles from ferruginous hawk nests
 - e. 0.33 miles from red-tailed hawk nests
 - f. 0.25 miles from Swainson's hawk nests
 - g. 0.5 miles from peregrine falcon nests
 - h. 0.5 miles from prairie falcon nests
 - i. 0.5 miles from northern goshawk nests
 - j. 150 feet from burrowing owl nests
2. The Wind Farm will implement a speed limit on private site access roads of 25 miles per hour during construction for the protection of deer, antelope, and other big game species.
 3. At the request of Commissioner Schifferns, Rush Creek II Wind will consult with John Laborde regarding his knowledge of local historical sites prior to construction.
 4. Rush Creek II Wind will provide the results of pre-construction site archeological surveys to Lincoln County prior to construction.
 5. Rush Creek II Wind will negotiate and execute a Development Agreement / Road Use Agreement with Lincoln County prior to construction.
 6. Rush Creek II Wind will provide an updated decommissioning plan to Lincoln County with final planned quantities of facilities to be placed in Lincoln County, prior to construction.
 7. All vehicles (excluding emergency vehicles) accessing the project must observe Lincoln County road speed limits
 8. All construction debris (including concrete truck clean out) and trash cannot be buried nor burned on site but must be disposed of at a properly permitted landfill on a regular basis. Suitable

containers/dumpsters shall be utilized to prevent the debris from becoming wind-blown.

9. All reclamation materials: native seed mixtures, mulch and erosion control materials shall be certified as weed free.
10. Prior to obtaining any building permits there shall be in place a fully executed roadway agreement between Lincoln County and Rush Creek Wind Energy II LLC.
11. The applicant shall, to the extent required by Colorado law, reasonably accommodate access to and development of subsurface mineral interests with respect to their proposed use of the property for wind farm facilities. In this regard, the applicant shall, as a condition of approval and prior to the construction or installation of any wind farm facility, provide evidence that it has entered into, or made good faith and commercially reasonable efforts to enter into, surface use agreements or other compatible development agreements with mineral estate owners who have filed timely objections to the land use applications pursuant to Colorado statutes.
12. Prior to the issuance of any construction or building permits, the Board of Lincoln County Commissioners shall enter into a written agreement which includes resolution of the fees to be paid by the Applicant relative to a combined permitting and sales and use tax assessment.

BE IT THEREFORE RESOLVED, that a Use By Special Review and Development Permit is granted to Rush Creek Wind Energy II LLC, to construct a Wind Energy Generation Facility in accordance with the terms of the Application, subject to the conditions set forth above. The Lincoln County Board of County Commissioners retains continuing jurisdiction over the permit to address future issues concerning the site and to ensure compliance with the conditions of the permit. The applicant is responsible for complying with all of the forgoing conditions and all other county zoning or other land use regulations. Noncompliance with any of the conditions may be cause for revocation of the permit.

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Schifferns, Yes; Commissioner King, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

I, Corinne Lengel, Clerk of the Board in and for the County of Lincoln, State of Colorado, do hereby certify that the foregoing Resolution was adopted by the Board of County Commissioners of the County of Lincoln and State of Colorado, in regular session on the 10th. Day of November, 2016.

Clerk of the Board

Mr. Schifferns made a motion to adopt a resolution granting the approval of a Use by Special Review and Development Permit for the construction, operation, and maintenance of a transmission line, as well as ancillary facilities. Mr. Stone seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado, held in Hugo, Colorado, on November 10, 2016, there were present:

Greg King, Chairman	Present
Douglas D. Stone, Vice Chairman	Present
Ed E. Schifferns, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Gary Ensign, County Administrator	Present

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

RESOLUTION #933 It was moved by Commissioner Schifferns and seconded by Commissioner Stone to adopt the following resolution:

A RESOLUTION GRANTING THE APPROVAL OF A USE BY SPECIAL REVIEW AND DEVELOPMENT PERMIT FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A TRANSMISSION LINE, AS

WELL AS ANCILLARY FACILITIES, WHICH MAY INCLUDE BURIED AND OVERHEAD CABLE, SUBSTATIONS, PRIVATE GRAVEL ROADS, METEOROLOGICAL TOWERS, OPERATIONS AND MAINTENANCE FACILITIES, RELATED EQUIPMENT AND STRUCTURES, RIGHTS-OF-WAY, BATCH PLANT, IN EACH CASE AS APPLICABLE, AND USES IN PORTIONS OF TOWNSHIP 11S RANGE 56W, SECTIONS 7, 18, 17, 16, 15, 14, 13; TOWNSHIP 11S RANGE 55W, SECTIONS 18, 17, 16, 15, 14, 13; TOWNSHIP 11S RANGE 54W, SECTIONS 17, 16, 15, 14, 13; TOWNSHIP 11S RANGE 53W, SECTIONS 18, 17, 16, 15, 14, 13; AND TOWNSHIP 11S RANGE 52W, SECTIONS 18, 17, 8 IN LINCOLN COUNTY, COLORADO.

WHEREAS, Public Service Company of Colorado, a Colorado corporation wholly owned by Xcel Energy, Inc. ("PSCo"), has applied for the approval of a Use By Special Review and Development Permit ("Project Approvals") to construct, operate, and maintain approximately 26-miles of 345 kilovolt (kV) transmission line and a collector substation in Lincoln County (the "Transmission Line") in accordance with the Lincoln County Application for Use By Special Review Permit submitted by PSCo, dated 12 August 2016 (the "Application"). The property subject to the Project Approvals is described in the attached Exhibit A (the "Property").

WHEREAS, the Property is currently zoned Agricultural under the Lincoln County Zoning Resolution; and

WHEREAS, Section 2-220 of the Lincoln County Zoning Resolution allows for the approval of a Use By Special Review and Development Permit within the Agricultural Zoning District in accordance with the provisions of Article 3 of the Lincoln County Zoning Resolution; and

WHEREAS, Lincoln County staff conducted a review of the Application on September 22, 2016 and recommended approval of a Use By Special Review and Development Permit for the Transmission Line with certain limited conditions; and

WHEREAS, at a public hearing held on 29 September 2016, the Lincoln County Land Use Board recommended denial of the Use By Special Review and Development Permit; and

WHEREAS, pursuant to Section 3-110 of the Lincoln County Zoning Resolution the Lincoln County Board of County Commissioners chose to review the Application, together with the staff report and the Decision of the Land Use Board; and

WHEREAS, at a meeting of the County Board of County Commissioners held on 24 October, 2016, the Lincoln County Board of County Commissioners held a public meeting at which it considered the Application, the staff report on such Application, the recommendation of the Land Use Board, the record of proceedings before the Land Use Board, and such other information as was brought before the Board of County Commissioners at such hearing; and

NOW BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, COLORADO:

III. APPROVAL:

The Application of Public Service Company of Colorado, a Colorado corporation wholly owned by Xcel Energy, Inc., for a Use By Special Review and Development Permit is GRANTED, subject to the conditions set forth below. The Use By Special Review and Development Permit, including the applicant's right to construct, operate, and maintain approximately 26-miles of 345 kilovolt (kV) transmission line and a collector substation in Lincoln County, shall remain valid until such time as PSCo, its transferees, successors and assigns no longer own, lease, or otherwise occupy an interest in the Property described in Exhibit A, whether by lease, easement, or otherwise, whichever occurs last.

IV. FINDINGS OF FACT:

15. That proper notice has been provided as required by law for the public hearing before the Board.
16. That the information contained in the record of proceedings and presented to the Board at the public hearing is extensive and complete, and that all pertinent facts, matters and issues were submitted and considered by the Board.
17. That the Transmission Line, as described in the Application, is consistent with the minimum zoning requirements set forth in the Lincoln County Zoning Resolution.
18. That the Transmission Line is consistent with the goals and strategies set forth in Lincoln County's Comprehensive Plan.
19. That the Transmission Line will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The Transmission Line has been designed to mitigate any potential noise, odor, vibration, glare and similar impacts associated with the proposed land use.
20. That the Transmission Line will not cause undue traffic, congestion, dangerous traffic conditions, or other vehicle-related impacts due to the implementation of project-wide Best Management Practices and effective traffic control measures during construction.
21. That the Transmission Line will not require a level of community services or facilities that is not available, and the Applicant will provide the necessary improvements to address any

deficiencies to facilities and services that the use would cause. All public roads, utilities and bridges to be developed in connection with the Transmission Line will comply with County standards.

22. The operating characteristics of the Transmission Line shall not create a nuisance and the project has been designed to minimize impacts on neighboring properties with respect to noise, odor, vibrations, glare, and similar conditions.

23. That the Transmission Line does not require a water supply.

24. That the Transmission Line will not cause significant deterioration of surface or groundwater resources. The Transmission Line has been designed and will be constructed to:

Prevent any changes to patterns of water circulation, conditions of the substrate, extent and persistence of suspended particulates, and the clarity, odor, color or taste of water,

Comply with applicable water quality standards,

Control levels of point and nonpoint source pollution,

Prevent any changes in seasonal flow rates and temperature for affected streams,

Prevent changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces; and

P

Prevent changes in circulation patterns, seasonal water levels and temperature of lakes or reservoirs.

P

25. That the Transmission Line will not significantly degrade wetlands or other aquatic habitat and riparian areas. The Transmission Line is designed to avoid such areas or to minimize disturbance in these areas. Specifically, the Transmission Line will not:

a) Cause any significant changes to the structure and function of wetlands and to unique, rare, delicate or irreplaceable riparian areas, vegetation, forest or woodlands,

b) Cause any significant changes to the filtering and nutrient uptake capacities of wetlands and riparian areas; and

c) Cause any significant changes to aerial extent of wetlands and evolution of wetland species to upland species.

12. That the Transmission Line will not cause significant deterioration of grasslands or farmland.
13. That the Transmission Line will preserve the integrity of existing and natural drainage patterns.
14. That the Transmission Line will not require a wastewater treatment system.

III. CONDITIONS:

13. This Project Approval does not materially limit private property rights of mineral owners to reasonably access and use the surface of the permit area for the purpose of exploring for, developing and/or producing oil, gas and other minerals in accordance with Colorado law.
14. Prior to commencement of construction of the Transmission Line and/or prior to obtaining any building or construction permits, as applicable, PSCo must provide proof of executed easement option agreements, easement agreements, or court orders (including orders stayed on appeal), indicating that PSCo has control over the entire Transmission Line easement area. Further, PSCo will use every reasonable effort to obtain options or easements from all affected property owners by negotiation.
15. Prior to construction of the Transmission Line and/or prior to obtaining any building or construction permits, as applicable, there shall be in place a fully executed development/roadway agreement between Lincoln County and PSCo.
16. All vehicles (excluding emergency vehicles) accessing the project must observe Lincoln County road speed limits.
17. All construction debris (including concrete truck clean out) and trash cannot be buried nor burned on site but must be disposed of at a properly permitted landfill on a regular basis. Suitable containers/dumpsters shall be utilized to prevent the debris from becoming wind-blown.
18. All reclamation materials: native seed mixtures, mulch and erosion control materials shall be certified as weed free.
19. Reclamation and restoration shall be performed according to applicable state stormwater permit requirements and as agreed to by private agreement between the applicant and the landowner.
20. PSCo will use commercially reasonable efforts to the extent feasible in order to avoid erosion at the base of each transmission line structure.

21. Prior to the issuance of any building or construction permits, the Board of Lincoln County Commissioners shall enter into a written agreement which includes resolution of the fees to be paid by the Applicant relative to a combined permitting and sales and use tax assessment.

BE IT THEREFORE RESOLVED, that a Use By Special Review and Development Permit is granted to Public Service Company of Colorado, a Colorado corporation wholly owned by Xcel Energy, Inc., to construct a transmission line in accordance with the terms of the Application, subject to the conditions set forth above. The Lincoln County Board of County Commissioners retains continuing jurisdiction over the permit to address future issues concerning the site and to ensure compliance with the conditions of the permit. The applicant is responsible for complying with all of the forgoing conditions and all other county zoning or other land use regulations. Noncompliance with any of the conditions may be cause for revocation of the permit.

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Schifferns, Yes; Commissioner King, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

I, Corinne Lengel, Clerk of the Board in and for the County of Lincoln, State of Colorado, do hereby certify that the forgoing Resolution was adopted by the Board of County Commissioners of the County of Lincoln and State of Colorado, in regular session on the 10th. Day of November, 2016.

Clerk of the Board

EXHIBIT A

The Property

PORTIONS OF TOWNSHIP 11S RANGE 56W, SECTIONS 7, 18, 17, 16, 15, 14, 13; TOWNSHIP 11S RANGE 55W, SECTIONS 18, 17, 16, 15, 14, 13; TOWNSHIP 11S RANGE 54W, SECTIONS 17, 16, 15, 14, 13; TOWNSHIP 11S RANGE 53W, SECTIONS 18, 17, 16, 15, 14, 13; AND TOWNSHIP 11S RANGE 52W, SECTIONS 18, 17, 8 IN LINCOLN COUNTY, COLORADO.

Mr. Kimble informed the Board he has a letter ready to send to Nereo regarding the denial of their permit extension, and Mr. King asked Mr. Burgess if he, Kevin Stansbury, and Elon Calkum will be attending the Centennial Mental Health meeting. Mr. Burgess said they had considered attending via conference call but decided it will be better to attend in person.

With no other business to come before the Board, the meeting was adjourned until 9:00 a.m. on November 18, 2016.

Corinne M. Lengel, Clerk to the Board

Greg King, Chairman