

Date: October 6th, 2014

TO: Suzanne Staiert, Deputy Secretary of State.

Colorado Secretary of State Office

1700 Broadway, Suite 250

Denver, CO. 80290

Denver, Colorado

E – mail copy vanessa.conway@sos.state.co.us

**Motions of Interested Third Party concerning the abandonment proceedings of the
Town of Bonanza City and Brief.**

Dear Secretary of State.

My wife and I together with our family, Ryan Lunt, Marvin Huckins and Jerree Fitzsimmons own real estate property in Bonanza City, Colorado. The property that we own is Lots 3-12, and ½ adjacent abandoned alley in Block K, Town of Bonanza City, Bonanza City, Colorado. We are filing this brief and motions as interested Third Parties.

As interested third parties, we oppose the request of the county attorney of Saguache County, Colorado on behalf of the Saguache County Commissioners to have the Secretary of State for the state of Colorado declare the abandonment of the town of Bonanza City. We request that the petition of abandonment from the county attorney of Saguache be denied.

INTRODUCTION

Colorado has two different sets of statutes pertaining to the **Discontinuance of Cities and Towns** and the **Abandonment of Towns**. C.R.S. 31-3-101 through C.R.S. 31-3-106 (**Exhibit A**) pertains to the **Discontinuance of Cities and Towns** and C.R.S. 31-3-201 through C.R.S. 31-3-202 (**Exhibit B**) pertains to the **Abandonment of Towns**.

These laws were passed in 1975. They have a common similarity. Both give requirements that have to be met in determining whether a town and its government should cease to exist. Consequences of such determination are also provided in both sets of statutes. One of the main differences in the statutes is that one is to be handled administratively by the Secretary of State office (**Abandonment of Towns**) while the other (**Discontinuance of Cities and Towns**) is through a court of law, the district court of Saguache County, Colorado.

The county attorney for Saguache County has elected to use the "Abandonment of Towns" procedures for the abandonment of Bonanza City. C.R.S. 31-3-201 through C.R.S. 31-3-202. This brief and motions pertain to the request for Abandonment of Towns.

The Colorado Secretary of State as an administrative agency is not a part of the Colorado judicial system. One of its many primary functions is to exercise an executive power of abandonment delegated to them by statute. The Colorado Administrative Procedure Act in C.R.S. 24-4-101.5 states that agencies (Colorado Secretary of State) "must not regulate or restrict the freedom of any person unless that action benefits public interest and persuade benefits public interest and persuade benefits of a free enterprise system for the citizens of Colorado." (**Exhibit C**)

What is the relationship of administrative process to the legal process? "Administrative procedures are simple, less methodical and less technical than judicial procedure. Such proceedings,

however, are bound by basic evidentiary limits. However, strict rules of evidence do not apply to administrative proceedings.” “Any administrative scheme should guarantee rational process flow through which results are determined. In *Harrison v. Ginsberg*, 169 W. Va. 162 (W. Va. 1982) it was observed that every final judgment provided by agency in a case should be in writing or stated in record and shall be accompanied by well reasoned fact findings and conclusions of law”. (Exhibit D)

All administrative hearing conducted by the Colorado Secretary of State are to follow the Colorado Court Rules of Civil Procedure. C. C.R.C.P 1 provides that these rules govern “in all actions, suits and proceedings of a civil nature, whether cognizable as cases at law or in equity and in all special statutory proceedings” (Exhibit E). These rules also provide that the proceedings must be in the name of the real party in interest. The function of the real party in interest rule is to ensure a proper res judicata against a subsequent suit. While no designated procedure exist for raising the objection that a person named in the hearing is not the real party in interest, challenges generally are raised in the form of an affirmative defense. (Exhibit E).

There are no CSOS written administrative procedure rules to be followed in the administrative hearing involving abandonment. The Colorado Rules of Civil Procedure are to be followed in the abandonment proceedings except in the presenting of evidence where the strict rules of evidence don't apply.

- I. **The Saguache County Attorney in his application for abandonment named the town to be abandoned as “Bonanza”. This name “Bonanza “ was used in the notice of the hearing for abandonment given by the Deputy Secretary of State, Suzanne Staiert on November 19th, 2013 and the additional notice extending the time that the hearing shall remain open to February 6, 2014. (Exhibit F). The name “Bonanza has been used in all**

further notices including the one for October 14, 2014. The proper name of the town is “Bonanza City” not “Bonanza”.

Forty –three Colorado towns have become extinct over the past 10 years. There were 32 towns abandoned in the year 2005, 10 towns abandoned in the year 2007 and one year in the year 2013.

(Exhibit G) The town abandoned i2013 was the town called Chihuahua in Summit County. Rich Coolidge, spokesperson for Colorado Secretary of State said “There certainly wasn’t the same level of passion that the town of Bonanza had.” **(Exhibit H)**.

“Abandonment proceedings are usually among the most mundane tasks the Colorado secretary of state’s office oversees , but they represent part of the necessary evolution of the state, says Rich Coolidge, a spokesperson with the agency for more than seven years. From time to time, municipalities become unable to provide services to their residents, resulting in a governmental black hole where the streets don’t get plowed, the laws aren’t enforced and revenue shares from the state and county go unspent because there’s no one to cash the checks”. **(Exhibit H)** .

This is not the situation in Bonanza City. On March 3, 2011, all moneys generated by the taxing authority of the Town of Bonanza City were withheld until further notice from the Division of Local Government. Money being withheld has amounted to a large sum as of October 14, 2014. **(Exhibit J)**). This money has not been spent and has been left to accumulate. Saguache County has been providing services to the residents of Bonanza City, but have not been paid for their services. The system of abandonment was contrived to solve this problem of un -spend accumulating funds.

The abandonment is a proceeding that is civil in nature. The abandonment statute requires that notice must be posted and given to all parties together with a hearing before there is a final

determination of abandonment can be rendered. **The first major error in the process was the failure to correctly name the town of Bonanza as 'Bonanza City, it's legally charted name instead of "Bonanza".**

The correct name of the city to be abandoned has to be described as real party in interest in the application for abandonment.. The notices given in the abandonment hearings must also show the correct name of the city as real party in interest.

The original plat of Bonanza City was surveyed and platted by Albert A. Lampe, Saguache County Surveyor in November, 1880. This plat was titled "Plat of Bonanza City Saguache County, Colorado" and was filed and recorded at the county clerks office, Saguache, Colorado. (Exhibit I). The original plat shows the town to be " Bonanza City" not "Bonanza". There are no records either at the state, county or local town level to show that the name of the town since 1880 has been changed from "Bonanza City" to "Bonanza".

All of the information from the Department of Local Affairs, Division of Local Government, show the name to be "Town of Bonanza City. A letter from the Department of Local Affairs to Ms. Connie Trujilio shows the name to be Town of Bonanza City. (Exhibit). The status and CTF and Spending Reports for the year 2007 and 2008 show "Town of Bonanza City" (Exhibit)

The correct name of the town is " **Bonanza City**", not " **Bonanza**" as shown on the limestone sign found at the entrance into town.

As an affirmative defense, I move Colorado Secretary of State for an order of denying the application of the Saguache County Attorney for an order of abandonment because of the naming of the wrong party in interest.

II. I as an interested third parties ask the Secretary of State to deny the request of the county attorney for abandonment because he has failed to show by a preponderance of the evidence that the provisions of C.R.S 31-3-201 (1) have not been met.

C.R.S 31-3-201 (1) provides that “ town must have failed for a **period of five years or longer** immediately prior to the filing of the application under this application to hold any **regular or special election or to elect officers and to maintain any town government,...** .”

In order to satisfy the preconditions necessary for the abandonment of towns under C.R.S. 31-3-201, there must be a showing that for **FIVE YEARS OR LONGER**, there was not a (1) regular or (2) special election or (3) election of officers and (4) the failure to maintain any town government. (Conditions 1 or 2 or 3 together with 4 must be met).

A, Meaning of the words “Five Years of Longer”.

The key to this statute is the wording “**that for five years or longer**”.

The tem **five years or longer** means one of many things. The minimum time is five years and the maximum time is five years plus a longer time. The statute is unclear as to just exactly how long is “longer”. Is it 1 day more after five years? Is it 1 year more after five years or 5 years more after 5 years.

When does the minimum become the maximum? This statute is not clear. It is up to the Secretary of State on a case to case basis to determine how much longer is more.

The Secretary of State's office in an abandonment matter in 2013 in "Abandonment Proceedings for the Town of Chihuahua extended the longer time period 95 more years after the original five year time period. The CSOS in the Abandonment Proceedings for the town of Chihuahua are clearly stated in an article titled "**Ghost town legally abandoned, ceded to U.S. Forest Service**" "There is no record now of elections, taxes being levied or any kind of official activity in Chihuahua in more than 100 years and county officials have initiated proceedings to legally abandon the town. " "We have the responsibility to oversee municipalities that don't really exist any more, but do in a legal sense." Said Andrew Cole of the Secretary of State's office. "The last actual mayoral race (in Chihuahua) was conducted in the 1800s." "It is unclear exactly where the remains of Chihuahua, if they exist at all, are located." (Exhibit L.)

It appears also that the fact that "there are no current residences or residents in the town, according to a Summit Board of County Commissioners resolution authorizing a petition for abandonment" was also considered.

The CSOS extended the longer period time for Chihuahua, a true ghost town. They should be able to extend the same time period for Bonanza City, a growing town. The county attorney by his own admissions has stated that the last regular election was in 2007

I move the Secretary of State for Colorado in this matter for an order finding to that the five years or longer time period be defined as five years plus two years. I further move the Secretary of State for an order finding based upon the admission of the county attorney for Saguache County that there was an election of town officers for Bonanza City in 2007.

B. Meaning of words "election of officers".

Betty Ashley and Gail Holbrook together with other parties were elected to the town council in 2007. The records of the town council for Bonanza City have been found in trailer house on Betty Ashley's property in Villa Grove, Colorado show this election. They were not available to me for examination.

Betty Ashley and Gail Holbrook were acting in their capacity as town officials wrote checks for payment of bills for services purchased under terms of 2008 and 2009 budgets. These checks were written the bank account of "Town of Bonanza:

Check # 481 made payable to Saguache County Treasurer for the amount of \$312.71 was written on 12/31/08. (**Exhibit M**). Check # 482 made payable to Saguache County Treasurer for the amount of \$309.66 was written on 01/21/2009. (**Exhibit M**). Check #483 ,made payable to Saguache County Treasurer for the amount of \$282.60 was written on February 28, 2009. (**Exhibit N**.)

All of these checks contained two signatures. Saguache County is a small rural community. It is impossible to believe that the Saguache County Treasurer did not know that these two ladies, Betty Ashley and Gail Holbrook had been elected as town officials of Bonanza City and were acting in their capacity as town officials. By deduction with the acceptance of these checks by the Saguache County Treasurer , it was common knowledge of the election of town officials of Bonanza City. It is impossible to believe that evidence can now be produced

by the county attorney of Saguache County showing Betty Ashley and Gail Holbrook were not elected town officials during the period of the signing of these checks. These checks clearly show there were elected town officials and that they were doing town business by payment of town bills.

I move for an order that the Secretary of State finds that the requirement of election of officials has been met by the signatures of Betty Ashley and Gail Holbrook shown as town officials on Exhibits through .

Maintaining of town government.

The best way to show that elected town officials are maintaining a town government is to show a town budget. Did the officials for the years 2007, 2008 and 2009 have a local budget for use as town government? Yes, they had such a budget. (Exhibit O)

The town governing body prepared and filed with the proper state government officials an actual budget for the year 2009.(Exhibit) This filed budget meets the requirements of "local Government budget Law format & Content Requirements. (Exhibit). This budget shows in the records of Colorado Department of Local Affairs. (Exhibit) This government agency also has records for the reports for CTF filings for the years 2007 and 2008. This budget and CTF reports as found in the records files of "DOLF" (Exhibit P). These filing were available to the Saguache County Attorney at the time of filing the request for abandonment. These filings clearly show that the Town of Bonanza City had a functioning town government for the year 2009.

I move the Secretary of State of Colorado find that the requirement of maintaining a town government has been met with a preparation of a town budget for the years 2009.

I move that the Secretary of State of Colorado issue an order finding the following: (1) In 2007, there was a general election of town officials of Bonanza City; (2) That in December, 2008, January 2009 and February 2009, Betty Ashley and Gail Holbrook as elected Bonanza City town officials, were conducting business for the town of Bonanza by writing checks for payment of bills and (3) with the 2009 budget for the town of Bonanza City filed properly with proper agencies, there was a maintaining of town government. The order should state that the necessary criteria of C.R.S. 32-3-201 has been met. I further move for an order The county attorney for Saguache County has failed to show by a preponderance of the evidence that the criteria of C.R.S. 31-3-201 has not been met for the time period from 11/19/2008 to 11.19/2013.

- III. Additional Problems concerning either election of functioning town government or consequences and their problems after Bonanza City declared abandoned.
- A. A problem exists pertaining with the establishment of a functioning town government. Are there enough residential voters to elect a new town governing body?

Yes, there are enough possible resident voters to elect a new town governing body. If there are not enough residential voters, then the town will be abandoned at some time in the future when all requirement for abandonment have been met.

The reporting service " Al Jazeera America" in an article dated May 31, 2014 described Bonanza City this way. The headline said : "Bonanza, pop. 1: Looking for a pulse in Colorado's smallest city".

(Exhibit H) The implication is that there was only one living person eligible to vote in the town of Bonanza in a general election. It is interesting to note that the county clerk records for the county of

Saguache showed 11 voters. The article further described Bonanza as “one of the oldest existing municipalities in Colorado and indisputable its smallest, with a population of **one full-time resident**.”

What is the legal definition for “full-time resident” for the state of Colorado. The Residency Laws in Colorado are multiple and different. They cover driver’s licenses, registering vehicles, enrolling in a school of higher education and registering to vote.

The definition for “resident” to vote is the issue in this matter. The Al Jazeera America” article contained this statement. “The 2013 law (new state voting law) allows residents to register to vote anywhere in Colorado, all the way up to and including on Election Day, as long as they pledge under oath to make that their permanent home. While the law was intended to make it easier to vote, its critics have suggested that unscrupulous voters could claim a new home in a highly contested district, vote, then change their minds and “move back” to their original place of residence.” “There is no law against being wishy washy about where one wants to live”. (Exhibit).

There are residents of the State of Colorado who own real property in Bonanza and will become residents of Bonanza to elect a new town council of a mayor and trustees. I know because I have talked to them . I am asking that the Secretary of State doesn’t use this statement of” **Population of 1”** concept to decide Bonanza City fate.

- B. A ruling by the Secretary of State for Abandonment would restrict the freedom of the land owners in Bonanza City as to use of alleys, streets and avenue, if abandonment is granted. The action would not benefit public interest and would hinder the benefits for the citizen of Colorado and landowners in Bonanza City in persuading the benefits of a free enterprise system. With abandonment, there will be future major problems with platted streets, avenues, alleys of town of Bonanza City.**

C.R.S. 31-3-202 (1) provides that after the determination of abandonment of a town, all existing streets, avenues, and alleys previously located within an abandoned town shall be vested in the board of county commissioners of the county in which said town was located.

The picture of the town of Bonanza City, taken in the late 1800's clearly show the streets of Main Street, 2nd, 3rd street and Copper Avenue as the streets that were mainly used. These are the same street that are being mainly being used in October 2014. With abandonment, these streets will vest in the Saguache County Commission. There will no longer be city revenue available for their upkeep. What is going to happen to the streets that are the main ways to travel today in Bonanza City? Where will the money come from for their upkeep? (**Exhibit R**).

What is the problem. I was in the town of Bonanza City on the last weekend of September 2014. I had a opportunity to visit with one of the landowners of the town concerning the meaning of this statute. The reply that I got was that there was no problem because the street property would be divided among the existing landowners. I told him that this is not what the statute says.

The statute says "**vested** in the board of county commissioners of the county in which said town is located". It further says "the board of county commissioners **may** thereafter vacate any such streets, avenues, or alleys" The important words are "vested" and "may". Vested means the board of county commissioners becomes the absolute owner of these existing streets, avenues and alleys. This would apply to active streets, avenues or alleys and also streets, avenues or alleys that have not be active or ever used for more than 100 years. The word "may" means the board of county commissioners have a choice to vacate. It is distinguished from the word "shall" which makes it imperative.

Third Street on the Bonanza City plat is 50 feet wide and 1800 feet wide. This is a rectangle that has 90,000 square feet or almost two acres. This tract of land runs through the better part of the

Bonanza City. There is absolutely nothing from keeping the board of county commissioners from developing this long narrow stretch of property for residential purposes. The Bonanza City Council in the year 2000 pursuant ordinances vacated the alley between Lots 1-12 and 12-24 and gave ½ of vacated property to each of the adjacent land owners. The cost of vacating was nothing. The city council vacated the alley. The question is what takes precedent, the state law over the city ordinance or the other way around. Another question is whether this state statute for vesting constitutional.

The county board can decide absolutely what they will do. Will they will maintain or will they not maintain any of these existing streets, alleys and avenues. The decision is up to them completely. The property owners will have absolutely no control over streets, alleys and avenues. Maintenance or lack of maintenance of these streets, alleys and avenues will be at the will of the then elected board of County Commissioners of Saguache County. The perfect environment is created for favors and multiple law suits which might reach the United States Supreme Court.

The board of county commissioners is elected at the will of the people. I am not familiar with the politics of Saguache County, but I know that election to the board of county commissioners is not a "death until us part" situation. The new board of county commissioners five to ten years down the road will not be familiar what happened in this process of abandonment. Problems of the present dealing with platted vested land of the past will probably be solved by colorful stories of the past. The problems of the streets, alleys and avenues must be solved before there is abandonment of the town of Bonanza City.

The original plat of Bonanza City by Albert A Lampe, Saguache County Surveyor in November 1880. (**Exhibit I**). It was drawn and filed with the records of the Saguache County Clerk and Recorder. A drawing of this plat was made in April – May 1956 Davis Engineering Service, Del Norte, Colorado for the Newhall Land and Farming Company. I am requesting that a copy of this original plat filed in the

office of the Saguache County Clerk and Recorder. My examination of the records show that the plat of November 1880 is still the official plat at that time.

This plat shows that there are 13 avenues with a width of 60 feet, one main street with an width of 75 feet, 40+ streets with a width of 50 feet and alleys in 12 blocks with a width of 16 feet. All of this land added together is a considerable tract of land to be vested in the board of county commissioners in Saguache County.

There is one thing that can be said about land surveys in Bonanza City. If you have 10 different surveyors surveying a certain tract of land, you will be getting 10 different locations of that certain tract of land.

These potential problems of streets, avenues and alleys in Bonanza City can be properly handled by the Bonanza City Town government, instead of the County Commissioners of Saguache County.

- C. There are future potential enforcement problems between State and County laws and ordinances and city laws of abandoned town of Bonanza City. A ruling by the Secretary of State for abandonment would restrict the freedom of the land owners in Bonanza City. There will be confusion and litigation in the conflicts between the state, county and city ordinances. Abandonment in the area would not benefit public interest and would hinder the benefits for the citizens of Colorado and landowners in Bonanza City in persuading the benefits of a free enterprise system.**

Each statutory town or city have enacted local city ordinances. These ordinances are the law for that jurisdiction. The town of Bonanza City and surrounding areas underwent a tremendous EPA clean up in the late 90's. The town council after the clean up of the Bonanza Mining District Area in the

late 1990's time was concerned with the environment. They drafted and enacted ordinances pertaining to the amount of space required for building a new residence and different sewer problems. In the year 2007, an ordinance was passed to enforce the countenance of conservation easement. **(Exhibit S)** They also drafted and enacted ordinances pertaining to all types of sanitation requirements. There were also other ordinances drafted and enacted and passed pertaining to the city.

C.R.S 31-3-202 (2) provides that the town of Bonanza City shall continue in existence solely for the purposes of enforcing these ordinances. Just exactly what does this mean? How long will these ordinances continue? Who will enforce these ordinances?"

C.R.S. 31-3-201 provides that with abandonment, the "books, documents, records, papers, corporate seal of any town so abandoned shall be deposited with the county clerk and recorder of the county within which the town or any part thereof located, for safekeeping and reference in the future." My question is this. . This means multiple tasks and responsibilities. Is the county clerk and recorder of Saguache County, Colorado ready to assume this task?

The ordnances passed by the former town councils are somewhere. They must be located and placed in proper files for future generations.

Conclusion

Reeves Brown, Executive Director of the Colorado Department of Local Affairs states that Colorado's rich heritage is shown in the patchwork of communities that extend from the eastern plains to the western slope, from the southeast to the northwest corners of the state. Bonanza is a part of the patchwork of communities in Colorado and has a rich heritage. There are colorful stories that have been told and are still being told of the past in Bonanza City involving the colorful characters of

the past. Who knows what will be told at the end of the next generation pertaining to the abandonment proceedings today.

A lot of people are appealing to emotion in the abandonment uproar over Bonanza City. As Andrew Cole, Spokesperson for the Secretary of State said "folks have to be clear what are the consequences if there is a denial of abandonment. There are consequences for denial of abandonment and as I pointed out there are consequences in Bonanza for granting of abandonment.

Is there a possible solutions to the present day government problems in Bonanza City that would not involve the death blow from the Secretary of State? Yes there is. There needs to be a common effort towards a solution involving the county commissioners of Saguache County and representatives of all property owners in Bonanza, not just a few. Solutions can be reached by thinking outside the box.

I am for the rejection of the request for abandonment from the county attorney for Saguache County. I am against the request because of all the mistakes that have been made in the present request for abandonment. I firmly believe that if you don't follow the correct legal procedures and steps in the abandonment process, you are only creating a retirement fund and home hot tubs for attorneys

The most important reason for my request for rejection is that there is a change in the town wind in Bonanza. The wind is blowing from retiree's who come there during the summer and then leave to young property owners who are building cabins on land and have young and growing families. They are the future generation of Bonanza. I have complete confidence that they will figure out something about the town government. They will figure out something because they want their children to experience the same experiences that they have in Bonanza. They have children or grandchildren who come to see, play and then leave.

EXHIBITS

EXHIBITS	DESCRIPTION.
A.	C. R. S. 31-3- 101 through C.R.S. 31-3-106.
B.	C.R.S. 31-3-201 through C.R.S. 31-3-202.
C.	Colorado Administrative Procedure Act: C.R.S. 24-4-101.5.
D.	Relation of Administrative Process to Legal.
E.	C.R.C.P. #1 and 17.
F.	Notice of Applications.
G.	Article from Colorado Public Radio.
H.	Al Jazeera America Article.
I.	Original town plat.
J.	Letter DLO 2/4/2011.
K.	Local Government Filings.
L.	Article Ghost Town Legally Abandoned.
M.	Checks # 481 and 482.
N.	Check # 483.
O.	Budget 2009
P.	Budget Format

Q.

Local Gov. Filings Budget

R.

Picture of Bonanza City Late 1800s.

S.

Ordinance of City Council.



Philip Lunt

Philip Lunt

Certificate of Service

I, Philip Lunt, do hereby certify that on 10/09/2014 copy of these motions and brief were electronically sent to

Vanessa Conway

Vanessa.conway@sos.state.co.us

Stuart Anderson, Attorney for the Committee to Save the Township of Bonanza.

stuart@anderson-hugheslaw.com

Ben Gibbons, Saguache County Attorney

gibbonslaw@amigo.net

I Philip Lunt do hereby further certify that original of said motions and brief together with exhibits was filed by United States Postal service on 10/09/2014 to

Suzanne Staiert

Deputy Secretary of State

1700 Broadway

Suite 250

Denver CO. 80290

Stuart Anderson

Anderson & Hughes P.C.

7385 West Highway 50

Salida, CO 81201.

Ben Gibbons

Saguache County Courthouse

Saguache, Colorado



Philip Lunt 10/09/2014

FOCUS™ Terms Search Within
Advanced...

View

1 of 1

Book Browse

[View Tutorial](#)

C.R.S. 31-3-101 (Copy w/ Cite)

Pages: 2

C.R.S. 31-3-101

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 1. DISCONTINUANCE - CITIES AND TOWNS

C.R.S. 31-3-101 (2014)

31-3-101. Petition to the district court

Proceedings to discontinue the incorporation of any city or town may be commenced by the filing of a petition to discontinue such incorporation, signed by twenty-five percent of the registered electors of the city or town, with the district court of the county wherein such city or town, or any part thereof, is situate. Upon satisfying itself that the petition meets the requirements of this section, the court shall cause a notice to be published once each week for at least four weeks, which notice shall state that the question of discontinuing the incorporation of such city or town shall be submitted to a vote of the registered electors thereof at its next regular election.

HISTORY: Source: L. 75: Entire title R&RE, p. 1021, § 1, effective July 1. L. 87: Entire section amended, p. 326, § 78, effective July 1.

Editor's note: This title was primarily numbered as articles within chapter 139, C.R.S. 1963; however, a few sections were located in article 1 of chapter 140, C.R.S. 1963. The provisions of this title were repealed and reenacted in 1975, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this title prior to 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this title, see the comparative tables located in the back of the index.



Cross references: For local government generally, see title 29; for special districts, see title 32; for garnishment of public servants, see article 61 of title 13; for cooperation with federal government in housing, see article 55 of title 24; for local boards of health, see part 6 of article 1 of title 25; for municipal employees' retirement system, see part 2 of article 51 of title 24; for eminent domain proceedings by a municipality, see article 6 of title 38; for municipal highways, see article 2 of title 43; for the power of a city council or the board of trustees of town to

Exhibit A.

establish airports, see part 2 of article 4 of title 41; for municipal courts, see article 10 of title 13.

Editor's note: This section is similar to former § 31-9-101 as it existed prior to 1975.

View 

 1 of 1 

Book Browse

C.R.S. 31-3-101 (Copy w/ Cite)

Pages: 2



LexisNexis

[About LexisNexis](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [Contact Us](#)
Copyright © 2014 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Exhibit A

FOCUS™ Terms Search Within
Advanced...

View

1 of 1

[View Tutorial](#)

Book Browse

C.R.S. 31-3-102 (Copy w/ Cite)

Pages: 2

C.R.S. 31-3-102

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 1. DISCONTINUANCE - CITIES AND TOWNS

C.R.S. 31-3-102 (2014)

31-3-102. Form of ballots

The form of ballots shall be "For the incorporation" and "Against the incorporation".

HISTORY: Source: L. 75: Entire title R&RE, p. 1021, § 1, effective July 1.

Editor's note: This section is similar to former § 31-9-102 as it existed prior to 1975.

View

1 of 1

Book Browse

C.R.S. 31-3-102 (Copy w/ Cite)

Pages: 2

Exhibit A

FOCUS™ Terms Search Within

Advanced...

View

1 of 1

Book Browse

View Tutorial

C.R.S. 31-3-103 (Copy w/ Cite)

Pages: 2

C.R.S. 31-3-103

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 1. DISCONTINUANCE - CITIES AND TOWNS

C.R.S. 31-3-103 (2014)

31-3-103. Return - canvass - costs

The vote for this purpose shall be taken, canvassed, and returned in the same manner as in other municipal elections. All expenses of the same shall be paid by the city or town when the result of the vote is "Against the incorporation" but by the petitioners when the result is "For incorporation".

HISTORY: Source: L. 75: Entire title R&RE, p. 1021, § 1, effective July 1.

Editor's note: This section is similar to former § 31-9-104 as it existed prior to 1975.

Cross references: For municipal elections, see article 10 of this title.

View

1 of 1

Book Browse

C.R.S. 31-3-103 (Copy w/ Cite)

Pages: 2



About LexisNexis | Privacy Policy | Terms & Conditions | Contact Us
Copyright © 2014 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Exhibit.



About LexisNexis | Privacy Policy | Terms & Conditions | Contact Us
Copyright © 2014 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Exhibit A.

FOCUS™ Terms Search Within
Advanced...

View

1 of 1

Book Browse

C.R.S. 31-3-104 (Copy w/ Cite)

Pages: 2

C.R.S. 31-3-104

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 1. DISCONTINUANCE - CITIES AND TOWNS

C.R.S. 31-3-104 (2014)

31-3-104. Discontinuance - when effective - legal indebtedness - tax

If two-thirds of the total votes cast upon such question are cast "Against incorporation", the incorporation of the city or town shall be discontinued; except that no such discontinuance shall be effective until such time as the governing body of the city or town has made proper provisions for the payment of all of its indebtedness and for the faithful performance of all its contractual and other obligations, levied the requisite taxes, and appropriated the requisite funds therefor and until two certified copies of notice of such action with a legal description accompanied by a map of the area concerned are filed by the city or town with the county clerk and recorder of the county in which such action has taken place. The county clerk and recorder shall file the second certified copy of such notice with the division of local government of the department of local affairs as provided by section 24-32-109, C.R.S. For the payment of its indebtedness, the city or town shall issue warrants in cases where there is no money in the treasury. The county treasurer shall collect the tax which is levied to pay such indebtedness as he collects other taxes and shall pay the warrants. Any surplus of this fund shall be transmitted to the school fund of the district where the same is levied.

HISTORY: Source: L. 75: Entire title R&RE, p. 1021, § 1, effective July 1.

Editor's note: This section is similar to former § § 31-9-103 and 31-9-107 as they existed prior to 1975.

View

1 of 1

Book Browse

C.R.S. 31-3-104 (Copy w/ Cite)

Pages: 2

Exhibit 1

FOCUS™ Terms Search Within Original Results (1 - 1)

Advanced...

[View Tutorial](#)

View

1 of 1

Book Browse

C.R.S. 31-3-105 (Copy w/ Cite)

Pages: 2

C.R.S. 31-3-105

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 1. DISCONTINUANCE - CITIES AND TOWNS

C.R.S. 31-3-105 (2014)

31-3-105. Books deposited - court records

The books, documents, records, papers, and corporate seal of any city or town so discontinued shall be deposited with the county clerk and recorder of the county with which the petition was filed, for safekeeping and reference in the future.

HISTORY: Source: L. 75: Entire title R&RE, p. 1022, § 1, effective July 1.

Editor's note: This section is similar to former § 31-9-105 as it existed prior to 1975.

View

1 of 1

Book Browse

C.R.S. 31-3-105 (Copy w/ Cite)

Pages: 2



About LexisNexis | Privacy Policy | Terms & Conditions | Contact Us
Copyright © 2014 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Exhibit A

FOCUS™ Terms Search Within Original Results (1 - 1)

Advanced...

View Full

View Tutorial

1 of 1

Book Browse

C.R.S. 31-3-106 (Copy w/ Cite)

Pages: 2

C.R.S. 31-3-106

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 1. DISCONTINUANCE - CITIES AND TOWNS

C.R.S. 31-3-106 (2014)

31-3-106. County clerk and recorder to publish - posting

When the incorporation of any city or town has been discontinued in accordance with the provisions of this part 1, the county clerk and recorder of each county in which the city or town, or any part thereof, was situate shall publish notice of such discontinuance of incorporation once each week for at least four weeks in some newspaper published within the county, or, if no newspaper is published within the county, said county clerk and recorder shall post notice thereof in three public places within the county for a period of not less than thirty calendar days. Said county clerk and recorder shall also certify the fact of discontinuance of incorporation to the secretary of state.

HISTORY: Source: L. 75: Entire title R&RE, p. 1022, § 1, effective July 1.

Editor's note: This section is similar to former § 31-9-106 as it existed prior to 1975.

View Full

1 of 1

Book Browse

C.R.S. 31-3-106 (Copy w/ Cite)

Pages: 2



LexisNexis

About LexisNexis | Privacy Policy | Terms & Conditions | Contact Us
Copyright © 2014 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

Exhibit A

Colorado Legal Resources

Provided by LexisNexis, Official Publisher of the Colorado Revised Statutes

www.lexis.com® Home FAQ Purchase Colorado Statutes in Print

- 1. [United States Constitution](#)
- 2. [Colorado Constitution](#)
- 3. [Colorado Revised Statutes](#)
- 4. [Colorado Court Rules](#)
- 5. [Colorado Advanced Legislative Service](#)

FOCUS™ Terms Search Within [Original Results \(1 - 1\)](#) [Advanced...](#)

View [Full](#)

1 of 1

[Book Browse](#)

C.R.S. 31-3-201 (Copy w/ Cite)

[View Tutorial](#)

Pages: 3

C.R.S. 31-3-201

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 3. DISCONTINUANCE OF INCORPORATION
PART 2. ABANDONMENT - TOWNS

C.R.S. 31-3-201 (2014)

31-3-201. Procedure for determination of abandonment

(1) When any town has failed, for a period of five years or longer immediately prior to the filing of the application under this section, to hold any regular or special election or to elect officers and to maintain any town government, such town may be determined to be abandoned as follows:

(a) The county attorney of the county in which the town is located or any owner of land in such town may make application to the secretary of state to determine that the town is abandoned.

(b) The secretary of state shall forthwith cause notice of the filing of such application to be published once in some newspaper of general circulation in the county and, where possible, to be posted in at least two conspicuous locations within the town. The notice shall specify the date, time, and place where said application will be heard, which date shall be not less than twenty days after the date of such publication.

(c) The secretary of state shall hear such application and, after receiving evidence thereon, shall determine whether or not said town has been abandoned. If he determines that the town is abandoned, a copy of such determination shall be filed with the county clerk and recorder of the county in which said town was located. Thereupon, said town shall cease to exist.

(d) The books, documents, records, papers, and corporate seal of any town so abandoned shall be deposited with the county clerk and recorder of the county within which the town or any part thereof is located, for safekeeping and reference in the future.

HISTORY: Source: L. 75: Entire title R&RE, p. 1022, § 1, effective July 1.

Editor's note: This title was primarily numbered as articles within chapter 139, C.R.S. 1963; however, a few sections were located in article 1 of chapter 140, C.R.S. 1963. The provisions of this title were repealed and reenacted in 1975, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this title prior to 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this title, see the comparative tables located in the back of the index.

Cross references: For local government generally, see title 29; for special districts, see title 32; for garnishment of public servants, see article 61 of title 13; for cooperation with federal government in housing, see article 55 of title 24; for local boards of health, see part 6 of article 1 of title 25; for municipal employees' retirement system, see part 2 of article 51 of title 24; for eminent domain proceedings by a municipality, see article 6 of title 38; for municipal highways, see article 2 of title 43; for the power of a city council or the board of trustees of town to establish airports, see part 2 of article 4 of title 41; for municipal courts, see article 10 of title 13.

Editor's note: This section is similar to former § 31-9-201 as it existed prior to 1975.

Annotator's note. Since § 31-3-201 is similar to former § 31-9-201 prior to the 1975 repeal and reenactment of this title, and laws antecedent thereto, a relevant case construing a prior provision has been included in the annotations to this section.

No election is provided whereby the electorate, by vote, can determine whether a town and its government has ceased to exist. *Evans v. District Court*, 182 Colo. 93, 511 P.2d 471 (1973).

Exhibit B

Colorado Legal Resources

Provided by LexisNexis, Official Publisher of the Colorado Revised Statutes

- 1. [United States Constitution](#)
- 2. [Colorado Constitution](#)
- 3. [Colorado Revised Statutes](#)
- 4. [Colorado Court Rules](#)
- 5. [Colorado Advanced Legislative Service](#)

FOCUS™ Terms Search Within ^

View

[View Tutorial](#)

1 of 1
 Book Browse
C.R.S. 31-3-202 (Copy w/ Cite)
 C.R.S. 31-3-202

Pages: 2

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
 CORPORATE CLASS - ORGANIZATION AND TERRITORY
 ARTICLE 3. DISCONTINUANCE OF INCORPORATION
 PART 2. ABANDONMENT - TOWNS

C.R.S. 31-3-202 (2014)

31-3-202. Consequences of determination

(1) After such determination, all existing streets, avenues, and alleys previously located within an abandoned town shall be vested in the board of county commissioners of the county in which said town was located. The board of county commissioners may thereafter vacate any such streets, avenues, or alleys pursuant to part 3 of article 2 of title 43, C.R.S.

(2) Notwithstanding the provisions of section 31-3-201, any debt or other obligations of such town outstanding at the time of such determination of abandonment shall not be abrogated, nor shall any requirement be abrogated or avoided that has been imposed upon such town by the environmental protection agency, by any court, or by any other instrumentality of the state or federal government. The town shall continue in existence solely for the purpose of satisfying such outstanding debt or other obligations or other requirements, and the powers and duties of the governing body of the town and its officers shall be performed by the board of county commissioners and the county officers in such levy and collection of taxes or the imposition and collection of such fees, rates, and charges as may be required to satisfy the outstanding debt or other obligations or other requirements in accordance with their terms.

(3) Except as to streets, avenues, alleys, or reversionary interests, the right, title, and interest to all real property and the improvements thereon owned by any such town shall be vested in the county in which such property is situate, subject to any easements or rights-of-way then in use.

HISTORY: Source: L. 75: Entire title R&RE, p. 1023, § 1, effective July 1.

Editor's note: This section is similar to former § 31-9-202 as it existed prior to 1975.

View

1 of 1
 Book Browse
C.R.S. 31-3-202 (Copy w/ Cite)

Pages: 2

Exhibit B

[USLegal Home](#) [Legal Topics](#) [USLegal Sites](#)

Toll Free 1-877-389-0141 [Signin](#) [View Cart](#) [Contact](#) [SiteMap](#)

[Home](#)

Search All of USLegal, ll

[USLegal](#) » [Administrative](#)
[Law Home](#) » [Administrative](#)

[Procedure Acts](#) » [Administrative Procedure Act – Colorado](#)

Administrative Procedure Act – Colorado

36,000 Legal Forms - USLegalForms

Find any forms you need. 8 year winner of the best legal forms site from TopTenReviews. [Visit Today!](#)

The Colorado Administrative Procedure Act (“Act”) is found in Title 24, Article 4, of the Colorado Revised Statutes. According to C.R.S. 24-4-101.5 state agencies have a responsibility to observe the economic impact of its actions and re-examine the economic impact of its continuing actions to conclude if such actions promote public interest. The section also says that an agency must not regulate or restrict the freedom of any person unless that action benefits public interest and persuade benefits of a free enterprise system for the citizens of Colorado.

C.R.S. 24-4-103 discusses the rule making procedures under the Act. This section is applicable when agencies are permitted by law to make rules. This section is not applicable when agencies interpret rules or make general statements of policy. In an agency’s interpretation of a rule is substantially different from the earlier interpretation, then the office of legislative legal services will review that rule as if it is newly adopted or amended. Agencies must make public announcement of the proposed rule and must provide opportunity to interested persons to submit their views and participate informally in related conferences. At the time of filing notice of proposed rule making before the secretary of state, the secretary requires the agency to submit a draft of the proposed rule also before the executive director in the department of regulatory agencies. The executive director or his/her designee will decide if the proposed rule has some negative impact. If it has some negative impact, then s/he or his/her designee will direct the agency to perform a cost-benefit analysis of that proposed rule. The cost-benefit analysis must include the following:

- reason for the rule or amendment;

Exhibit C

- anticipated costs of the rule or amendment;
- anticipated economic benefits of the rule or amendment;
- if the rule or amendment causes any undesirable effect on economy, consumers, private markets, small businesses, job creation, and economic competitiveness;
- at least any two alternatives for the proposed rule or amendment.

After studying the cost-benefit analysis the executive director or his/her assignee will insist the agency to make changes in the rule or amendment so as to reduce the negative impact. Further any documents used by the agency for making the rule or amendment will be considered as a public document and will be open for public inspection. An administrative agency must review each proposed rules and should adopt a rule only if:

- the record of rule-making shows a need for regulation;
- the rule or regulation does not conflict with other provisions of law;
- the regulation is clearly stated and its meaning will be understood by any party;
- proper statutory authority exists for the regulation;
- copying or overlapping of regulations is explained by the agency proposing the rule.

An agency must maintain a rule-making record which contains:

- copies or Colorado register which contains statements related to the concerned rule or the proceedings upon which it is based;
- copies of any portions of agency's public rule-making docket;
- written lists of all petitions, requests and submissions received by the agency;
- any official transcript of oral presentations made in the proceeding upon which the rule is based;
- a copy of regulatory analysis or cost-benefit analysis;
- copy of the rule and explanatory statement filed in the office of the secretary of state and;
- A copy of any filed executive order with respect to the rule.

C.R.S. 24-4-104 discusses the licensing provisions. According to this section when application for license is made, the agency after considering the rights and privileges of all interested persons, will conduct proceedings in accordance with this article. An agency can also suspend, revoke or modify the license if it finds that the licensee is guilty of deliberate violation of the license provisions or that the public health safety requires immediate action. But revocation or

Exhibit C

5

suspension of license could be done only after conducting “full investigation” and after giving proper notice in writing.

According to C.R.S. 24-4-104, an agency action is subject to judicial review. An agency can commence an action before a court of competent jurisdiction for enforcement of its final order, and in such a situation any person aggrieved or adversely affected by agency decision can obtain judicial review of such action. Aggrieved party can also initiate an action for judicial review before the district court.

According to C.R.S. 24-4-107, the Act is applicable to every state agencies having state wide territorial jurisdiction. Agencies in legislative or judicial branches, courts-martial, military commissions, and arbitration and mediation functions are exempted from the scope of this Act. This Act also applies to every other agency specifically referred by any other specific statutes. But if there is conflict between the other specific statute relating to other agency and this Act then the other specific statute will have control over that other agency.

+ More In Administrative Law

- Administrative Law
- Main Ways to Obtain Information
- Relation of Administrative Process to Legal Process
- Advantages of Administrative Process
- Collaboration of Administrative Agencies and Courts
- Role of Attorney General in Advising Administrative Agencies
- Administrative Agency Opinions
- Administrative Conference of the United States

- Administrative Procedure Acts
- Administrative Agencies
- Types of Administrative Agency Action: Rulemaking, Adjudication, Investigation
- Administrative Agency Investigations
- Administrative Agency Rulemaking
- Licensing by Administrative Agencies
- Administrative Agency Adjudications
- Alternative Means of Dispute Resolution
- Judicial Review of Administrative Decisions
- Liability of Administrative Agencies
- Questions and Answers

Exhibit C

[USLegal Home](#) [Legal Topics](#) [USLegal Sites](#)Toll Free 1-877-389-0141 [Signin](#) [View Cart](#) [Contact](#) [SiteMap](#)[Home](#)Search All of USLegal, llj [USLegal](#) » [Administrative Law Home](#) » [Relation of](#)[Administrative Process to Legal Process](#)

Relation of Administrative Process to Legal Process

36,000 Legal Forms - USLegalForms

Find any forms you need. 8 year winner of the best legal forms site from TopTenReviews. [Visit Today!](#)

Administrative law is a body of law that controls administrative activities of government agencies. An administrative agency is a permanent or semi-permanent branch of the government that is responsible for management and administration of specific functions.

An administrative agency is not a part of the U.S. judicial system. Courts and administrative agencies are separately created. Their functions also differ. Statutes have delegated administrative agencies executive power to administer legislative authority. The primary function of administrative agencies is to exercise the executive power delegated to them by statute.

Any administrative scheme should guarantee rational process flow through which results are determined. In *Harrison v. Ginsberg*, 169 W. Va. 162 (W. Va. 1982) it was observed that every final judgment provided by agency in a case shall be in writing or stated in record, and shall be accompanied by well reasoned fact findings and conclusions of law.

The administrative system substitutes administrative agencies for courts in making many decisions in the federal agencies. Such administrative agencies also determine definition of individual rights in administrative systems. In *Benedict v. Bd. of Police Pension Fund Comm'Rs*, 35 Wn.2d 465 (Wash. 1950), a police officer's 12-year-old son found the officer's gun and pointed it at him while the officer was sitting at his kitchen table. On seeing his wife's face, the officer turned around when his son discharged the gun, and killed him. The officer's widow filed an application for a pension. The Board denied the

Fykelet D

application on ground that husband was not actually engaged in performance of his duties as a police officer when he was shot. The officer's widow requested an appeal to the court from the board. The court observed that in determining a question the board should have considered all available information and facts. The board was not limited to the widow's testimony, but could consider the entire record and draw conclusions from all the evidence before it. The court concluded that the officer was performing his duty as a police officer in preventing his son from firing, and hence, his widow was eligible for pension.

Generally, administrative procedures are simple, less methodical, and less technical than judicial procedure. Such proceedings, however, are bound by basic evidentiary limits[i]. However, strict rules of evidence do not apply to administrative proceedings.

According to the Seventh Amendment of the US Constitution, in lawsuits where the value in controversy exceeds 20 dollars, parties are entitled to demand a jury trial in an action for damages[ii]. However, the right preserved by the Seventh Amendment is not applicable in administrative proceedings.

[1] *Ruffin v. Clinton*, 849 S.W.2d 108 (Mo. Ct. App. 1993)

[2] *Curtis v. Loether*, 415 U.S. 189 (U.S. 1974)

+ More In Administrative Law

- Administrative Law
- Main Ways to Obtain Information
- Advantages of Administrative Process
- Collaboration of Administrative Agencies and Courts
- Role of Attorney General in Advising Administrative Agencies
- Administrative Agency Opinions
- Administrative Conference of the United States
- Administrative Procedure Acts

- Administrative Agencies
- Types of Administrative Agency Action: Rulemaking, Adjudication, Investigation
- Administrative Agency Investigations
- Administrative Agency Rulemaking
- Licensing by Administrative Agencies
- Administrative Agency Adjudications
- Alternative Means of Dispute Resolution

Exhibit D

Exhibit A

Colorado Legal Resources

Provided by LexisNexis®, Official Publisher of the Colorado Revised Statutes

- 1. [United States Constitution](#)
- 2. [Colorado Constitution](#)
- 3. [Colorado Revised Statutes](#)
- 4. [Colorado Court Rules](#)
- 5. [Colorado Advanced Legislative Service](#)

FOCUS™ Terms Search Within Original Results (1 - 1) Advanced...

View Book Browse

C.R.C.P. 1 (Copy w/ Cite) Pages: 5

C.R.C.P. 1

COLORADO COURT RULES
 Copyright (c) 1995-2014 by LEXIS Law Publishing,
 a division of Reed Elsevier Inc.
 and Reed Elsevier Properties Inc.

*** This document reflects changes received through September 29, 2014 ***

COLORADO RULES OF CIVIL PROCEDURE
CHAPTER 1 SCOPE OF RULES, ONE FORM OF ACTION, COMMENCEMENT OF ACTION, SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

C.R.C.P. 1 (2014)

Rule 1. Scope of Rules.

(a)

Procedure Governed. These rules govern the procedure in the supreme court, court of appeals, district court and superior courts and in the juvenile and probate courts of the City and County of Denver, in all actions, suits and proceedings of a civil nature, whether cognizable as cases at law or in equity, and in all special statutory proceedings, with the exceptions stated in Rule 81. They shall be liberally construed to secure the just, speedy, and inexpensive determination of every action. Rules of civil procedure governing county courts shall be in accordance with Chapter 25 of this volume. Rules of Procedure governing probate courts and probate proceedings in the district courts shall be in accordance with these rules and Chapter 27 of this volume. (In case of conflict between rules, those set forth in Chapter 27 shall control.) Rules of Procedure governing juvenile courts and juvenile proceedings in the district courts shall be in accordance with these rules and Chapter 28 made effective on the same date as these rules. In case of conflict between rules those set forth in Chapter 28 shall control. Rules of Procedure in Municipal Courts are in Chapter 30.

(Exhibit E)

Colorado Legal Resources

Provided by LexisNexis®, Official Publisher of the Colorado Revised Statutes

1. [United States Constitution](#)
2. [Colorado Constitution](#)
3. [Colorado Revised Statutes](#)
4. [Colorado Court Rules](#)
5. [Colorado Advanced Legislative Service](#)

FOCUS™ Terms Search Within Original Results (1 - 1) Advanced...

View

C.R.C.P. 17 (Copy w/ Cite) Pages: 14
C.R.C.P. 17

COLORADO COURT RULES
Copyright (c) 1995-2014 by LEXIS Law Publishing,
a division of Reed Elsevier Inc.
and Reed Elsevier Properties Inc.

*** This document reflects changes received through September 29, 2014 ***

COLORADO RULES OF CIVIL PROCEDURE
CHAPTER 3 PARTIES
C.R.C.P. 17 (2014)

Rule 17. Parties Plaintiff and Defendant; Capacity.

(a) **Real Party in Interest.** Every action shall be prosecuted in the name of the real party in interest; but an executor, administrator, guardian, conservator, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought; and when a statute so provides, an action for the use or benefit of another shall be brought in the name of the people of the state of Colorado.

(b) **Capacity to Sue or Be Sued.** A married woman may sue and be sued in all matters the same as though she were sole. A partnership or other unincorporated association may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right. A father and mother or the sole surviving parent may maintain an action for the injury or death of a child:

Exhibit F

Not a Legal Professional? Visit our consumer site
Register | Log In

- CASES & CODES
- PRACTICE MANAGEMENT
- JOB & CAREERS
- LEGAL NEWS
- BLOGS
- SERVICE PROVIDERS
- Search FindLaw
- Forms
- Law Technology
- Lawyer Marketing
- Corporate Counsel
- Law Students
- JusticeMail
- Newsletters

FindLaw Caselaw Colorado CO Ct App AJAY SPORTS INC v. CASAZZA

AJAY SPORTS INC v. CASAZZA

Print ShareThis Font size: A A Reset

Colorado Court of Appeals, Div. IV.

AJAY SPORTS, INC., a Delaware corporation, Plaintiff-Appellee, v. Michael S. CASAZZA, Defendant-Appellant.

No. 98CA1010.

Decided: March 16, 2000

Myer, Swanson, Adams & Wolf, P.C., Thomas J. Wolf, John M. Anderson, Denver, for Plaintiff-Appellee. Bader & Associates, P.C., Gerald L. Bader, Jr., Denver, for Defendant-Appellant.

Defendant, Michael S. Casazza, appeals a judgment entered against him on a jury verdict finding him liable to plaintiff, Ajay Sports, Inc. (ASI), for damages resulting from a creditor claim of wrongful distribution of assets. We affirm.

Ajay Leisure Products, Inc. (Ajay Leisure), a subsidiary of ASI, is a manufacturer of golf products. In 1991, Pro-Mark, Inc. (PMI), a Delaware corporation, was formed to market golf equipment manufactured by Ajay Leisure. PMI also marketed other sporting goods trademarked under the "MacGregor" brand name and manufactured by another corporation, Sports Acquisition Corporation (MacGregor). Defendant was a director of PMI and a director and officer of MacGregor.

Through a private offering of stock, PMI raised approximately \$700,000. PMI and Ajay Leisure entered a purchase agreement whereby PMI paid Ajay Leisure \$300,000 plus one million shares of PMI common stock for all rights to Ajay Leisure's trademarked "Double Eagle" brand name and all existing Double Eagle inventory. PMI also paid MacGregor \$300,000 to acquire the right to market sporting goods under MacGregor's brand name.

It was later determined that Ajay Leisure had used the Double Eagle trademark as collateral for certain bank loans, and could not transfer the brand name as contemplated by the purchase agreement. Accordingly, the parties entered into a marketing agreement whereby PMI was granted the exclusive license to market products under the Double Eagle name. This agreement provided for PMI's previous payment of \$300,000, but made no mention of the one million shares of stock that had been previously transferred.

PMI marketed products under the Double Eagle brand name for almost two years. During this time, PMI incurred marketing, administrative, and manufacturing expenses for services performed by Ajay Leisure. PMI was unsuccessful in marketing the equipment and ceased business operations by the end of 1992.

PMI then attempted to recoup the loss sustained by its original private offering investors. Because MacGregor had never allowed PMI to use the MacGregor brand name in exchange for the \$300,000 it had received, defendant negotiated an agreement between PMI and MacGregor. Under the agreement, MacGregor would provide 150,000 shares of its common stock to PMI in exchange for PMI's release of all claims against MacGregor.

After the receipt of this stock, PMI's directors met and authorized the distribution of the MacGregor stock to PMI's original investors. Defendant maintained that Russell Casement was elected a director of PMI at this meeting. However, Casement denied participating in the meeting or being a director of PMI.

In addition to the MacGregor stock distribution, defendant also distributed stock options in an unrelated company to some of the original investors, and defendant received liability releases from some of these investors. It is uncontested that Ajay Leisure never received any part of PMI's distribution.

FindLaw Career Center

- Attorney
 - Corporate Counsel
 - Academic
 - Judicial Clerk
 - Summer Associate
 - Intern
 - Law Librarian
- [Search Jobs](#) | [Post a Job](#) | [View More Jobs](#)

[View More](#)

Wichita Bankruptcy Lawyer

wichita-bankruptcy.com

Save Money & File Bankruptcy FAST. 28 Years of Experience in Kansas.

Got Gadgets?

Get the latest on legal tech on FindLaw's Technologist blog
blogs.findlaw.com/technologist

FindLaw's on Facebook!

Like FindLaw now for daily updates on topics for Legal Professionals
facebook.com/findlawlegalprofessionals

Need a New Take on the Nine?

Read FindLaw's Supreme Court Blog now!
blogs.findlaw.com/supreme_court

(Exhibit F)

ASI initiated this lawsuit against defendant, as well as against Casement and other directors, claiming that PMI was insolvent at the time of the distribution, that the distribution was unlawful, and therefore, that the directors were personally liable to ASI for damages. ASI asserted its claims both as a creditor and a shareholder of PMI. The creditor claim was based on money owed for the services ASI claimed to have provided to PMI during the course of its operations.

Before trial, ASI settled its claims against the other directors, and only the shareholder and creditor claims against defendant and Casement proceeded to a jury trial. The parties presented conflicting evidence at trial regarding PMI's insolvency at the time of the distribution.

The jury returned a verdict in favor of ASI on the creditor claim and awarded it a total of \$105,210 in actual damages and an additional \$105,210 in exemplary damages, allocated as follows: (1) it found defendant liable to ASI for \$70,140 in compensatory damages and the same amount in exemplary damages and (2) it found Casement liable for \$35,070 in compensatory damages and the same amount in exemplary damages.

After defendant and Casement instituted this appeal, Casement satisfied the judgment against him and is no longer a party to this appeal.

I.

Defendant first contends the trial court erred in denying his motion for a directed verdict following the presentation of ASI's case. According to defendant, ASI had no standing to bring the suit, and it was not the real party in interest. We perceive no error.

A.

Standing is a jurisdictional issue that can be raised at any stage in an action, even for the first time on appeal. *Colorado Department of Public Health and Environment v. Caulk*, 969 P.2d 804 (Colo.App.1998).

The inquiry on standing is whether a plaintiff's complaint sufficiently alleges that plaintiff suffered an injury in fact to a legally protected interest as contemplated by statutory or constitutional provisions. In re *Application for Water Rights of Turkey Canon Ranch Limited Liability Co.*, 937 P.2d 739 (Colo.1997).

A plaintiff satisfies the injury-in-fact requirement by demonstrating that the challenged activity has caused, or has threatened to cause, injury to the plaintiff such that a court can say with fair assurance that there is an actual controversy proper for judicial resolution. *Dunlap v. Colorado Springs Cablevision, Inc.*, 829 P.2d 1286 (Colo.1992).

ASI's creditor claim was premised upon defendant's alleged violation of a Delaware statute, and at trial, the court ruled that Delaware law applied to the liability issues. On appeal, the parties similarly rely on Delaware authority in addressing the liability issues.

Under the Delaware code, directors of a corporation are liable to creditors of the corporation for an illegal distribution if the directors authorize such distribution while the corporation is dissolved or insolvent. *Del.Code Ann. tit. 8, § 174(a)* (1998); see *Geyer v. Ingersoll Publications Co.*, 621 A.2d 784 (Del.Ch.1992).

Here, ASI alleged that: (1) it was a creditor of PMI based on services it had provided for the company during the course of its business; (2) PMI had distributed assets while insolvent; and (3) applicable law creates a right of recovery for creditors who are not reimbursed when a corporation makes a distribution while insolvent. Therefore, as pled, ASI's complaint properly alleged an injury in fact to a legally protected interest.

Although defendant denied that ASI was a creditor of PMI, that determination was a factual question for the jury to resolve. Therefore, we conclude that ASI established standing.

B.

C.R.C.P. 17(a) requires that "every action shall be prosecuted in the name of the real party in interest."

While no designated procedure exists for raising the objection that a plaintiff is not the real party in interest, such challenges generally are raised in the form of an affirmative defense under C.R.C.P. 8(c) or in a C.R.C.P. 12(b) pretrial motion. Because it may be necessary to engage in discovery to obtain sufficient facts to dispute the plaintiff's status as a real party in interest, the issue may also be raised in a pre-trial motion for summary judgment. See 4 S. Hyatt & S. Hess, *Colorado Civil Rules Annotated* § 17.1 at 268 (1998); Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice & Procedure* § 1554 (1990); Moore's *Federal Practice* § 17.12 [1][a] at 17-64 (3d ed.1999). "[T]he function of the real party in interest rule is to ensure a proper res judicata effect by protecting the defendant against a subsequent suit by the person who is actually entitled to recover." 4 S. Hyatt & S. Hess, *supra*, § 17.1 at 267. See also *Alpine Associates, Inc. v. KP & R, Inc.*, 802 P.2d 1119 (Colo.App.1990).

The failure to raise the issue in a timely manner may constitute waiver. See 4 S. Hyatt & S. Hess, *supra*, § 17.1 at 268; see also C. Wright, A. Miller & M. Kane, *supra*, § 1554 at 407 (issue should be raised with reasonable promptness); Moore's *Federal Practice*, *supra*, § 17.12[1][a] at 17-64 ("If an objection is not timely

(Exhibit F)

made, it will be deemed to have been waived."); cf. *Alpine Associates, Inc. v. KP & R, Inc.*, supra, 802 P.2d at 1121 ("[C.R.C.P. 17(a)] requirement, when properly raised and objected to by a defendant, necessitates proof by the plaintiff, prior to resting its case, that it is that party who has the right to invoke the aid of the court in order to vindicate the legal interest in question.").

Here, defendant asserted in his answer that ASI had failed to state a claim upon which relief could be granted under C.R.C.P. 12(b)(5) and that ASI lacked standing to bring the claim. Defendant also filed a 12(b)(5) motion before trial which was considered by the trial court, but in that motion, defendant never asserted that ASI was not the real party in interest. Rather, he claimed no relief was available because derivative suits were available only to the corporation and because officers and directors were liable only to the corporation, not shareholders or creditors. Defendant did not seek dismissal based on the real party in interest grounds until after the completion of ASI's case-in-chief.

Because we view this argument as having been waived, we perceive no abuse of discretion by the trial court in refusing to dismiss the case under C.R.C.P. 17(a). See *Gogolin & Stelter v. Karn's Auto Imports, Inc.*, 886 F.2d 100 (5th Cir.1989)(Rule 17(a) defense waived when made as directed verdict motion at close of plaintiff's evidence); see also *Whelan v. Abell*, 953 F.2d 663 (D.C.Cir.1992)(abuse of discretion to allow a Rule 17(a) argument as late as at the beginning of trial if the real party was prejudiced by defendant's laxness).

II.

Defendant next contends the trial court abused its discretion by refusing to allow him to amend his answer. We disagree.

Leave to amend pleadings should be freely given when justice so requires. C.R.C.P. 15(a). Trial courts may permit amendments to pleadings at any stage of the litigation process so long as undue delay does not result and other parties are not prejudiced by such amendments. A trial court's ruling with respect to a party's motion to amend a pleading will not be disturbed on appeal absent an abuse of discretion. *Nelson v. Elway*, 971 P.2d 245 (Colo.App.1998).

Generally, the desire to preserve a scheduled trial date alone is an insufficient reason to deny a motion to amend. However, if that consideration appears in combination with other factors, such as the absence of a reasonable excuse for the delay or previous delays, the trial court does not abuse its discretion in denying such a motion. The movant carries the burden of demonstrating lack of knowledge, mistake, inadvertence, or other reason for failing to raise the amended claim earlier. See *Polk v. Denver District Court*, 849 P.2d 23 (Colo.1993).

Here, defendant moved to amend his answer 62 days before trial in order to expand on previously stated defenses and add new defenses. His explanation for the delay was that his new attorney had just found evidence supporting the proposed amendments. See *Polk v. Denver District Court*, supra (acquiring new counsel does not entitle a defendant to amend his answer).

However, defendant's attempt to amend the pleadings came more than 100 days after the cut-off date for the amendment of pleadings, and the cut-off date was listed in the revised case management order to which defendant's new counsel specifically had agreed. Further, defendant had already received one continuance of the trial.

The trial court denied the motion, determining that "it was simply too late to restructure preparation [of the] case." Under these circumstances, we cannot say the trial court abused its discretion in concluding there was prejudice to the other parties and in denying the defendant's motion to amend.

III.

Defendant next contends there was insufficient evidence to support the jury's finding that PMI was insolvent. Again, we disagree.

In reviewing a challenge to the sufficiency of the evidence, appellate courts are bound by a jury's findings and can only disturb a jury verdict if it is clearly erroneous. *Hock v. New York Life Insurance Co.*, 876 P.2d 1242 (Colo.1994).

It is the jury's province alone to determine the weight of the evidence and the credibility of witnesses, and to draw all reasonable inferences of fact. A jury's verdict will not be disturbed if there is any support for it in the record. *Murphy v. Glenn*, 964 P.2d 581 (Colo.App.1998).

As previously noted, under Delaware law, directors of a corporation are liable to creditors of the corporation for an illegal distribution when the directors authorize such distribution while the corporation is dissolved or insolvent. Del.Code Ann. tit. 8, § 174(a) (1998); *Geyer v. Ingersoll Publications Co.*, supra. An insolvent corporation is one whose asset value has decreased to less than the amount of its debts. *Geyer v. Ingersoll Publications Co.*, supra.

CEHIBTAE

Colorado Legal Resources

Provided by LexisNexis, Official Publisher of the Colorado Revised Statutes

- 1. United States Constitution
- 2. Colorado Constitution
- 3. Colorado Revised Statutes
- 4. Colorado Court Rules
- 5. Colorado Advanced Legislative Service

FOCUS™ Terms: Search Within Original Results (1 - 1) Advanced...

View Pages: 13

COLORADO COURT RULES
 Copyright (c) 1995-2014 by LEXIS Law Publishing,
 a division of Reed Elsevier Inc.
 and Reed Elsevier Properties Inc.

*** This document reflects changes received through September 29, 2014 ***

COLORADO RULES OF CIVIL PROCEDURE
 CHAPTER 3 PARTIES
 C.R.C.P. 17 (2014)

Rule 17. Parties Plaintiff and Defendant; Capacity.

Cross references: For competence of persons eighteen years of age or older to sue and be sued, see § 13-22-101(1)(c), C.R.S.; for rights of married women, see part 2 of article 2 of title 14, C.R.S.; for service of process on minors, see C.R.C.P. 4(e)(2); for guardians of minors and guardians of incapacitated persons, see parts 2 and 3 of article 14 of title 15, C.R.S.

ANNOTATION

- I. General Consideration.
- II. Real Party in Interest.
 - A. In General.
 - B. Who is Real Party in Interest.
 - C. Action by Executor or Trustee or in Contract.
- III. Capacity to Sue or Be Sued.
 - A. In General.
 - B. Married Women.
 - C. Partnerships or Unincorporated Associations.
 - D. Injury or Death of Child.
- IV. Infants or Incompetent Persons.
 - A. In General.
 - B. Sue or Defend.
 - C. Appointment of Guardian.

I. GENERAL CONSIDERATION. Law reviews. For article, "Damages Recoverable for Injuries to A Spouse in Colorado", see 28 Dicta 291 (1951). For article, "Pleadings, Rules 7 to 25", see 28 Dicta 368 (1951). For article, "Parties, Rules 17-25", see 23 Rocky Mt. L. Rev. 552 (1951). For article, "One Year Review of Civil Procedure and Appeals", see 40 Den. L. Cr. J. 66 (1963).

This rule is procedural, providing how a legally constituted entity may bring its action. Hidden Lake Dev. Co. v. District Court, 183 Colo. 168, 515 P.2d 632 (1973).

II. REAL PARTY IN INTEREST.

A. In General. Annotator's note. Since section (a) of this rule is similar to §§3 and 5 of the former Code of Civil Procedure, which was supplanted by the Rules of Civil Procedure in 1941, relevant cases construing those sections have been included in the annotations to this rule.

This rule is identical to F.R.C.P. 17(a). Hoepfner Constr. Co. v. United States, 287 F.2d 108 (10th Cir. 1960).

This rule provides that every action shall be prosecuted in the name of the real party in interest. Nat'l Advertising Co. v. Sayers, 144 Colo. 356, 356 P.2d 483 (1960); Elk-Rifle Water Co. v. Templeton, 173 Colo. 438, 484 P.2d 1211 (1971).

The function of the real-party-in-interest rule is to ensure a proper res judicata effect by protecting the defendant against a subsequent suit by the person who is actually entitled to recover. Ajay Sports, Inc. v. Casazza, 1 P.3d 267 (Colo. App. 2000).

Standing is a jurisdictional prerequisite that requires a named plaintiff to bring suit only to protect a cognizable interest, and a plaintiff has standing if he or she has an injury in fact and that injury is to a legally protected interest. Durdin v. Cheyenne Mountain Bank, 98 P.3d 899 (Colo. App. 2004).

Argument may be waived, as where defendant asserts it in the answer but omits it from a pretrial motion to dismiss for failure to state a claim on which relief may be granted. Ajay Sports, Inc. v. Casazza, 1 P.3d 267 (Colo. App. 2000).

STATE OF COLORADO
Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

**NOTICE
OF
APPLICATION FOR DETERMINATION OF ABANDONMENT
OF THE TOWN OF BONANZA
IN SAGUACHE COUNTY, COLORADO**

PLEASE TAKE NOTICE that, pursuant to section 31-3-201, C.R.S., the county attorney of the County of Saguache, State of Colorado, made application to the Secretary of State for a determination that the Saguache County town of Bonanza is abandoned. The application alleges as its grounds that the town failed, for a period of longer than five years immediately before the filing of the application, to hold any regular or special election, elect officers, or maintain any of the functions of town government.

A hearing is scheduled for January 7, 2014, beginning at 11:00 A.M. in the Blue Spruce Room, Office of the Secretary of State, 1700 Broadway, Denver, Colorado, 80290. At the hearing, evidence and testimony will be taken from any interested person. The public is invited to attend.

In accordance with part 2 of article 3 of title 31 Colorado Revised Statutes, after hearing the application the Secretary of State will determine whether or not the town of Bonanza is abandoned.

Dated this 19th day of November, 2013.

Suzanne Staiert
Deputy Secretary of State

STATE OF COLORADO
Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

NOTICE
OF
APPLICATION FOR DETERMINATION OF ABANDONMENT
OF THE TOWN OF BONANZA
IN SAGUACHE COUNTY, COLORADO

PLEASE TAKE NOTICE that, pursuant to section 31-3-201, C.R.S., the county attorney of the County of Saguache, State of Colorado, made application to the Secretary of State for a determination that the Saguache County town of Bonanza is abandoned. The application alleges as its grounds that the town failed, for a period of longer than five years immediately before the filing of the application, to hold any regular or special election, elect officers, or maintain any of the functions of town government.

A hearing was scheduled for January 7, 2014, at 11:00 A.M. in the Blue Spruce Room, Office of the Secretary of State, 1700 Broadway, Denver, Colorado, 80290. At the hearing, evidence and testimony was taken from any persons. The record of this hearing will remain open until February 6, 2014 at 5 P.M. to allow interested parties to submit evidence. Any evidence should be submitted to vanessa.conway@sos.state.co.us

In accordance with part 2 of article 3 of title 31 Colorado Revised Statutes, after hearing the application the Secretary of State will determine whether or not the town of Bonanza is abandoned.

STATE OF COLORADO
Department of State

1700 Broadway
Suite 250
Denver, CO 80290



Exhibit F

Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

NOTICE
OF
APPLICATION FOR DETERMINATION OF ABANDONMENT
OF THE TOWN OF BONANZA
IN SAGUACHE COUNTY, COLORADO

PLEASE TAKE NOTICE that, pursuant to section 31-3-201, C.R.S., the county attorney of the County of Saguache, State of Colorado, made application to the Secretary of State for a determination that the Saguache County town of Bonanza is abandoned. The application alleges as its grounds that the town failed, for a period of longer than five years immediately before the filing of the application, to hold any regular or special election, elect officers, or maintain any of the functions of town government.

On February 5, 2014, the Board of Commissioners for Saguache County, acting through their County Attorney, made a request that the Secretary stay the decision in this matter until March 14, 2014. This request is granted and the record will remain open until March 14, 2014 at 5 P.M. to allow interested parties to submit evidence. Any evidence should be submitted to vanessa.conway@sos.state.co.us.

In accordance with part 2 of article 3 of title 31 Colorado Revised Statutes, after the record closes the Secretary of State will determine whether or not the town of Bonanza is abandoned.



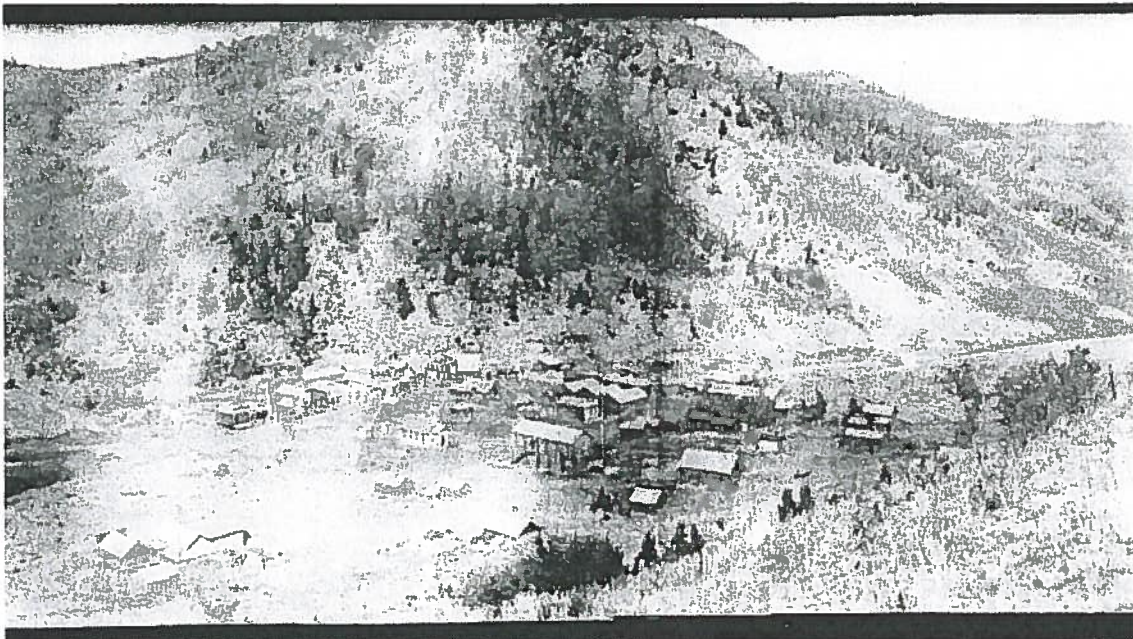
COLORADO MATTERS

Why Bonanza may be latest Colorado town deemed abandoned by the state

BY SHERRY KNECHT FEB 3, 2014

LISTEN Audio: Ryan Warner speaks with Andrew Cole and Mark Perkovich

Slideshow: The Colorado Secretary of State's office plans to announce this week whether it will disincorporate the town of Bonanza. Once a thriving silver mining town, only one full-time resident remains in Bonanza.



A view of Bonanza from a nearby hilltop taken in 1901 according to the writing on the paper it was mounted on.
(Photo: Courtesy of Saguache County/Etta Sarter and Sonja Mongar)

1 of 5

The town of Bonanza, Colo., is waiting to hear if it will still exist next year.

Located in rural Saguache County, Bonanza earned its name in 1880 when silver miners thought they'd hit it big.

Exhibit G

The local mines lived up to expectations for a short while, and the little mountain town swelled to over 1,000 people.

The silver petered out, though, and most of the population had already left by the time a fire ravaged the town in 1937.

Today only one person lives in Bonanza full time, although a handful of hardy souls make their home in the secluded hills surrounding the town.

Tourists make their way up the 15-mile dirt road to gain access to the public lands around Bonanza for hunting and ATV trails during the summer, and history and genealogy buffs visit the cemeteries around the area.

Other than that, Bonanza offers a lot of peace and quiet.

But soon, Bonanza may be declared abandoned, no longer an incorporated Colorado town.

This month the Secretary of State's office will make its final decision following a January hearing to determine whether the town has failed to perform its duties for at least five years.

Mark Perkovich is the lone full-time resident of Bonanza and says he likes living there and wouldn't know where else to live if he had to move. He says that if the town had to be disincorporated by the state it would be "the natural course of things."

Perkovich says it would be nice to keep the town's autonomy but there aren't enough residents to enforce bylaws or regulations.

Andrew Cole, a spokesperson from the Colorado Secretary of State's office, says a town may be deemed abandoned if it has failed to complete necessary state filings, produce a budget, hold elections or perform other functions for a period of at least five years.

Forty-three other Colorado towns have become extinct over the past 10 years:

- Chihuahua, Summit County, 2013
- Acequia, Douglas County, 2007
- Deckers, Douglas 2007
- Douglas, Douglas County, 2007
- Frankstown, Douglas County, 2007
- Greenland, Douglas County, 2007
- Huntsville, Douglas County, 2007
- Lehigh, Douglas County, 2007
- Louviers, Douglas County, 2007
- Russelville, Douglas County, 2007
- West Creek, Douglas County, 2007
- Critchell, Jefferson County, 2005
- Boston, Summit County, 2005
- Braddoks, Summit County, 2005
- Carbonateville, Summit County, 2005
- Clinton City, Summit County, 2005
- Conger's Camp, Summit County, 2005

Exhibit G

But the houses and the driveways are all empty. To someone standing by a car at the crossroads, honking the horn in the futile hope of rousing any sign of life, Bonanza can feel like the setting of a Steven King novel. The loneliness is complete. Everyone is gone.

Well, almost everyone. Bonanza is one of the oldest existing municipalities in Colorado and indisputably its smallest, with a population of one full-time resident.

That population's name is Mark Perkovich.

**“ I love the winter. About the only person I see up here
is the mailman.”**

— Mark Perkovich
Bonanza's lone resident

“What I moved here for is the lifestyle I'm living,” says Perkovich, a 54-year-old veteran and retired Hotshot firefighter who relocated from Denver to the solitude of Bonanza nearly 20 years ago. His property of weathered outbuildings and sheds, decorated with old mining machinery and animal skulls and arranged around a house that's a little too big to be called a cabin, shows the only real signs of life in Bonanza.

The lifestyle Perkovich has always craved involves “a lot of long mornings” in the winter, he says, and a routine of continuously feeding his two woodstoves, clearing an endless amount of snow from the porch and the driveway and keeping an eye on neighboring properties. Mostly, it's just reveling in isolation.

“I love the winter,” he says. “About the only person I see up here is the mailman.”

The mailman may also
be the only government
official to set foot in
Bonanza in at least the
last five years. Although
it was incorporated as a
bona fide city on Jan. 1,

Share

Ev Labut H

1881, this former silver-, zinc- and copper-mining boomtown long ago stopped functioning as one.

Now, Colorado's quietest city is on the brink of being officially abandoned by the state.

The population of full-time residents — never more than a dozen at any point during the

past 20 years, according to the best recollections — dropped suddenly in the mid-2000s to the point where there weren't enough people to fill the town board.

“There were only seven [full-time residents] to begin with,” says Scott Ashley, who grew up in Bonanza but now lives in Villa Grove, the closest outpost of civilization, 14 miles down-valley. “Three people died, two moved away.”

Of the remaining two residents, one vanished into the ether of fragile memories. Now, only Perkovich is left.

Perkovich can't be his own government: The city charter requires four or five council members (memories differ) and a mayor. But even if there were enough other residents to make it possible, he has no interest in serving. “My taste for politics is pretty thin,” he says, adding that he'd be happy to have the state dissolve Bonanza's incorporation so that it could come under the jurisdiction of rural, windswept Saguache County.

The decision, though, may be out of his hands. The effort to scrub Bonanza from the books has ignited an unexpected flurry of protest.



Mark Perkovich Patrick Cavan Brown for Al Jazeera America

Share

Exhaled H



A view of Bonanza Patrick Cavan Brown for Al Jazeera America

“We abandoned another one called Chihuahua, I believe it was in Summit County, and we didn’t hear anything. There certainly wasn’t the same level of passion that the town of Bonanza had.”

— Rich Coolidge
Spokesperson, Colorado Secretary of State

Abandonment proceedings are usually among the most mundane tasks the Colorado secretary of state’s office oversees, but they represent part of the necessary evolution of the state, says Rich Coolidge, a spokesperson with the agency for more than seven years. From time to time, municipalities become unable to provide services to their residents, resulting in a governmental black hole where the streets don’t get plowed, the laws aren’t enforced and revenue shares from the state and county go unspent because there’s no one to cash the checks.

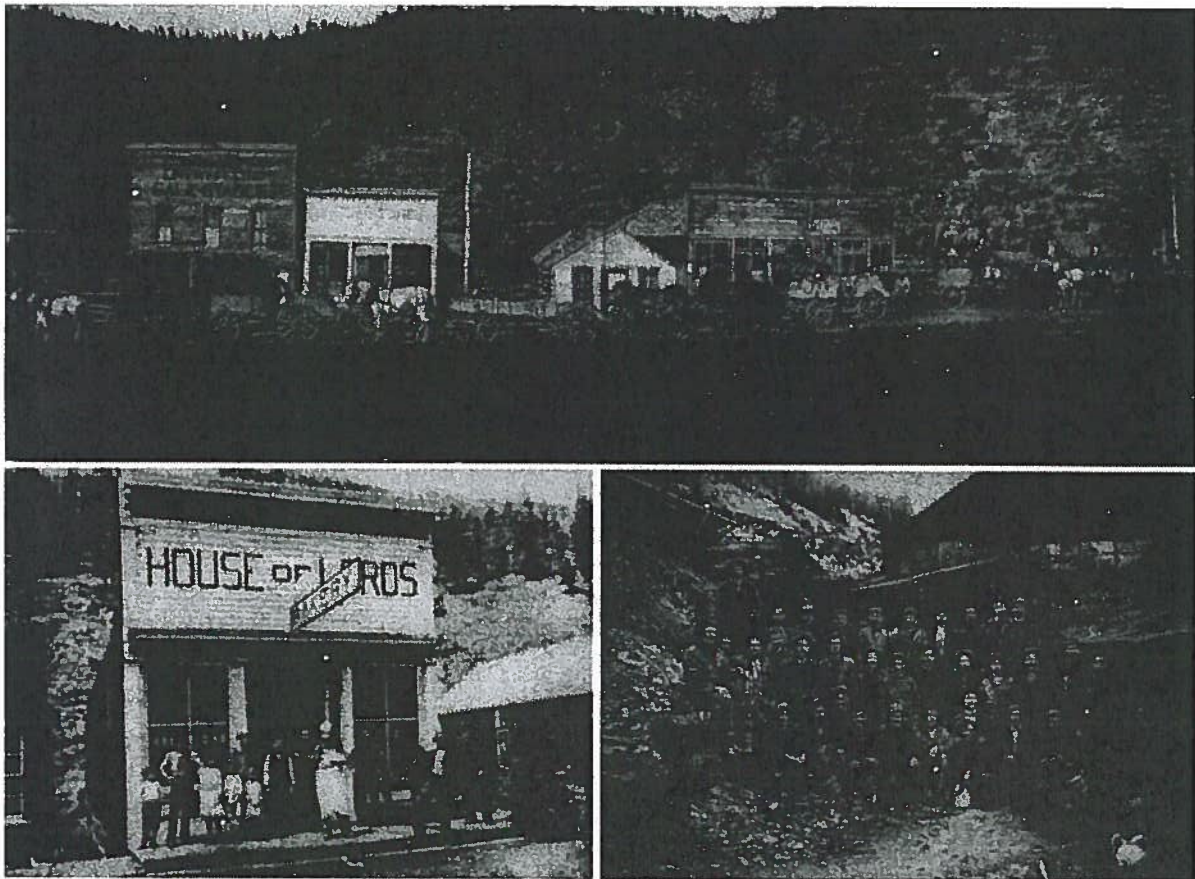
Forty-three Colorado towns have been declared abandoned over the past decade, and hardly anyone seemed to notice or care.

“We abandoned another one called Chihuahua, I believe it was in Summit County, and we didn’t hear anything,” Coolidge says. “There certainly wasn’t the same level of passion that the town of Bonanza had.”

Share

Nearby landowner Jim Shepherd spearheaded the effort to postpone a decision about Bonanza, hoping to give the handful of people who want to preserve its status as a real “city” time to prove that some governmental action — anything — took place during the last five years, the constitutional threshold for abandonment.

Part of the uproar is nostalgic. Seventy-nine-year-old Betty Ashley, Scott Ashley’s mother and Bonanza’s last mayor, who now lives in Villa Grove, remembers a time when the city’s population was estimated based on the number of pool halls and saloons. During its heyday in the 1920s, thousands of miners and their families lived in Bonanza. There were 16 dance halls and 26 saloons, she says, suggesting a jitterbug bustle for Bonanza that’s hard to imagine today. Scofflaws were tossed into a rat-filled “jail” in her father’s house; he also did a stint as the mayor. Her own drunken uncle was an inmate on one occasion, she recalls with a laugh.



Bonanza in its heyday, clockwise from top: Ore teams on Main Street; the crew of the Cocomonga Mine in 1900; the House of Lords saloon.

Share

Exhibit 1

That those good old days are relegated to a handful of quickly fading memories and an exhibit of Bonanza ephemera in the Saguache County Museum doesn't matter to those who want the city to retain its status.

"People who move to a city like Bonanza are very independent and they don't like the idea that the government was just going to abandon the town without even talking to the homeowners," says Kevin Harris, who remembers a time in the 1990s when "local government" was represented by a hand-made sign at the city limits warning people not to shoot guns in the town, "just like the Old West."

Harris is one of an estimated 200 people who own property in Bonanza but reside elsewhere. He lives in Carbondale, Colorado, and like everyone else, he leaves Bonanza in Perkovich's care over the winter and returns for summer vacation. Perkovich says there are landowners in Bonanza from 33 states.

Harris says he only heard about the abandonment notice after Shepherd discovered it tacked to the community bulletin board late last year, when the snow was deep and the town in its winter slumber.

"My objection was to the way it was being handled," Shepherd says. The notice was posted "in the dark of winter when no one is up

there and without the knowledge of the 200 property owners. Our efforts were to postpone so the owners could be notified. Do they want to fight the abandonment and bring it into compliance or not? It should be up to them."

Given the sudden interest in Bonanza's fate, the secretary of state's office agreed to postpone (http://www.sos.state.co.us/pubs/info_center/townAbandon.html) a decision until Sept. 1. Landowners are only just beginning the process of examining their options to save Bonanza.

Share



The notice of abandonment hangs on the town's bulletin board, left. Patrick Cavan Brown for Al Jazeera America

Exhibit 4

Residents have already found some evidence, however thin, that could help to prove Bonanza had a “functional government” at some point over the last five years. Someone in the town submitted an official budget to the state Department of Local Affairs for fiscal year 2009, just within the five-year window. The budget, detailing about \$13,000 of expenses for everything from office supplies to road improvements, was discovered on a hard-to-find page of the agency’s website (https://dola.colorado.gov/dlg_portal/filings.jsf;jsessionid=31ab6331ef3a010812a9faa61916?id=55002&category=1&jfwid=31ab6331ef3a010812a9faa61916%3A0).

Supporters also produced minutes for the Saguache County Board of Commissioners, which noted cryptically (http://www.sos.state.co.us/pubs/info_center/files/2014/BonanazaExhibit8.pdf), “There was a check cashed on behalf of the Town of Bonanza in either 2009 or 2010.”

“ But folks have to be clear about what the consequences of that are. A lot of people we’re hearing from are appealing to emotion.”

— Andrew Cole
Spokesperson, Colorado Secretary of State

Other clues might be contained in the town’s official records. Believed to be lost forever, the records were recently discovered by Jim Shepherd in an old trailer on Betty Ashley’s property. Shepherd says no one has yet had the time to cull them for proof that Bonanza had a pulse at some point since 2009.

Harris and Shepherd are hoping for an easier solution, however, one that might be possible due to a controversial new state voting law. The 2013 law allows residents to register to vote anywhere in Colorado, all the way up to and including on Election Day, as long as they pledge under oath to make that place their permanent home. While the law was intended to make it easier to vote, its critics have suggested that unscrupulous voters could claim a new home in a highly contested district, vote, then change their minds and “move back” to their original place of residence. One critic illustrated this publicly, successfully casting a blank ballot for a race in Colorado Springs by swearing

Share

Exhibit 4

(http://www.denverpost.com/breakingnews/ci_24040159/new-el-paso-county-resident-jon-caldara-turns) that he intended to make it his permanent home, only to change his mind and continue living in Boulder, 100 miles away. (There is no law against being wishy-washy about where one wants to live.)

But the quirky law could be Bonanza's saving grace. Harris says he would be willing to switch his registration from Carbondale — and thus become an on-paper resident, theoretically qualified to run for office — if he can convince others to do the same. He hopes to hold a town meeting with other absentee landowners over the summer to gauge interest.

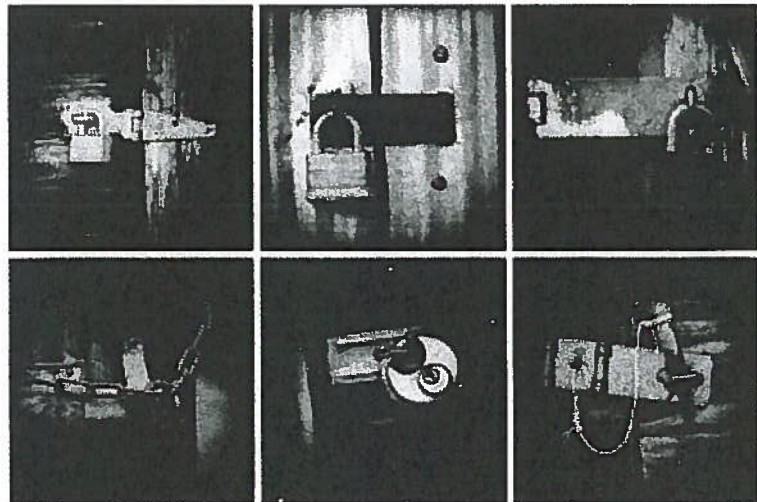
Andrew Cole, a spokesman for the secretary of state's office, says the scheme could work. "If they put together a town board and held a meeting, that would be a functional government," he says. "But folks have to be clear about what the consequences of that are. A lot of people we're hearing from are appealing to emotion."

“ No matter what happens, it's still going to be Bonanza. It's still going to be on the map.”

— Mark Perkovich
Bonanza's lone resident

Perkovich, the town's lone resident, agrees that it takes more than emotion to properly run a city. The Pennsylvania native and Army veteran, whose favorite thing to do is simply walk the forested hills overlooking Bonanza, and who turns to his Bible when he needs company, says he's very comfortable

Share



Flimsy locks guard what remains of the town Patrick Cavan Brown for Al Jazeera America

FX helmut H

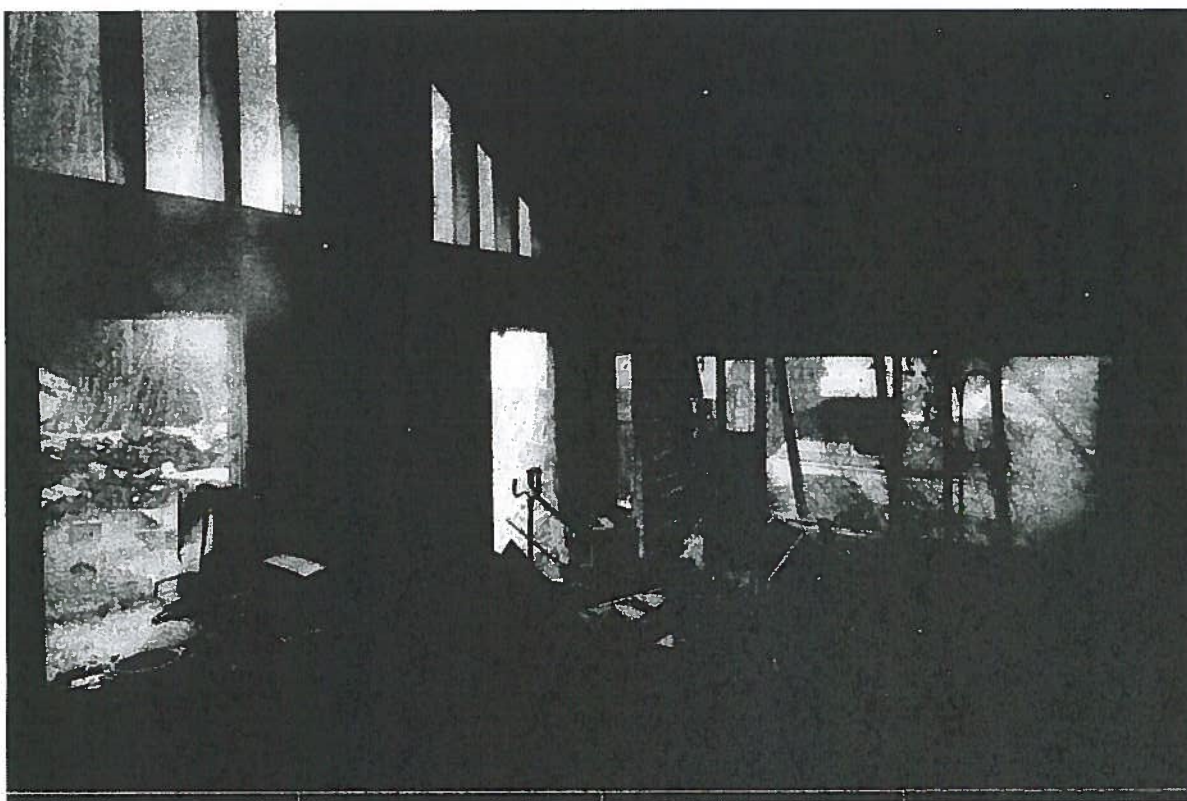
being left alone. He's somewhat perplexed, he says, by his part-time neighbors' enthusiasm for reviving a government that was never all that functional in the first place.

Government should provide representation, he says, even if it only represents one person. Perkovich already pays his property tax bill to the county, but since it has no jurisdiction in Bonanza, he gets no services or benefits for his payments. If the landowners revive Bonanza's government, that must change, he says.

When asked what he thinks will happen, he displays the sort of practicality that's necessary for life in a virtual ghost town, snowbound for six months of the year, his only company being the occupants of the Bonanza Cemetery on the hill behind his house. A decision by bureaucrats in the far-off capital isn't going to influence his day-to-day existence.

"No matter what happens, it's still going to be Bonanza. It's still going to be on the map," he says, adding that he's not wasting much time on hypothetical outcomes.

"When I first moved up here, a guy told me, 'Don't believe anything you hear and only half of what you see,'" he says. "I've been living by that ever since."



Share

Exhibit H

The remains of a home that has been ravaged by bears. Patrick Cavan Brown for Al Jazeera America

SHARE THIS: <http://alj.am/1tul8dz>

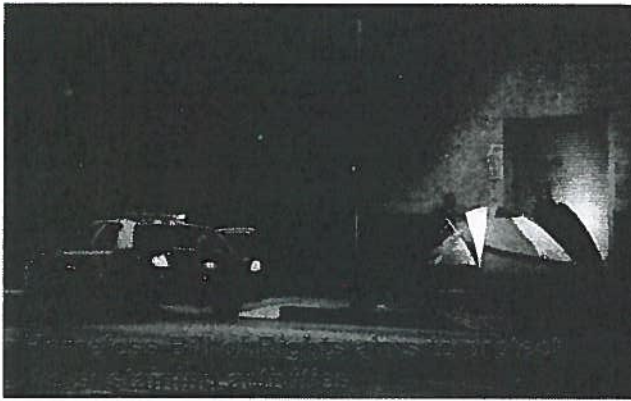
RELATED NEWS

PLACES

Colorado (/topics/topic/us-location/colorado.html)

TOPICS

Small Town America (/topics/topic/issue/Small-town-America.html)



(/articles/2014/10/6/holdholdholdhomelessbillofrightsaimstoend/articles/2014/10/6/colorado-studentprotest.html)



(/articles/2014/9/24/colorado-walkoutconservative.html)



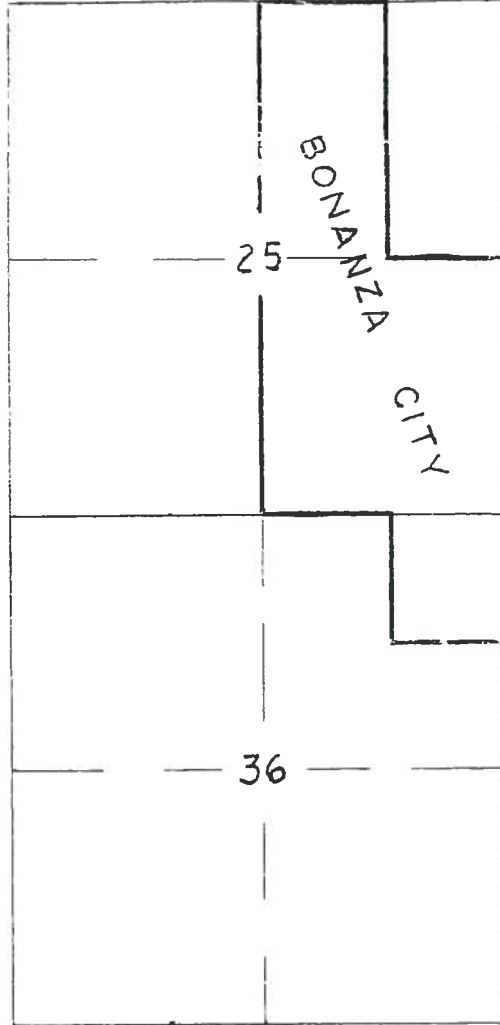
(/articles/2014/9/24/marthasvineyardthatyouwontreadaboutinthepress.html)

Share

Exhibit 4

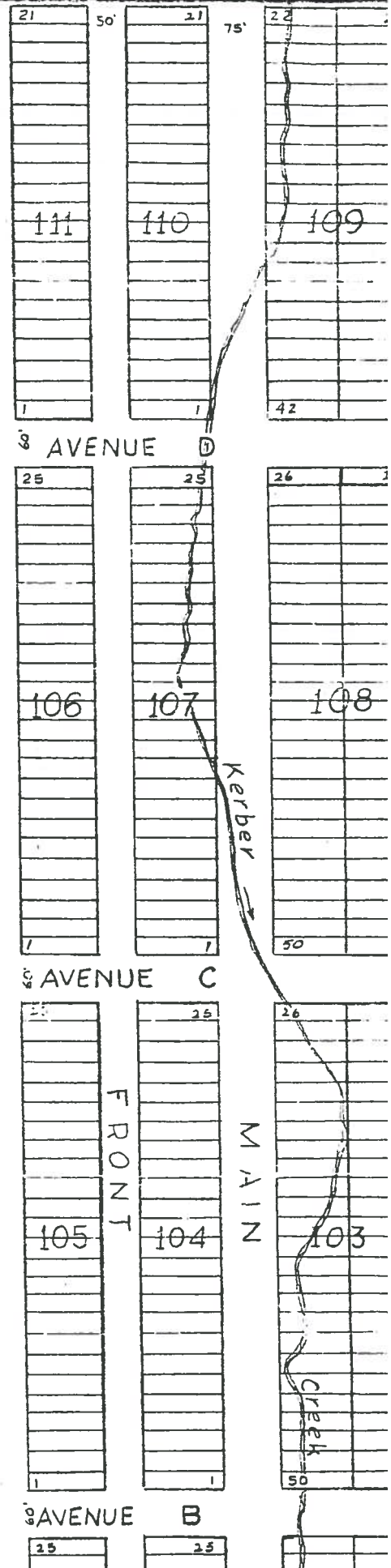
① 1

T. 47 N., R. 7 E., N.M.P.M.



SCALE: 1" = 2000'

N



Q 1

DESCRIPTION

Boundaries or town limits are as follows; Beginning at the SE corner of the NE⁴ Sec. 36, T.47N., R.7 E., N.M.P.M.; Running thence N $\frac{3}{4}$ (mile) along Range line to the NE corner of SE⁴ Sec. 25; Thence West $\frac{1}{4}$ mile to the SE⁴ Sec. 25; Thence N $\frac{1}{2}$ mile to the NE corner of NW⁴ of NE⁴ Sec. 25; Thence West along Section line $\frac{1}{4}$ mile to the NW corner of NW⁴ of NE⁴ Section 25; Thence South 1 mile to the SW corner of SE⁴ Sec. 25; Thence East along Section line $\frac{1}{4}$ mile to the SE corner of SW⁴ of SE⁴ Sec. 25; Thence South $\frac{1}{4}$ mile to the SW corner of NE⁴ of NE⁴ Sec. 36; Thence East $\frac{1}{4}$ mile to place of beginning. Comprising an area of 280 acres to-wit: The NE⁴NE⁴ Sec. 36. The SE⁴ Sec. 25 and the W² of NE⁴ Sec. 25. All in T.47N., R.7 E., N.M.P.M.

NOTES

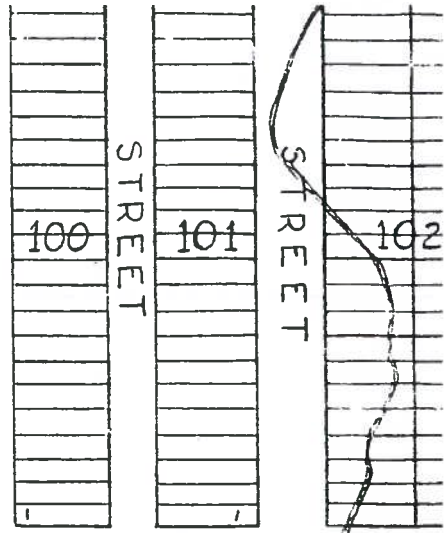
First Avenue and all parallel Avenues running N. 58 E.
 Main Street South of First Avenue N. 32° W. All parallel streets same course.
 Main Street North of First Avenue N. 0° 20' W. All parallel streets same course.
 Copper Avenue and all other streets and avenues N. 89° 40' E.

The width of all streets and avenues as indicated on Plat.
 All alleys 16' wide.
 All blocks not mentioned 100' x 300'. All lots not mentioned 25' x 100'.

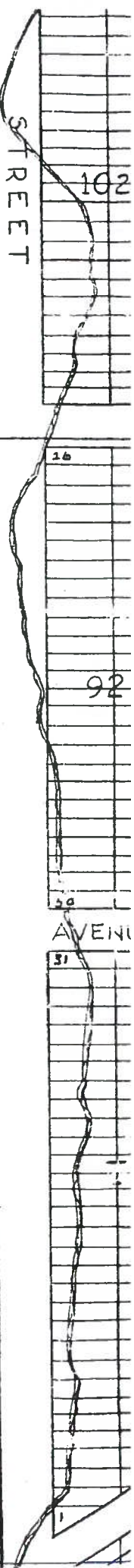
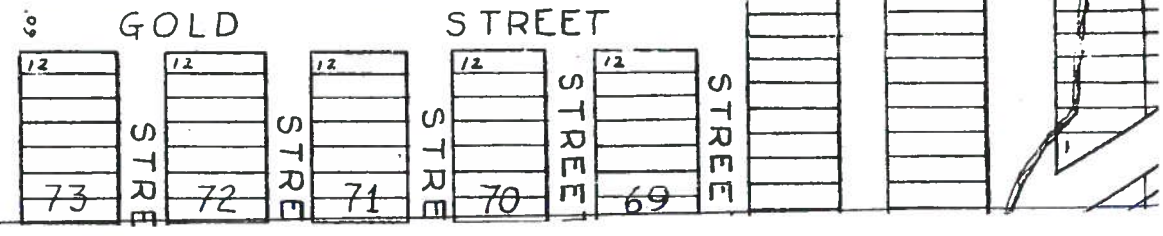
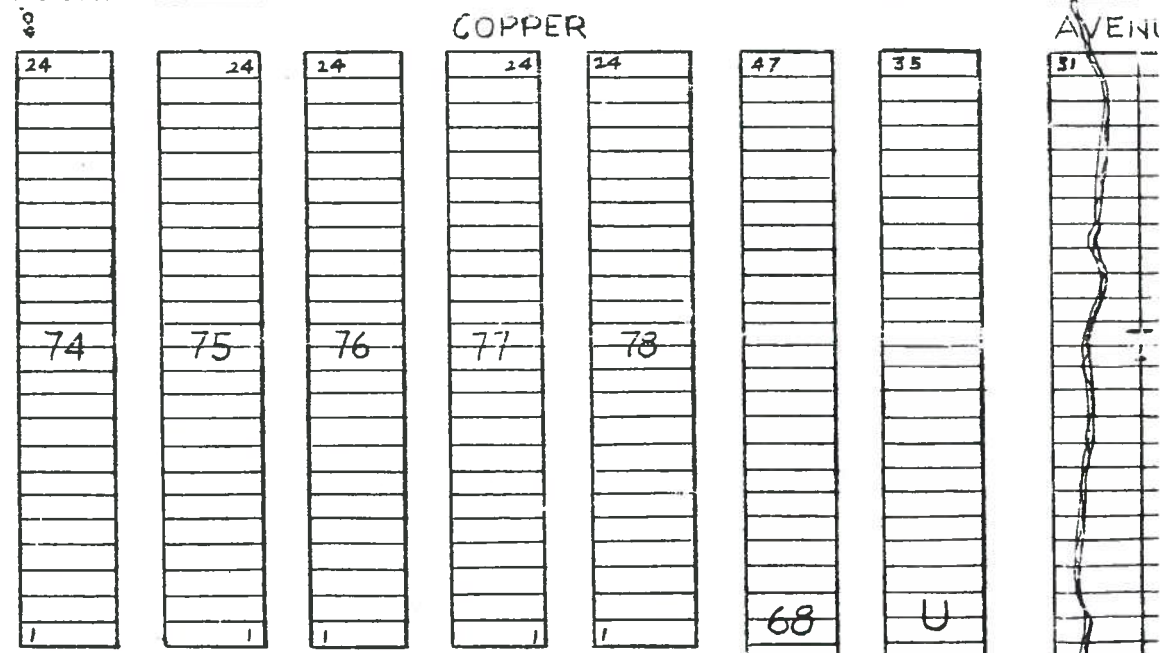
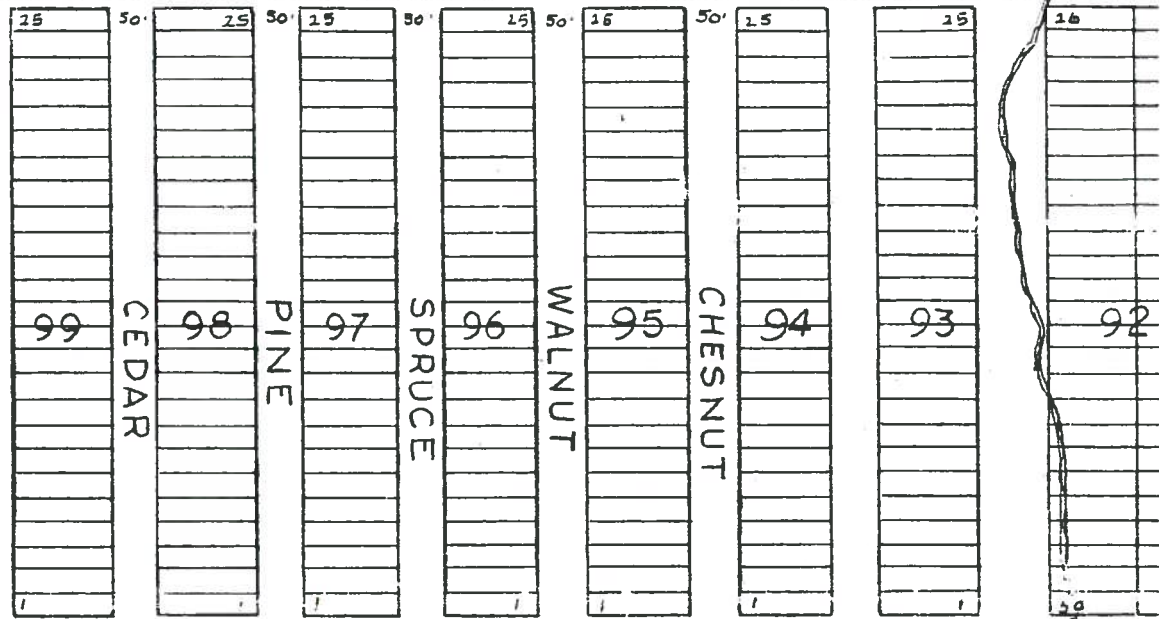
- Blocks 1, 2, 3, 24, 28, F, G, H, I, J, K. & L 216' x 300'.
 - Block R 150' x 216' with Lots 25' x 108'.
 - Block S 150' x 1450'.
 - Block W 150' x 950'.
 - Block 62 150' x 875'.
 - Block 83 150 x 282 $\frac{1}{2}$ ' x 241 $\frac{3}{4}$ '.
 - Block 82 132 $\frac{1}{2}$ ' x 212' x 250'.
 - Block 81 100' x 160' x 213 $\frac{1}{2}$ '.
 - Block 80 100' x 245' x 308 $\frac{1}{2}$ '.
 - Block 79 100' x 335' x 398 $\frac{1}{2}$ '.
 - Block X 100' x 425' x 488 $\frac{1}{2}$ '.
 - Block T 183.16' x 685' x 216' x 789.46' with Lots 91.58' x 25', except Lot 1 - 49.8' x 79.7' x 94', Lot 59 - 108' x 91.58' x 57.23'.
 - Block U 100' x 1050' x 1113 $\frac{1}{2}$ '.
 - Block 68 100' x 1143 $\frac{1}{2}$ ' x 1207'.
 - Block 67 100' x 63 $\frac{1}{2}$ ' x 118.4'.
 - Block 66 100' x 86 $\frac{1}{2}$ ' x 150'.
 - Block 65 100' x 180' x 243 $\frac{1}{2}$ '.
 - Block 64 100' x 266 $\frac{1}{2}$ ' x 300'.
 - Block 63 100' x 356 $\frac{1}{2}$ ' x 420'.
 - Blocks 74 to 78, 85 to 91, 93 to 99 and 100, 104, 105, 106, 107 - 100' x 625'.
 - Lots in Blocks S & W and 62 - 150' x 25' according to the angles of the streets.
 - Block 84 200' x 625' with Lots 25' x 92'.
 - Blocks 92, 102, 103, 108 - 183.16' x 625' with Lots 25' x 91.58'.
 - Blocks 110 x 111 - 100' x 535'.
 - Block 109 - 103.16' x 535' with Lots 25' x 91.58'.
- All fractional Blocks and Lots, according to scale indicated on Plat.

Base line of Survey; The West side of Main Street. The Northeast corner of Block 110 bears to Northeast corner Sec. 25, East 1600.7'. The Southeast corner Block U bears to Southeast corner Sec. 25, S. 60° 24' E., 1811.75'. The Southeast corner Block 29 bears to Southeast corner Sec. 25, N. 10° 57' E., 1265 feet.

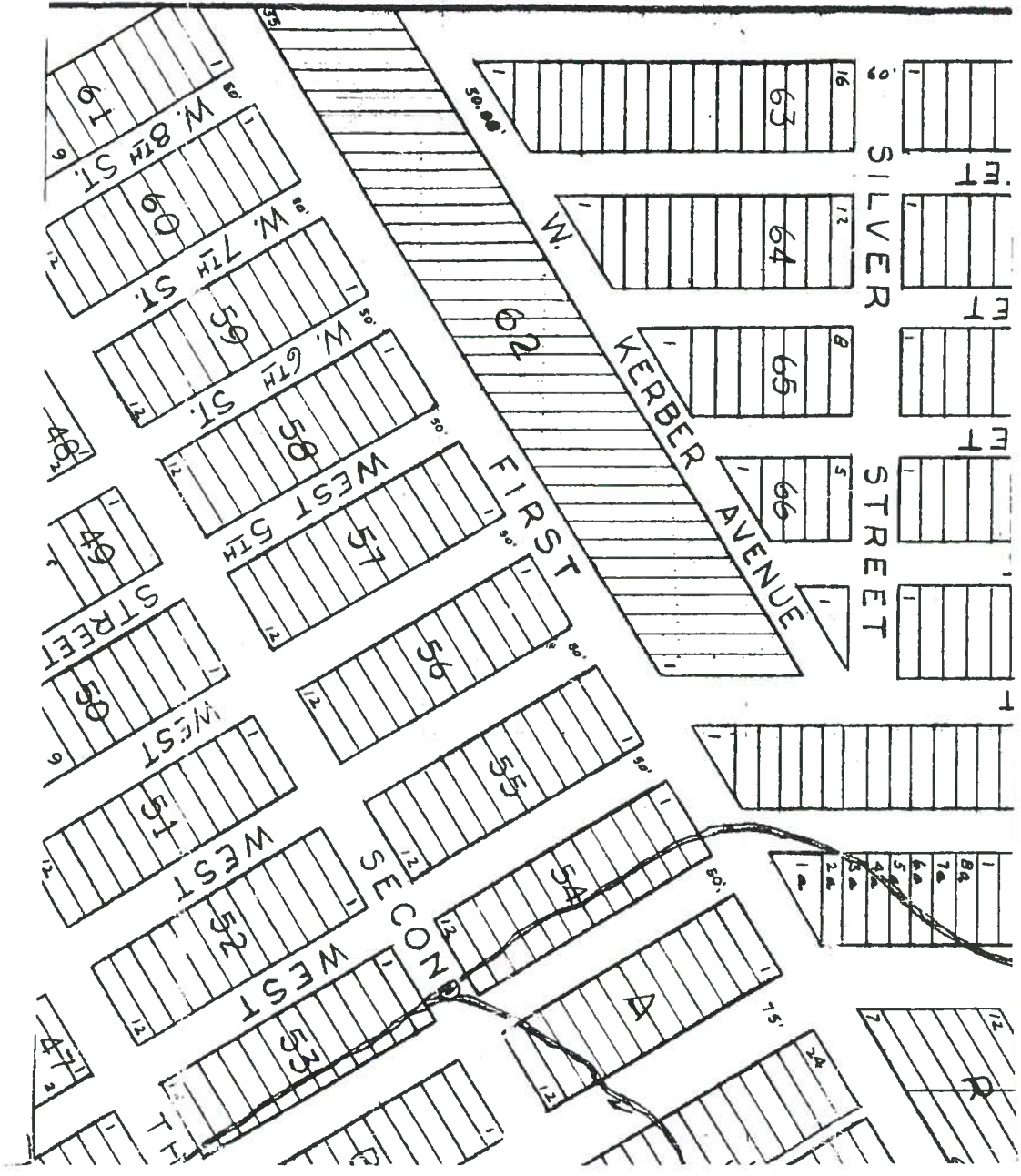
31

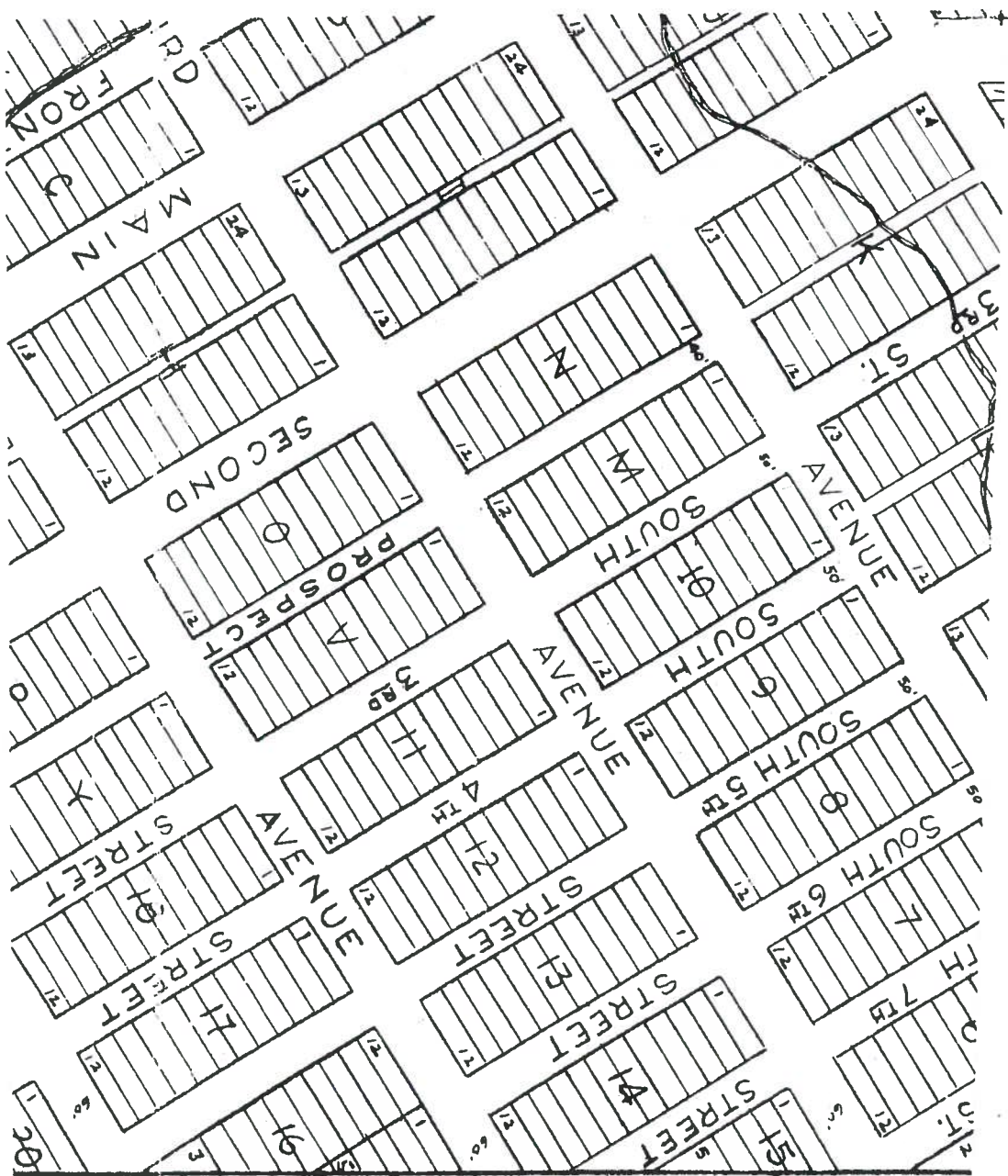


AVENUE A



1





② 1

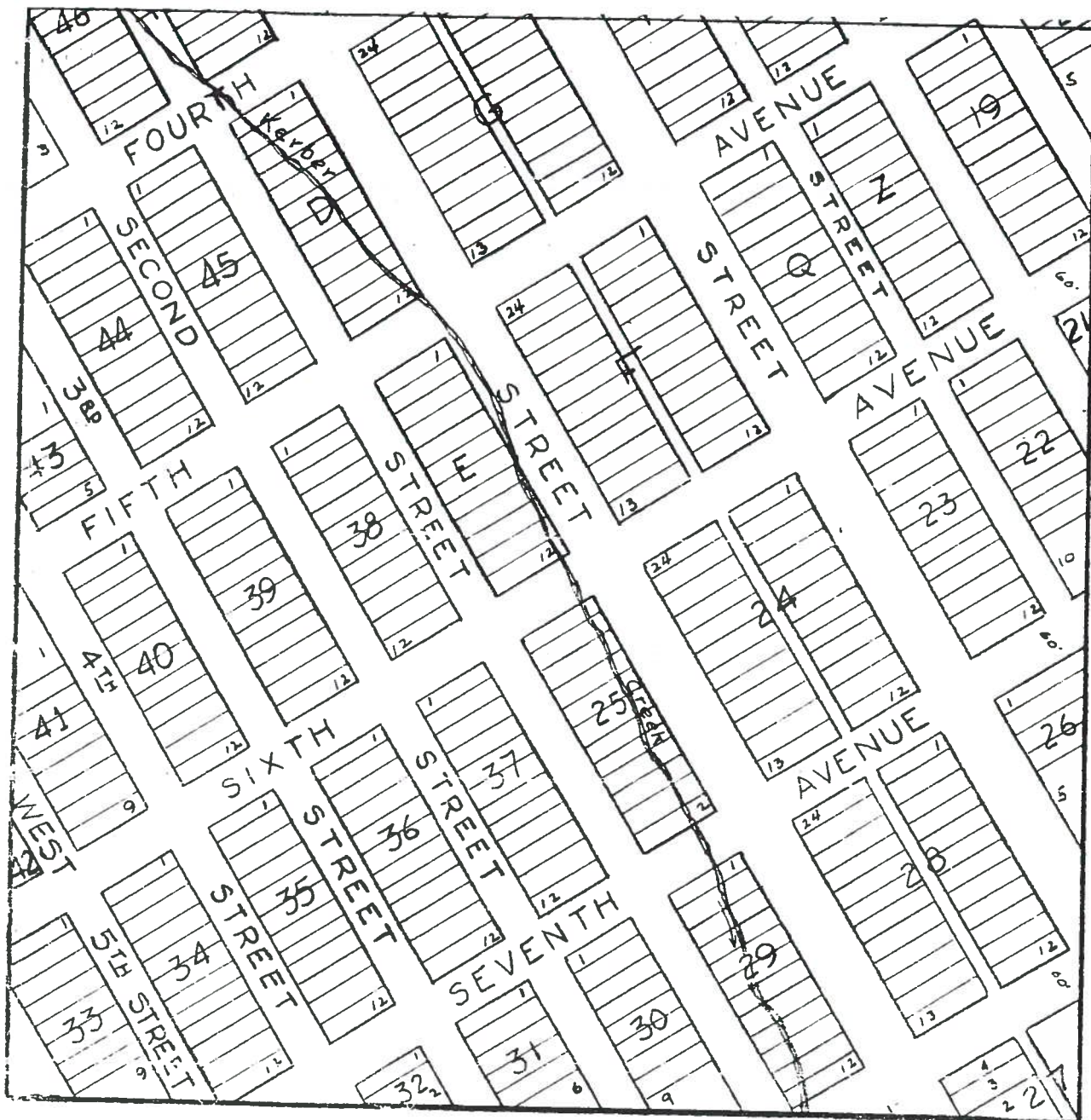
PLAT OF
BONANZA CITY
SAGUACHE COUNTY, COLORADO
SCALE: 1" = 200'

DRAWN FROM PLAT WHICH IS FILED & RECORDED AT
THE COUNTY CLERKS OFFICE, SAGUACHE, COLO.

APRIL 24, 1956
BY

DAVIS ENGINEERING SERVICE
DEL NORTE, COLORADO

DRAWN FROM THE RECORDS OF THE SAGUACHE
COUNTY CLERK AND RECORDER FOR THE
NEWHALL LAND AND FARMING COMPANY.
APRIL - MAY 1956



115

STATE OF COLORADO

DEPARTMENT OF LOCAL AFFAIRS
Division of Local Government



John W. Hickenlooper
Governor

Reeves Brown
Executive Director

March 3, 2011

Ms. Connie Trujillo
Saguache County Treasurer
PO Box 177
Saguache, CO 81149

Pursuant to Section 29-1-113(3), C.R.S., I have been notified of the **Town of Bonanza City's failure to file a copy of its 2011 adopted budget.**

I will hold all moneys generated pursuant to the taxing authority of the Town of Bonanza City until further notification from the Division of Local Government

According to my records, this office does not collect any moneys generated pursuant to the taxing authority of the Town of Bonanza City. Therefore, there are no funds to hold.


Signature
Saguache County Treasurer

3/4/2011
Date



cc: file (55002)


Exhibit 

STATE OF COLORADO

DEPARTMENT OF LOCAL AFFAIRS
Division of Local Government



John W. Hickenlooper
Governor

Reeves Brown
Executive Director

March 3, 2011

Ms. Connie Trujillo
Saguache County Treasurer
PO Box 177
Saguache, CO 81149

Pursuant to Section 29-1-113(3), C.R.S., I have been notified of the **Town of Bonanza City's** failure to file a copy of its 2011 adopted budget.

I will hold all moneys generated pursuant to the taxing authority of the **Town of Bonanza City** until further notification from the **Division of Local Government**

According to my records, this office does not collect any moneys generated pursuant to the taxing authority of the **Town of Bonanza City**. Therefore, there are no funds to hold.


Signature
Saguache County Treasurer

Date

3/4/2011



cc: file (55002)

Exhibit

Colorado The Official State Web Portal



Department of Local Affairs
Strengthening Colorado Communities

Services Board of Assessment Appeals Division of Housing Division of Local Government Division of Property Taxation Contact Us

Home Division of Local Government Local Government Filings

Local Government Filings

Local Government: Bonanza City, Town of (55002)

Type: Statutory Towns

Associated Counties: Saguache

- Summary
- Budget
- Finance
- Elections
- Organizational
- Contacts
- Other Filings
- CTF

Mailing Address (1): P.O. Box 104 (Bonanza Rt.)

Mailing Address (2):

City/State/Zip: Villa Grove, CO 81155

Date Formed: 01/01/1881

Contact Us | Policies

State of Colorado

Exhibit K

Colorado The Official State Web Portal



[Services](#)
[Board of Assessment Appeals](#)
[Division of Housing](#)
[Division of Local Government](#)
[Division of Property Taxation](#)
[Contact Us](#)

[Home](#)
[Division of Local Government](#)
[Local Government Filings](#)

Local Government Filings - Budget

Local Government: Bonanza City, Town of (55002)

Type: Statutory Towns

Associated Counties: Saguache

- Summary
- Budget**
- Finance
- Elections
- Organizational
- Contacts
- Other Filings
- CTF

Announcements:

None

Document Date: ▼	Year: ▼	Document Type: ▼	Date Filed: ▼	Size:	View:
01/22/2009	2009	Annual Budget	01/22/2009	0.04 MB	

[Contact Us](#) | [Policies](#)

State of Colorado

Exhausted K

Colorado The Official State Web Portal



Department of Local Affairs
Strengthening Colorado Communities

Services Board of Assessment Appeals Division of Housing Division of Local Government Division of Property Taxation Contact Us

Home Division of Local Government Local Government Filings

Local Government Filings - CTF

Local Government: **Bonanza City, Town of (55002)**

Type: Statutory Towns

Associated Counties: Saguache

- Summary
- Budget
- Finance
- Elections
- Organizational
- Contacts
- Other Filings
- CTF

Announcements:

None

Date Filed:	Distribution Year:	Document Type:	View:
02/05/2009	2008	Status of CTF and Spending Report	
02/05/2008	2007	Status of CTF and Spending Report	

Exhibit 4

**Status of CTF and Spending Report
Bonanza City, Town of (55002)**

Distribution Year:	2007
Beginning Conservation Trust Fund Balance (1/1/2007):	\$2,002.80
March 2007 CTF Funds Received:	\$31.52
June 2007 CTF Funds Received:	\$39.35
September 2007 CTF Funds Received:	\$33.39
December 2007 CTF Funds Received:	\$37.88
Interest Earned in 2007:	\$10.36
Interest earned on CTF money must be allocated to the CTF account and reflected on this report.	
Other CTF Revenue, if applicable:	\$0.00
Only funds repaid to CTF for ineligible expenses or a CTF transfer from another entity are applicable as "other CTF revenue". Grants should NOT be reported as "other CTF revenue".	
<hr/>	
Total Available Conservation Trust Funds:	\$2,155.30
Total 2007 CTF Expenditures:	\$325.00
Ending Balance (12/31/2007):	\$1,830.30

2007 Spending Report:

Valid Project Codes:

- 110 - New Conservation Sites: Acquisition
- 120 - New Conservation Sites: Development
- 130 - New Conservation Sites: Maintenance
- 210 - Public Sites: Capital Improvements
- 220 - Public Sites: Maintenance
- 310 - Television Translator Facility: Acquisition
- 320 - Television Translator Facility: Operation
- 330 - Television Translator Facility: Maintenance
- OTHER - Other Site: Other Purpose

ID:	Project Code:	Total Project Cost:	CTF Funds Used:	Other Funds / Source:	Date of Expenditure:	Project (location and description of work performed)
6817	120	\$325.00	\$325.00		11/8/07	Had ordinance written up to enforce conenance of conservation easement

Exhibit K.

**Status of CTF and Spending Report
Bonanza City, Town of (55002)**

Distribution Year:	2008
Beginning Conservation Trust Fund Balance (1/1/2008):	\$1,830.30
March 2008 CTF Funds Received:	\$33.61
June 2008 CTF Funds Received:	\$38.29
September 2008 CTF Funds Received:	\$31.62
December 2008 CTF Funds Received:	\$40.70
Interest Earned in 2008:	\$9.70
Interest earned on CTF money must be allocated to the CTF account and reflected on this report.	
Other CTF Revenue, if applicable:	\$0.00
Only funds repaid to CTF for ineligible expenses or a CTF transfer from another entity are applicable as "other CTF revenue". Grants should NOT be reported as "other CTF revenue".	
<hr/>	
Total Available Conservation Trust Funds:	\$1,984.22
Total 2008 CTF Expenditures:	\$0.00
Ending Balance (12/31/2008):	\$1,984.22
<hr/>	

2008 Spending Report:

No projects were submitted.

Richard K.



Caddie Nath

cnath@summitdaily.com

July 25, 2013

Ghost town legally abandoned, ceded to U.S. Forest Service

If you go

Public hearing on Chihuahua abandonment petition

When: 11 a.m., Aug. 22

Where: Blue Spruce Room, Secretary of State, 1700 Broadway, Denver.

The public is invited to attend this hearing. Evidence and testimony will be taken from any interested person.

In 1882, years before she was born, Elizabeth Rice Roller's grandparents moved from Boulder to a small and short-lived mining town in the mountains near Montezuma called Chihuahua.

Her grandmother became the teacher at a school that served two towns, and her grandfather opened a boarding house frequented by lumberjacks and miners drawn by the irresistible lure of silver. Later, one of the boarders, Elizabeth's father, married the proprietor's eldest daughter.

Today, Roller's memoirs of her family's history in Chihuahua are one of the only remaining accounts of life in the once-thriving high-alpine village near Argentine Pass.

According to official records, a devastating fire swept through the area in 1889, destroying most of the town. The crash of the silver market in 1893 emptied out much of what was left.

There is no record now of elections, taxes being levied or any kind of official activity in Chihuahua in more than 100 years, and county officials have initiated proceedings to legally abandon the town.

Exhibit 4

“We have the responsibility to oversee municipalities that don’t really exist any more, but do in a legal sense,” said Andrew Cole, of the Secretary of State’s office. “The last actual mayoral race (in Chihuahua) was conducted in the 1800s.”

The town was officially incorporated in 1880, and a mayor, recorder and board of trustees were elected to govern it. It was a time when “it seemed the hills were full of (silver ore) and the adventurers thought they had reached their goal,” Roller writes in “Memoirs from Montezuma, Chihuahua, and Sts. John,” published by the Summit Historical Society with her family’s permission.

At its height, Chihuahua consisted of approximately 50 buildings, two restaurants, a hotel and the boarding house belonging to Roller’s grandparents, the Carleses. Carles also acted as a justice of the peace, performing marriages and settling disputes between neighbors. He and his wife eventually left the town, relocating about a year before most of it was destroyed by fire.

But Roller’s father, not yet married to her mother, lived there with his sister when the devastating blaze broke out.

“Father, my aunt and her two children worked feverishly to save their homes,” Roller wrote. “By my father’s directions, they soaked quilts and blankets in the stream and covered roofs and much of the side walls and continued to pour water over the buildings as the fire raged around them. Their isolated location as much as their labor saved the cabins, which were among the few that remained after the fire.”

The silver crash came a few years later, driving many people out of Chihuahua and, by Roller’s account, out of Summit County.

But one unhappily married couple, the Mitchells, reportedly remained, even as the little town disappeared around them. Both were miners, who excavated separate claims and eventually came to hate each other so much that Roller said she could not remember a time when they were on speaking terms.

“If it were necessary to communicate with her husband, Mrs. Mitchell never spoke to him directly, but conveyed the message to my father or me or even the dog or cat or some inanimate object,” she wrote. “Passerby (sic) told of violent arguments which ended with Mrs. Mitchell armed with a pick or shovel pursuing the poor man around and around the mine.”

It is unclear exactly where the remains of Chihuahua, if they exist at all, are located. Any private property within the town boundaries now belongs to the federal government. U.S. Forest Service officials have confirmed that there are no current residences or residents in the town, according to a Summit Board of County Commissioners resolution authorizing a petition for abandonment.

Exhibit L

Under state statute, a county attorney can initiate the procedure to abandon a town if it has failed to hold any kind of election or maintain a town government for five or more years. Still, the undertaking is unusual and requires a public hearing of the application for abandonment.

A public hearing on the abandonment petition for Chihuahua is slated for 11 a.m., Aug. 22, in the Blue Spruce Room at the Secretary of State's office in Denver, when evidence and testimony will be heard.

©2005 - 2014 Swift Communications, Inc.

Exhibit L

TOWN OF BONANZA
70 BONANZA ROAD
VILLA GROVE, CO 81155-1800

CASH
42-41070

DATE 1/21/09

18899
103.48
02
2220499
24492
146.78
179.19
184.19

TO BE USED FOR DEPOSIT TRANSACTIONS ONLY

850/541-4724
200 E. Spruce
Lafayette, CO 80924

⑆107000068⑆ 500614076⑆ 009

\$184.19 01/21/2009

TOWN OF BONANZA
PO BOX 38
VILLA GROVE, CO 81155-0036

481
42-41070

DATE 12/31/08

Pay to the Order of Saguache County Treasurer \$ 312.71
Three Hundred and Twelve and 71/100

Pueblo Bank
Pueblo, CO 81001

For HUTE Inc

⑆107000068⑆ 500614076⑆ 0481 ⑆0000031271⑆

481 \$312.71 01/12/2009

TOWN OF BONANZA
PO BOX 38
VILLA GROVE, CO 81155-0036

482
42-41070

DATE 1/21/09

Pay to the Order of Saguache County Treasurer \$ 309.66
Three Hundred and Nine and 66/100

Pueblo Bank
Pueblo, CO 81001

For Donna G. Hill, Inc

⑆107000068⑆ 500614076⑆ 0482 ⑆0000030966⑆

482 \$309.66 01/26/2009



Exhibit M

TOWN OF BONANZA
 PO BOX 38
 VILLA GROVE, CO 81155-0038

483
43-47670

2/22/09

Pay to the Order of Saguache County Treasurer \$ 282.00
The hundred and eighty-two and 00/100

Public
OBANK
 CITY BRANCH
 3044 CO 230
 TRUST

For ALICE Fisk Gayle Ashley
Said Treasurer

⑆07000068⑆ 500514076⑆ 0483 ⑆0000028260⑆

483 \$282.60 03/06/2009



Eykebot M

Town of Bonanza
Actual budget 2009

Description	actual Prior Year 2007	estimated current year 2008	proposed budget year 2009
Beginning fund			
Balance	11742	8528	10055
Estimated income			
Highway users trust fund	3270	3709	3900
Cigarette tax rebate	2	3	4
Conservation trust fund	107	103	150
Property tax	227	285	300
Xcel energy franchise fee	229	164	153
Interest	206	110	256
Building permits	0	00	
Total available	15783	12902	14818
Estimated Expenditures			
Road maintenance	4094	3001	3700
Street Lights	651	708	800
Office Supplies	180	63	300
Building Permits	0	0	0
Insurance	0	200	250
Town Improvements	789	1500	2000
Lottery Expense	0	1500	1941
Legal Fees	325	1500	1500
Survey	0	1100	1300
Miscellaneous	784	1500	1500
Total Expenditures	5326	1072	13291
Ending fund balance	10457	2923	1527

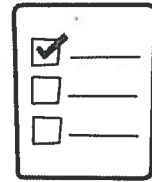
Exhibit 0



COLORADO

Department of
Local Affairs

LOCAL GOVERNMENT BUDGET LAW FORMAT & CONTENT REQUIREMENTS (29-1-101, et seq., C.R.S.)



Use this checklist to ensure that your budget will be in compliance with the format and content requirements of the Local Government Budget Law.

A budget presents a **complete financial plan** by fund and by spending agency within each fund and sets forth the following:

- Written Budget Message** must:
 - describe the important features of the budget;
 - include a statement of the budgetary basis of accounting used in the budget [cash, modified accrual, or encumbrance, (29-1-102(2)C.R.S.);
 - include a description of the services to be delivered during the budget year. (29-1-103(1)(e), C.R.S.)
- Expenditures and Revenues** must be described with "... explanatory schedules or statements classifying the expenditures by object and the revenues by source." (29-1-103(1)(f), C.R.S.)
- Estimated Beginning and Ending Fund Balances** must be shown. (29-1-103(1)(c), C.R.S.) **Fund Balances** are described as "... the balance of total resources available for subsequent years' budgets ..." (29-1-102 (11), C.R.S.)
- Three Years' Comparable Data** must be shown in the budget: the prior fiscal year's actual figures; the estimated figures through the end of the current fiscal year; and the budget year's data. (e.g. 2011 actuals, 2012 Year end estimates, and 2013 adopted numbers for the 2013 Budget year) (29-1-103(1)(d), C.R.S.)
- No Deficit Spending.** No budget shall provide for expenditures in excess of available revenues and beginning fund balances. (29-1-103(2), C.R.S.)
- Lease-purchase agreement supplemental schedule.** The adopted budget must separately set forth the total amount to be expended during the budget year for payment obligations under all lease purchase agreements for real property and for all other property. It must also show the total maximum payment liability under the agreement, and all optional renewal terms. (29-1-103(3)(d), C.R.S.)

Filing the Budget. A certified copy of the budget must be filed with the Division of Local Government **by January 31**. (29-1-113(1), C.R.S.) A certified copy means that it has a signed statement indicating:

*I, <Insert Name Here> certify that the attached is a **true and accurate copy** of the adopted <Insert Budget Year> budget of the <Insert the Name of your Local Government>.*

Filing the document through our e-filing system is suggested and will provide you confirmation of submission, acceptance or rejection for any reason and will allow for immediate publication of the document online.

More information and templates are available on our website – www.dola.colorado.gov/budgets

Use our  **eFiling** system by visiting www.dola.colorado.gov/e-filing

Exhibit P



Local Government Filings - Budget

Local Government: Bonanza City, Town of (55002)

Type: Statutory Towns

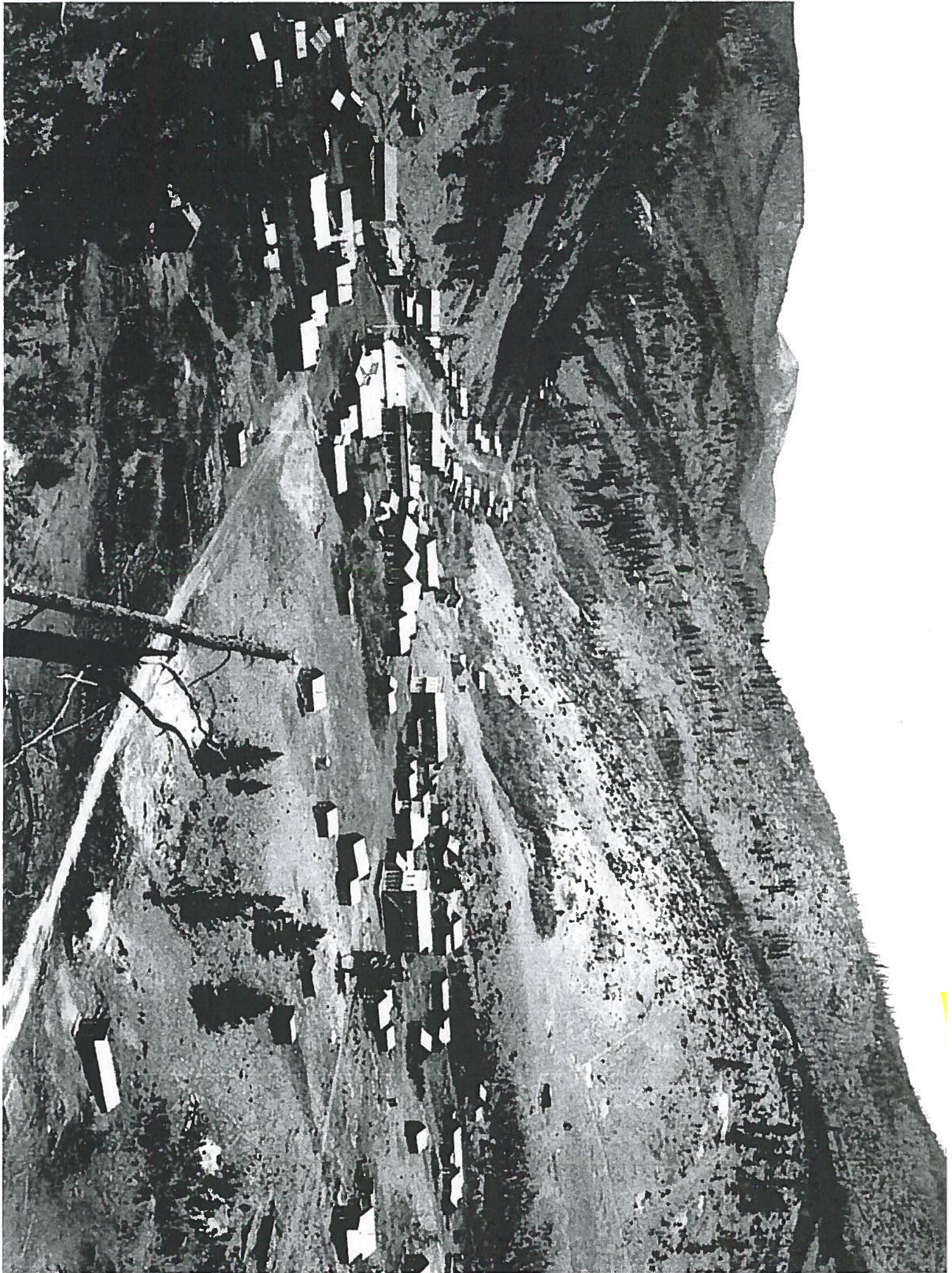
Associated Counties: Saguache

- Summary
- Budget**
- Finance
- Elections
- Organizational
- Contacts
- Other Filings
- CTF

Announcements:
None

Document Date: ▼	Year: ▼	Document Type: ▼	Date Filed: ▼	Size:	View:
01/22/2009	2009	Annual Budget	01/22/2009	0.04 MB	

Exhibit Q



**Status of CTF and Spending Report
Bonanza City, Town of (55002)**

Distribution Year:	2007
Beginning Conservation Trust Fund Balance (1/1/2007):	\$2,002.80
March 2007 CTF Funds Received:	\$31.52
June 2007 CTF Funds Received:	\$39.35
September 2007 CTF Funds Received:	\$33.39
December 2007 CTF Funds Received:	\$37.88
Interest Earned in 2007:	\$10.36
Interest earned on CTF money must be allocated to the CTF account and reflected on this report.	
Other CTF Revenue, if applicable:	\$0.00
Only funds repaid to CTF for ineligible expenses or a CTF transfer from another entity are applicable as "other CTF revenue". Grants should NOT be reported as "other CTF revenue".	
<hr/>	
Total Available Conservation Trust Funds:	\$2,155.30
Total 2007 CTF Expenditures:	\$325.00
Ending Balance (12/31/2007):	\$1,830.30

2007 Spending Report:

Valid Project Codes:

- 110 - New Conservation Sites: Acquisition
- 120 - New Conservation Sites: Development
- 130 - New Conservation Sites: Maintenance
- 210 - Public Sites: Capital Improvements
- 220 - Public Sites: Maintenance
- 310 - Television Translator Facility: Acquisition
- 320 - Television Translator Facility: Operation
- 330 - Television Translator Facility: Maintenance
- OTHER - Other Site: Other Purpose

ID:	Project Code:	Total Project Cost:	CTF Funds Used:	Other Funds / Source:	Date of Expenditure:	Project (location and description of work performed)
6817	120	\$325.00	\$325.00		11/8/07	Had ordinance written up to enforce conenance of conservation easement

Exhibit S.