

commit staff time. Commissioner Padgett agreed, and would run interference if there were specific requests for information and staff was too busy.

Hansen asked if the City of Ouray could buy into it at a later date.

Montgomery replied that if they wanted to help create the strongest grant application they could, she urged them to sign the letter of support and the MOA but not put a money value to it. If they got the grant, then the City of Ouray could say that they did not want to participate and did not have time to do it.

By consensus, the Board agreed to move forward to support the grant but would like to have the in-kind contribution discussions later. Maybe she could sign a letter of support as the Chair without details of the in-kind. The letter and MOA would be put on the next agenda for ratification.

Commissioner Fedel had to leave the meeting at this point.

J. 4:10 Discussion and possible action on the following items regarding tires in the waterways:

Mark Castrodale, County Planner, and Bryan Sampson, Planning Technician, were present.

Commissioner Albritton explained that the Commissioners had received advice from the County Attorney as to what the County's role in the tire issue should be. The conversation went to the County's Rubbish Ordinance. There were some concerns with the language in the information the Commissioners had received from the State. The letter directed to Mr. Gunn and the Maynes seemed to be more of a request than an order and the Commissioners wanted to ensure that the cleanup would happen, one way or the other. Today the Commissioners would consider whether or not to issue their own Notice and Order for removal of rubbish. They also discussed the idea of sending a letter to adjacent property owners requesting their input as far as the impacts that this situation had caused on their properties. The Commissioners received advice in executive session today on how to proceed.

Kathryn Sellars reiterated that Ordinance 95-1 allowed the County to issue a Notice and Order for removal of rubbish to the owner of a property for removal of rubbish on that owner's property. The County cannot order them to clean up someone else's property. Pursuant to that would be a 20-day window for the property owner to clean up or appear before the Board at a show cause hearing for why he should not have to clean up the rubbish, etc. If the property owner did neither and failed to appear at the show cause hearing the County could remove the rubbish and the property owner would have to pay the cost.

Hunt talked to Maynes who gave her a review of where they were today. They had about 99.9% of the cleanup done and had touched base with the EPA. All of the affected property owners were cooperative. Only the DOW would not let them on their property. She talked to Jeff Emmons who was heading towards a compliance conference with Gunn and Maynes on October 11, 2011. He thought that it was a smart move for the County to go ahead with the Notice and Order with the 20-day deadline. Hunt's only concern was Staff having to spend time on the property verifying compliance.

Commissioner Albritton asked if the County could use the State's report as a baseline to issue the Notice and Order to trigger a cleanup, or did the County have to perform its own investigation of the property.

Sellars noted that adjacent property owners could attend the show cause hearing and give evidence.

Commissioner Albritton advised that Commissioner Fedel wanted to move forward to a show cause hearing. He did not think that anything was done with malicious intent but it needed to be cleaned up. She agreed.

Karen Lomax, a resident of Montrose County who lived south of Montrose explained that she had about two miles of river and about 32 tires that she could see that came down in the river after the 26th. She called the Ouray County Sheriff who told her to call Montrose County and a deputy came out and looked at the situation but she had not heard anything since. She asked what she should do since she did not reside in Ouray County.

Commissioner Padgett suggested that she contact Jeff Emmons, the CDPHE (Colorado Department of Public Health and Environment), the lead in this incident. Stephen Moore with the Corps of Engineers out of Grand Junction was conducting his own investigation.

Lomax explained that she was located at Riverside Road, north of Solar Road, north of the canal.

Commissioner Albritton asked to send a memo to Jesse Smith with Montrose County advising him that some residents of Montrose County had tires ending up on their property.

Commissioner Padgett suggested putting a notice in both the Ouray and Montrose papers about the hearing.

Commissioner Padgett wanted to add a piece to the letters to adjacent property owners that said that it was the "County's desire that all tires and foreign objects washed from the Gunn property downstream are removed and disposed of properly. Some objects, such as the tires and the metal, may only become known after water levels drop severely. The County would like to know specifically what resources have you, personally, expended to clean up your affected property and what yet remains to be done. We also want to put in place a process so that when water levels drop that you have a mechanism to report any additional information that you may get over the winter." Her desired outcome was that all affected landowners felt like they knew who to call. Someone should account for how much financial impact this has been to those who clean up on their own, and to keep a record should Montrose County or Ouray County need to apply for grant money to assist in the cleanup.

Commissioner Albritton suggested instead of implying that the County would develop a mechanism, the letter could say "to allow the County to have the fullest understanding of the impacts of the situation". Commissioner Padgett agreed.

To follow up, Hunt would send a memo with a copy of the letter and the Notice and Order to Jess Smith with Montrose County advising him of what Ouray County was doing.

1. Notice and Order for Removal of Rubbish:

M/S/P—Motion was made by Commissioner Padgett and seconded by Commissioner Albritton to approve the Notice and Order for Removal of Rubbish dated October 5, 2011 for the property owned by Lawrence Gunn and Life Estate Interest Holder Bertha Gunn. There was no discussion. Motion passed.

2. Letter to adjacent property owners:

M/S/P—Motion was made by Commissioner Padgett and seconded by Commissioner Albritton to send a modified letter to the Ouray County affected property owners with the appropriate additional language taking into consideration everyone's input. There was no discussion. Motion passed.

4:38 The Board of County Commissioners adjourned the regular session:



[Signature]
Michelle Nauer, Clerk and Recorder
By: LINDA MURSON - HALON
CLERK OF THE BOARD

**BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO**

[Signature]
Heldi M. Albritton, Chair

[Signature]
Lynn M. Padgett, Vice-Chair

[Signature]
F. Mike Fedel, Commissioner