



ROUTT COUNTY

Board of County Commissioners

P.O. Box 773698
Steamboat Springs, CO 80477

(970) 879-0108
fax (970) 879-3992

SPECIAL USE PERMIT

Routt County
Board of County Commissioners

Permit No.: PP2007-026

Project Name: Xcel Energy Hayden Station Rail Spur

Owner: Public Service Co. of Colorado (Michael Diehl, Representative)

Address: 550 15th Street, Suite 700, Denver, CO 80202

Type of Use: Major Facility of a Public Utility; Coal Supply Railroad Spur for the Hayden Station

Location/Legal Description: Portions of Sec 8 , 9, 17, T6N, R87W approximately 4.5 miles east of the Town of Hayden, Routt County, Colorado

Period of Permit: Life of Use

Board Approval Date: October 16, 2007

Conditions of Approval:

General Conditions:

1. The Special Use Permit (SUP) is valid for the life of the use provided it is acted upon within one year of approval. Application for state and federal permits, creation of construction drawings, and other pre-construction activities is considered acting upon this permit.
2. The SUP is contingent upon compliance with the applicable provisions of the Routt County Zoning Regulations including but not limited to Sections 5, 6, and 8.
3. The SUP is limited to uses and facilities presented in the approved project plan. Any additional uses or facilities must be applied for in a new or amended application.
4. Any complaints or concerns which may arise from this operation may be cause for review of the SUP, at any time, and amendment or addition of conditions, or revocation of the permit if necessary.
5. In the event that Routt County commences an action to enforce or interpret this SUP, the substantially prevailing party shall be entitled to recover its costs in such action including, without limitation, attorney fees.
6. No junk, trash, or inoperative vehicles shall be stored on the property.

7. This approval is contingent upon any required federal, state and local permits being obtained and complied with; the operation shall comply with all federal, state and local laws.
8. Fuel, flammable materials, or hazardous materials shall be kept in a safe area and shall be stored in accordance with state and local environmental requirements.
9. All exterior lighting shall be downcast and opaquely shielded. Except for any lighting required by Union Pacific or CDOT, lighting of the bridge or the rail line up to the public utility's industrial-zoned property is not permitted.
10. Prior to the issuance of the permit, the permittee shall provide evidence of liability insurance in the amount of no less than \$1,000,000 per occurrence with either unlimited aggregate or a policy endorsement requiring notice to Routt County of all claims made. Routt County shall be named as an additional insured on the policy.

Specific Conditions:

1. During the construction phase, construction is limited to Monday through Saturday, 7:00am to 7:00pm. No construction shall be allowed on the following holidays: Christmas, New Year's Day, Thanksgiving, Fourth of July, Presidents' Day, Memorial Day, and Labor Day.
2. No more than five trains of up to 70 cars per train per week are permitted. Annually, the permittee shall submit to the Planning Department a report of the number of trains per calendar day.
3.
 - a. The applicant shall furnish a bank letter of credit, a performance bond or certified check in favor of Routt County in an amount of 150% of the cost of restoration of the site to guarantee site restoration as determined by a qualified independent third party professional, to secure the site restoration in a workmanlike manner and in accordance with specifications and construction schedule established or approved by the appropriate engineer and the Board of County Commissioners. Such letter of credit, bond or check shall be payable to or drawable by, and held by the Board of County Commissioners of Routt County.
 - b. Upon the closure of the Hayden Power Station, the applicant shall remove the railroad spur bridge or overpass over U.S. Highway 40 and related structures and reclaim the area disturbed by the bridge. The applicant shall also furnish a bank letter of credit, a performance bond, or certified check in favor of Routt County or other security acceptable to the Board of County Commissioners in an amount of 150 % of the cost of removing the bridge and reclaiming the disturbed area as determined by a qualified independent third party professional, to secure the work to remove the bridge and restore the disturbed area. Every five years after the issuance of this permit, the applicant shall provide the County Planning Director with an updated estimate of the cost of such work from a similarly qualified third party professional and shall post such additional security as may be required to bring the amount of security held by the County to 150 % of the most current cost estimate.
4. Construction of the rail spur will maintain the current limit of the mapped 100-year flood plain of the Yampa River, as shown on the FEMA Flood Insurance Rate Map (FIRM).
5. Prior to construction, the applicant shall submit to the Planning Department a geologic hazard report for the disturbance along the rail spur in the areas mapped as Unstable

Xcel Energy Hayden Station Rail Spur Special Use Permit

- Slopes. Such report shall be completed by a geologic engineer or other professional qualified to perform such work.
6. Waterbody Setback Permits shall be obtained for any impacted waterbodies along the spur route.
 7. The applicant shall prepare a Wildlife Mitigation Plan and obtain its approval from the DOW prior to the commencement of construction, and the applicant shall provide a copy of the DOW-approved plan to the Planning Director before commencement of construction. Such plan shall address but not be limited to those concerns raised by the DOW in the May 10, 2007 letter from Ron D. Velarde. The Wildlife Mitigation Plan shall include provisions for baseline monitoring, best management practices, and specific mitigation actions, if required.
 8. Once the rail spur is complete, or at the expiration of the current Xcel contract with Twentymile Coal Company in 2011, whichever occurs later, Special Use Permit #PP2003-048 (the Hayden Station County Road 27 Truck Coal Haul) shall be modified to permit coal hauls only in emergency situations not under the control of the applicant. As modified, the permit shall allow emergency use only after approved by the Planning Director or an appeal to the Board of County Commissioners.
 9. The proposed Contractor Laydown Area shall be located on a parcel owned by the Public Service Company that would not add to the project's visual impacts as seen from U. S. Highway 40. Such location and allowable uses are subject to the approval of the Planning Director.
 10. The spur shall be redesigned to include a series of bridge spans that, in total, cross the entire CDOT right-of-way and accommodate the passage of wildlife and surface water. Final design of the aesthetic features for these bridge spans across the Highway 40 right-of-way is subject to Planning Director approval. The County recognizes that the final design is subject to review and approval of CDOT.
 11. The permittee shall install a centralized traffic control power operated turnout for mainline to spur switching.
 12. At the sole expense of the applicant, a separated grade crossing shall be required on County Road 27. Design of the crossing is subject to review and approval by the Routt County Road and Bridge Director and the Planning Director.
 13. The construction and operation of the spur shall not only ensure the unrestricted flow and maintenance of the Marshall Roberts ditch, but also shall not restrict maintenance vehicle access to the Williams Ditch head gate.
 14. For proposed fencing within the easement, maintenance shall be completed on an ongoing annual basis by the applicant.
 15. The operator shall prevent the spread of weeds to surrounding lands and comply with the Colorado Noxious Weed Act and the Routt County noxious weed management plan. The plan for weed mitigation shall include both construction phase and long-term components. The weed management plan shall be approved by the County Weed Supervisor prior to construction.
 16. No construction shall occur until the applicant has obtained a wetlands fill permit from the United States Army Corps of Engineers (USACE), if necessary. A copy of such permit shall be provided to the Planning Director.
 17. As described in the May 10, 2007 Division of Wildlife letter, the spur shall include four openings to accommodate big game movement in consultation with the CDOW.
 18. In the event that the PUC, or other agency or court having proper jurisdiction over the matter, invalidates Condition 12 above requiring a separated grade crossing, the applicant shall be solely responsible for the necessary improvements to the County

Xcel Energy Hayden Station Rail Spur Special Use Permit

Road 27/rail spur intersection. Such improvements include, but are not limited to, surface improvements at the intersection, signals and other safety devices, and the realignment of the intersection resulting in the angle of the roadway being greater than 60 degrees from the spur tracks. The final design of the intersection shall be subject to the review and approval of the Road and Bridge Director.

Permit Issued by the Routt County Board of County Commissioners:



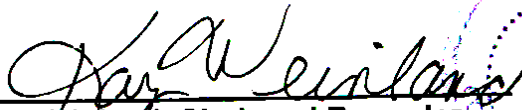
Nancy J. Stahovlak, Chairman

5-5-2008

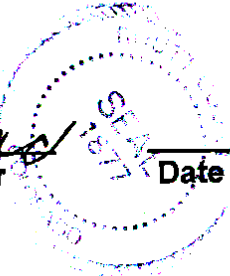
Date

Diane M. ...

ATTEST:



Kay Weinland, Clerk and Recorder



Date

5/5/2008

ACCEPTED:



Permittee

3/3/08

Date