

**PROJECT INFORMATION AND STAFF COMMENTS**

- REQUEST:** A request for review of a Special Use Permit to allow construction of pipelines for liquid sodium solutions and return water.
- APPLICANT:** American Soda L.L.P. and American Soda Pipeline Company
- LOCATION:** A corridor starting approximately 2.5 miles north of Parachute and extending approximately 19 miles north in Garfield County along the Parachute Creek and West Parachute Creek drainage.
- SITE DATA:** The pipeline would cover 19 miles, disturbing approximately 115 acres.
- ACCESS:** Existing public and private roads
- EXISTING ZONING:** Resource Lands (R/L)

**I. RELATIONSHIP TO THE COMPREHENSIVE PLAN**

The subject property is classified as unclassified lands in the 1984 Garfield County Comprehensive Plan. The following statements are from the Garfield County Comprehensive Plan Urban Area of Influence Policies, Comprehensive Plan Goals, Objectives and Policies applicable to this application:

- A. "Encourage industrial expansion where similar development already exists in appropriate areas, i.e. within or adjacent to platted industrial parks, within designated industrial zones in existing towns, or adjacent to existing similar development."
- B. "The County may deny development proposals on the basis of : 1.) Lack of access to the site; 2.) Inadequate road access which will create an inadequate road with large daily truck volumes; or, 3.) A road which is already at or above its design capacity and due to the terrain or geology of the area, cannot be further improved to safely accommodate additional daily traffic."

## II. DESCRIPTION OF THE PROPOSAL

- A. **Site & Project Description:** The applicants are requesting a special use permit to allow the construction, maintenance and operation of sodium products and return water pipelines. The lines will be placed adjacent to an existing natural gas pipelines in the northern portion of the Garfield County section, private land in the middle section of the Garfield County section and in an existing pipeline corridor for the initial nine(9) miles in Garfield County. Overall the pipeline is 44 miles long, with 19 miles in Garfield County and the remaining 25 miles in Rio Blanco County.

The proposed pipeline begins at the American Soda processing site 2.5 miles north of Parachute. The pipelines will be placed on the west side of CR 215 for the first six (6) miles; then another 2.5 miles along the east side of CR 215; then another two miles north along the Middle Fork of Parachute Creek to the base of Davis Point; west up across Davis Point and then north along the side of the East Fork of Stewart Gulch into Rio Blanco County and continuing north to the mine site in the Piceance Basin in Rio Blanco County. The entire section of the pipelines in Garfield County are on privately owned lands. Approximately 20 miles of the pipelines in Rio Blanco County are on public lands.

The pipelines will have a 12.75 inch outside diameter and 0.41 inch thick walls, except for the sections crossing Parachute Creek, which have 0.5 inch wall thickness. One of the pipelines will transport sodium carbonate solution from the nacolite and initial processing facility at the Piceance site in Rio Blanco County to the processing facility north of Parachute. The other pipeline will return recycled water from the Parachute site to the Piceance site for reuse. Large electrical turbines will provide the power necessary to create the pressure to move the solution and water along the corridor.

To construct the pipeline, it will take around 125 ft. of right-of-way. Within the construction right-of-way the ditch will be 6 feet wide, with excavated ditch spoil placed in an area 29 ft. wide, ten feet for pipe storage; 40 ft. for truck and work area; and 40 ft. for a topsoil pile. Once the pipelines are installed, the permanent right-of-way will be 50 ft. in width.

## III. MAJOR ISSUES AND CONCERNS

- A. **Right-of-way :** The applicant has obtained the right-of-way for a portion of the corridor and entered in negotiations with the other landowners. If negotiations fail, the applicant's attorney has asserted that the company has the power of eminent domain and can acquire the necessary right-of-way through the appropriate court proceedings.

- B. **Road Crossings:** County Road 215 is crossed one time by the pipelines. The applicants will need to get road cut permits from the County Road and Bridge Department, prior to construction to set any bonds, verify location of the crossing and existing road conditions.
- C. **Regulations Pertaining to Industrial Operations.** A pipeline is a Special Use in the Resource Lands zone district and is considered an industrial use.. Section 5.03 describes some basic requirements for a Special Use and 5.03.07 and 5.03.08 include a description of an impact statement and standards required as part of the SUP submittal for an industrial use.

Section 5.03 of the Zoning Resolution sets forth the requirements that all special uses must meet, to wit:

- 1.) **Utilities adequate to provide water and sanitation service based on accepted engineering standards and approved by the Environmental Health Officer shall either be in place or shall be constructed in conjunction with the proposed use;**

There are no utilities needed for the operation of the pipeline, except for those at the processing facility. During construction, drinking water will be brought onto the site and portable toilets will need to be brought to the site.

- 2.) **Street improvements adequate to accommodate traffic volume generated by the proposed use and to provide safe, convenient access to the use shall either be in place or shall be constructed in conjunction with the proposed use;**

County Road 215 is the only public road to be used for the construction of the pipeline. The majority of the access will be via private roads along the pipeline corridor. There should be no conflicts with existing traffic, given that the majority of the traffic into the area is the applicant's traffic or the property owners.

- 3.) **Design of the proposed use is organized to minimize impact on and from adjacent uses of land through installation of screen fences or landscape materials on the periphery of the lot and by location of intensively utilized areas, access points, lighting and signs in such a manner as to protect established neighborhood character;**

All impacts to adjacent uses of land will be minimal and temporary during construction. Long term impacts should be nonexistent after the revegetation is completed and well established.

Section 5.03.07 requires that the impact statement shall show that the use shall be designed and operated in compliance with all applicable laws and regulations of the County, State and Federal Governments, and will not have a significant adverse effect upon:

- 1.) **Existing lawful use of water through depletion or pollution of surface runoff, stream flow or ground water;**

Water for the project will come from the alluvial wells in Parachute Creek or from the water withdrawal facility on the Colorado River south of the Town of Parachute. Water will be used initially to hydrostatically test the pipeline. The amount of water in each line will be 1,560,000 gallons or a total of 3,120,000 gallons. The initial hydrostatic test will result in the release of the entire amount of water into Parachute Creek. Once the pipeline is in operation, there is minimal water loss due to the reuse of the water internally within the looped system.

- 2.) **Use of adjacent land through the generation of vapor, dust, smoke, noise, glare or vibration, or other emanations;**

During construction there will a limited amount of emanations such as dust and noise on the site, but not to adjoining properties. After completion of the pipeline and the establishment of the revegetation program, there should be virtually no impacts on adjacent property.

- 3.) **Wildlife and domestic animals through creation of hazardous attractions, alteration and existing native vegetation;**

There will be the temporary displacement of wildlife during the construction of the pipeline. The mule deer population will be one of the affected species, but the construction is proposed to be during the seasons of the year that will be the least disrupting to the deer population. Some raptor and waterfowl habitat may be disturbed during construction. Special precautions will be taken if any raptor nests are identified during construction that are also active nesting sites. The procedures are identified in the application. There is also the potential to impact waterfowl nesting sites, but it should be minimal given the limited number of water crossings. Impacts to fish should be minimal given the limited stream size.

- 4.) **Truck and automobile traffic to and from such uses shall not create hazards or nuisances to areas elsewhere in the County;**

As noted previously, access to the site is via CR 215 and private roads up to Davis

Point. Access to the northern portion of the site is via BLM and private roads off of Rio Blanco CR 5. The application projects between 30 to 55 commuter trips per day and 15 to 20 truck trips to take material to the site. During the operation of the pipeline there would be twice annual inspections of the pipeline corridor. Overall, the traffic impacts to any other areas of the County are negligent and very minimal to CR 215.

- 5.) Sufficient distances shall separate such use from abutting property which might otherwise be damaged by operations of the proposed uses;**

The pipeline is being built on property that the applicant will have or have acquired a legal right to place it. All construction activity will be on the same property and there should be no impacts to abutting property during operation.

- 6.) Mitigation measures proposed for all of the foregoing impacts identified and for the standards identified in Section 5.03.08 of the Zoning Resolution.**

There are various mitigation measures proposed for the pipeline project. There are design features including extra thick walls for areas under creeks; steel sleeves around the pipeline in areas under county roads; posting of markers and warning signs along the corridor; and a four valve set along the corridor to allow for the closure of the pipeline in the event of a break. There will be technologically advanced metering and alarm system to monitor the pipeline for leaks and failures. A Spill Response plan has been prepared to set up containment and response measures in the event of a failure.

- 7.) A plan for site rehabilitation must be approved by the County Commissioners before a permit for conditional or special use will be issued;**

The application has a complete revegetation plan included in the application. The revegetation plan states that "certified weed free seed will be used whenever possible, and, in all cases, seed will be free of primary noxious weeds." The County has always required that all seed be certified weed free seed. The term "whenever possible" is to wide open from staff's point of view.

- 8.) The County Commissioners may require security before a permit for special or conditional use is issued, if required. The applicant shall furnish evidence of a bank commitment of credit, bond, certified check or other security deemed acceptable by the County Commissioners in the amount calculated by the County**

**Commissioners to secure the execution of the site rehabilitation plan in workmanlike manner and in accordance with the specifications and construction schedule established or approved by the County Commissioners. Such commitments, bonds or check shall be payable to and held by the County Commissioners;**

Staff would suggest that the applicant's place a bond or letter of credit with the County for the cost of revegetation of the pipeline within Garfield County. An estimate of the cost of the revegetation plan needs to be submitted to the County and reviewed by the County Pest and Weed Director. The applicant should then be required to certify the revegetation being completed and the establishment of the plant materials.

**Section 5.03.08** requires that all industrial operations in the County shall comply with applicable County, State, and Federal regulations regulating water, air and noise pollution and shall not be conducted in a manner constituting a public nuisance or hazard. Operations shall be conducted in such a manner as to minimize heat, dust, smoke, vibration, glare and odor and all other undesirable environmental effects beyond the boundaries of the property in which such uses are located, in accord with the following standards;

- 1.) Volume of sound generated shall comply with the standards set forth in the Colorado Revised Statutes at the time any new application is made.**

The volume of sound generated by the construction will not exceed the limitations for industrial activities established by the State Statutes, given the remote location of the pipeline construction and the very limited amount of land uses that could be affected.

- 2) Vibration generated: every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located;**

All of the operational characteristics will not result in any vibration beyond the property boundaries given the pipelines will be located on the same property that adjoins the right-of-way.

- 3) Emissions of smoke and particulate matter: every use shall be operated so as to comply with all Federal, State and County air quality laws, regulations and standards;**



The only emanations of smoke or particulate matter that could occur would be during construction. Once the pipelines are placed, there should be no emanations from the pipelines since they will be underground.

- 4) **Emission of heat, glare, radiation and fumes: every use shall be so operated that it does not emit heat, glare, radiation or fumes which substantially interfere with the existing use of adjoining property or which constitutes a public nuisance or hazard. Flaring of gases, aircraft warning signals, reflective painting of storage tanks, or other such operations which may be required by law as safety or air pollution control measures shall be exempted from this provision;**

The pipelines will not emit any heat, glare, radiation or fumes once the project is completed. During construction of the pipeline, there may be minimal emission of heat, glare and fumes as a part of the installation of the pipelines.

- 5.) **Water pollution: in a case in which potential hazards exist, it shall be necessary to install safeguards designed to comply with the Regulations of the Environmental Protection Agency before operations of the facilities may begin.**

The water involved with the pipeline is not subject to any EPA regulations.

- D. **Fiscal Impact Mitigation:** Section 5.08 of the Garfield County Zoning Resolution requires any project that will employ 200 or more people at any one time during construction or operation to be defined as a major project subject to the County Fiscal Impact Mitigation program. The applicants went through the pre-application process and were exempted from the fiscal impact regulations by Resolution No. 99-113, subject to meeting certain conditions of approval. Included in the application is an analysis of the available housing for the non-local construction workers and an analysis of local work force. (See Resolution pgs. 10-13) The applicants have surveyed the available housing and based upon the projections in the report feel that the Parachute and Battlement Mesa areas can accommodate the non-local work force for the Parachute end of the applicant's project based on the survey and experience to date with housing employees. Additionally, they propose to have a newsletter developed for orientation of new workers that will have a current listing of available housing and it will be updated on a regular basis. Resolution No. 99-113 also required that the applicants enter into certain agreements with the Town of Parachute and the City of Rifle for additional service as a part of a mutual aid agreement. There is also supposed to be a plan for minimizing traffic in the Town of Parachute included with the application. There are no agreement from Rifle or a plan for minimizing traffic in the Town of Parachute included with the application.

- E. **Rio Blanco County SUP:** Rio Blanco County has approved a Special Use permit for the mine and initial processing facility and the pipelines. (See Resolution pgs. 14-18 )

**IV. SUGGESTED FINDINGS**

1. That proper posting and public notice was provided as required for the hearing before the Board of County Commissioners.
2. That the hearing before the Board of County Commissioners was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at that meeting.
3. That for the above stated and other reasons, the proposed Special Use Permit is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Garfield County.
4. That the application is in conformance with the Garfield County Zoning Resolution of 1978, as amended.

**V. RECOMMENDATION**

Staff recommends **APPROVAL**, with the following conditions of approval:

1. That all representations of the applicant, either within the application or stated at the hearing before the Board of County Commissioners, shall be considered conditions of approval.
2. All construction shall be in compliance with the application as submitted.
3. Prior to mobilization and/or construction, the applicant shall obtain approval of all proposed crossings of County Roads from the Garfield County Road and Bridge Department including appropriate notification of the public as may be necessary for road closures or other activities as required.
4. Prior to mobilization and/or construction, the applicant or the applicant's contractor(s) shall obtain overweight vehicle permits from the Garfield County Road and Bridge Department
5. The applicant shall obtain all licences as may be required for vehicles used by the applicant and the applicant's contractor(s) from the Garfield County Clerk and Recorder.



6. A copy of the Emergency Preparedness Plan shall be maintained in the Garfield County Emergency Preparedness Office and any revisions submitted as they are made in the future to ensure the plan is current.
7. Any violation of the terms, interpretations or agreements made or represented to Garfield County by the applicant pertaining to or included in this special use permit, shall be considered a breach of the terms of conditions and the applicant shall cease and desist all construction activities and forfeit any and all bond monies as may be applicable to the County.
8. All revegetation will be done with certified weed free seed. The applicant will be responsible for the removal of noxious weeds from the pipeline right-of-way for the life of the project.
9. An estimate of the cost of revegetation will be submitted to the County Pest and Weed Director for approval. A bond or letter of credit will be placed with the County in an amount determined to be adequate by the Pest and Weed Director for the cost of revegetation. The security will be released when a statement from a qualified specialist is received that certifies the reestablishment of the vegetation in accordance with the plan and the County Pest and Weed Director concurs with the statement.
10. The applicant shall maintain a current listing of available housing for non-local workers and present it to them at orientation or to the subcontractors management as they come into the area.
11. Prior to the issuance of the Special Use permit, the applicants shall submit a copy of the agreement with the City of Rifle to deal with possible additional calls for service, as a part of a mutual aid agreement with the Garfield County Sheriff for police service.
12. That a plan for minimizing traffic to the Town of Parachute be submitted to the County prior to the issuance of the Special Use permit.
13. That the applicant submit monthly housing and employment monitoring reports to the County. If the total workforce exceeds the employment workforce projected as apart of the application by ten percent (10%) or greater, the applicant is required to notify the Board of the effects of the increased work force and additional measures needed to accommodate the work force.
14. Any violation of or revocation of the Special Use permit issued by Rio Blanco County will result in a cease and desist of operations in Garfield County.