

ERIC DAMIAN KELLY

A PROFESSIONAL CORPORATION

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MEMORANDUM TO: Mesa County Utility Coordinating Committee

FROM: Eric Damian Kelly and Earl Potter

As you know, we have recently reviewed the land development review process in Mesa County for the Board of County Commissioners. The Board has asked us to implement many of the recommendations which we have made to improve the system.

The first set of our recommendations is being implemented administratively effective February 1. One of those recommendations relates to the UCC.

Although the UCC does not exist in any of the County regulations or resolutions, apparently a system has evolved in which the UCC essentially has a veto power over a development. Because such a veto power would be inconsistent with State law and with the County's own resolutions, we have advised the Board that any such veto power should be removed. Specifically, we applaud the UCC as an informal group of utilities gathering to coordinate their plans for easements and power poles and other matters of mutual concern. In addition, most of you represent agencies which will be included as review agencies under the Senate Bill 35 review process. We certainly welcome such comments and are certain that the Board will rely heavily on them in making any decisions.

However, no development will be delayed in the future by request of the UCC. Developments will be granted hearings in due course regardless of whether the UCC may or may not as a group "approve" such development. To the extent that the UCC as a body wants to comment on a particular development, those comments will be received and considered along with the comments of all other review agencies. However, the Colorado Legislature has determined under Senate Bill 35 that the Board of County Commissioners is the body which ultimately must weigh all of the conflicting recommendations on a particular development and make its decision. We have advised the Board that they assert that role in accordance with the requirements of Colorado law and that they not delegate that authority to any other body by deferring to its negative recommendation. Thus, if the UCC may have serious reservations about a project, we hope that you as a group will explain your concerns in detail to the Board so that the Board can use that information in reaching its decision.

If you have any questions, we will be happy to discuss this with you. We anticipate that one of us will be in Grand Junction virtually weekly over the next several months and we are available by telephone in between.