



**SAN MIGUEL COUNTY BOARD OF COUNTY
COMMISSIONERS**

**BOARD OF COUNTY COMMISSIONER MEETING
AGENDA WEDNESDAY, MAY 4, 2022 – 9:30 AM**

LOCATION OF MEETING - NORWOOD SHERIFF ANNEX
1110 Summit St, Norwood, CO. 81423

1. Roll Call

Present:

Kris Holstrom, Chair

Hilary Cooper, Vice Chair

Lance Waring, Commissioner

Staff Present:

Mike Bordogna, County Manager

James Van Hooser, Assistant County Manager

Nancy Hrupcin, Legal Assistant

Carmen Warfield, Chief Deputy Clerk

2. 9:31 a.m. CALL TO ORDER.

3. MOMENT OF SILENCE

4. REVIEW OF AGENDA

6. CONSENT AGENDA

- a. Ratification of a letter of support for the Colorado Department of Agriculture's application entitled "Expanding the STAR program across Colorado and the West" for a grant from USDA Climate-Smart Commodities National Funding Opportunity.
Letter of Support USDA Grant expand Soil Health Program.pdf
- b. Ratification of Commissioner's signature on a comment letter to the Colorado Mined Land Reclamation Board on amendments to the Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations, 2 CCR 407-1, regarding Temporary Cessation, Production and to address the requirements of House Bill 19-1113.
MLRB Hardrock Rulemaking Comments 2022.pdf
- c. Approval of Chair's signature on an extension request for the Net-Zero Energy Costs for Housing Projects – ELAF A-0135.
Request for extension Net-Zero Energy Costs for Housing Projects "ELAF A-0135.pdf
- d. Approval of Chair's signature on a request for an extension on the San Miguel County Telluride Region Master Plan Update Grant – ELAF-09168
Request for extension Telluride Region Action Plan.pdf

MOTION by Hilary Cooper to approve the consent agenda with the change to the wording of item 6.d as stated below. **SECONDED** by Lance Waring. **PASSED 3-0.**

6.d. The correction to the last sentence in the letter shall read "The RFP process has been slowed by COVID (initially) and now other demands on staff. ~~notably the need to work on our current housing crisis. "heavy demand on staff."~~

5. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA.

Public Who Addressed the Board: Mary Ann Gaston, County resident

7. ADMINISTRATIVE MATTERS

- a. 9:30 am PUBLIC HEARING: Consideration of the Chair's signature on a Special Events Permit for Mountainfilm Ltd., Tracts 501 and 505 and the 30 spaces designated fields on 501W, Lawson Hill PUD, Telluride, CO. 81435/MOTION

Mountainfilm Ltd. Special Events -Redacted_Redacted.pdf

Presented By: Carmen Warfield, Chief Deputy Clerk

9:44 a.m. Chair Opened the Public Hearing.

9:44 a.m. Chair Closed the Public Hearing.

MOTION by Hilary Cooper to approve as presented. **SECONDED** by Lance Waring. **PASSED 3-0.** (ATTACHMENT I-Written Findings)

- b. Consideration of Chair's signature on a Proclamation 2022-002 to proclaim May 2022 as Mental Health Month./MOTION
Proclamation 2022-02 May 2022 Mental Health Month.docx

Presented By: Corinne Cavender, Tri-County Health Network

MOTION by Hilary Cooper to approve the Proclamation 2022-002 proclaiming May 2022 as Mental Health Month with the addition of the recognition of priorities that the County has committed with the Mental Health Behavioral Fund and the State of Colorado as one of the leading States addressing Mental Health. **SECONDED** by Lance Waring. **PASSED 3-0.** (ATTACHMENT II- Proclamation 2022-002)

- c. **9:40 am PUBLIC HEARING:** Consideration by the Board of County Commissioners acting in the capacity of the Board of Health for a request of a variance on a Onsite Wastewater Treatment System Regulation for Lots 9/10, Block 4, Town of Ophir./MOTION
Onsite Wastewater Treatment System Regulation Variance for Gregory Hope.pdf
Public Comment Hope OWTS Variance Application.pdf

Presented By: Lisa Garrett, Planning and Building Site Inspector; Matt Gonzales, Building Official; David Ballode, Representing the Applicant; Greg Hope, Applicant

MOTION by Hilary Cooper to approve the Hope OWTS variance request, based on the finding that the request meets the intention of Regulation 43 and that granting a variance for the proposed OWTS would not be injurious to public health, water quality or the environment, and that it would prevent a substantial hardship incurred through no fault of the applicant or property owner.

This approval is based on the following conditions, as well:

- 1.) The Variance Approval and Site Plan will be recorded with the San Miguel County Clerk and Recorder and attached to the property deed.
 - 2.) It is understood that this Variance is granted specific to this property, Lots 9 and 10, Block 4, Town of Ophir, for use by a 2-bedroom residence.
 - 3.) The applicant and future owners must certify that the OWTS will be regularly inspected and maintained to ensure optimal operation. **SECONDED** by Lance Waring. **PASSED 3-0.** (ATTACHMENT III – Resolution 2022-022)
- d. Consideration of Chair's signature on approving and designating public depositories in which the San Miguel County Treasurer may deposit and invest public funds./MOTION
Banking Resolution 2022.pdf
SMC Treasurer Investment Policy.pdf

Presented By: Brandi Hatfield, Treasurer; Mike Bordogna, County Manager

MOTION by Lance Waring to approve as presented. **SECONDED** by Hilary Cooper. **PASSED 2-1.** Hilary Cooper opposed. (ATTACHMENT IV- Resolution 2022-20)

10:35 a.m. Recessed.

10:44 a.m. Reconvened.

- e. Discussion and update on the San Miguel Basin Colorado State University Extension results of the Community Needs Assessment.
San Miguel County CNA Report- FINAL.pdf

Presented By: Yvette Henson, Extension Agent

9. NATURAL RESOURCES AND SPECIAL PROJECTS

Update and other, as needed.

1. Update on the Tri-State project. Vegetation management on Ophir Pass and surrounding area.
2. Starr Jamison has been appointed as the At-Large-Member to the Southwest Resource Advisory Council with the Bureau of Land Management.
3. Discussion of goals related to the Land Use Codes (LUC) and the Master plan to implement, prioritize, staff involvement, and budget has been scheduled during a work session on May 25, 2022. The discussion will include LUC amendments to Mining, Oil and Gas, and Gunnison Sage Grouse.

Presented by: Starr Jamison, NRSP Director

8. SOCIAL SERVICES MATTERS

(Board of Commissioners sitting as the San Miguel County Board of Social Services.)

- a. Approval of Chair's signature on Social Services Department Balance Sheet February 2022, Earned Revenue and Expenditures February 2022, Expenditures through Electronic Benefit Transfers March 2022, Check Register for the Month of March 2022, County Allocation/MOE Report FEB-22, and 2022 Caseload Graph & Chart/MOTION SMC April Packet .pdf

Presented by: Carol Friedrich, Director of Social Services

MOTION by Hilary Cooper to approve the financials as presented. **SECONDED** by Lance Waring. **PASSED 3-0.**

12. MANAGER MATTERS/Mike Bordgona

- b. Update and other as needed.
 1. An all-county training is scheduled for tomorrow. Some of the County offices will be closed.
 2. On May 11th a scheduled work session has been changed to a special meeting due to a vote that will need to be made concerning the Sunnyside Committee recommendations.
 3. Mike Bordogna will be attending a tabletop exercise with emergency management in case of a fire.
 4. May 18th board meeting will consist of the rezoning of the Diamond Ridge and a request for a logging permit.
 5. Randy Stevens has accepted a position as the CSU 4-H agent.
 6. Update on the County Solar Rebate Program.
 7. The new Egnar water dock is scheduled to be installed on June 2nd.
- d. Consideration of Chair's signature on a letter of agreement with Region 10 for access to two (2) strands of dark fiber./MOTION
Region 10 Fiber Use 2nd Letter of Agreement mh.pdf

Motion by Hilary Cooper to approve the Chair's signature for the agreement as presented. **SECONDED** by Lance Waring. **PASSED 3-0.**

10. Lunch

11:56 a.m. Recessed.

12:47 p.m. Reconvened.

11. PUBLIC HEALTH AND ENVIRONMENT

(Board of Commissioners sitting as the San Miguel County Board of Public Health.)

Potential Executive Session: Concerning Public Health, Meeting with an Attorney, citation 24-6-402(4)(b).

Update and other, as needed.

Presented by: Grace Franklin, Public Health Director

12. MANAGER MATTERS/Mike Bordogna

- c. Discussion on the operation and maintenance of the Egnar Water Dock.

Presented By: Mike Bordogna, County Manager; Sheamus Croke, COVID-19 Recovery Funding Coordinator

Note: Sheamus Croke will follow up with the Montezuma Water Company on the specific details needed for the board to make a decision.

- a. Update with San Miguel Power Association concerning renewable energy and energy conservation.

Presented By: Alex Shelley, San Miguel Power Association

13. COMMISSIONER UPDATES:

- a. Consideration of appointing Gunnison County Commissioner Liz Smith to serve as the western district representative to the Child Welfare Allocation Committee (CWAC)./MOTION

MOTION by Hilary Cooper to support the appointment of Liz Smith as the western district representative to the Child Welfare Allocation Committee. **SECONDED** by Lance Waring. **PASSED 3-0.**

Hilary Cooper - Update on Outside Meetings and Legislative Updates. – Site Visit with the Montezuma/Dolores County concerning the CORE Act, Meeting with the Forest Service and Western Region Wildfire, There is a need to work directly with Trout Lake as they have dropped out of the Wildfire Evaluation process.

Kris Holstrom - Update on Outside Meetings. – Region 10 Executive board meeting, Town of Norwood meeting with the newly appointed Mayor Candy Meehan

Lance Waring - Update on Outside Meetings. – CC4CA, EcoAction Partners, Town of Ophir Meeting

- 12.e. Potential Executive Session: Discussion of the most recent letter received from the State Land Board concerning the Wilson Mesa Parcel, citation (4)(e).
Recommended Motion: Staff direction requested.
4.2022 Letter to County Commissioners.docx.pdf

Presented by: Mike Bordogna, County Manager

Note: Amy Markwell, County Attorney joined the meeting.

MOTION by Hilary Cooper to go into Executive Session to discuss the letter received from the State Land Board, citation (4)(e). **SECONDED** by Lance Waring. **PASSED 3-0.**

2:42 p.m. Recessed.

3:00 p.m. Reconvened.

MOTION by Lance Waring to come out of the Executive Session. **SECONDED** by Hilary Cooper. **PASSED 3-0.**

Note: Only the one item stated was addressed.

14. 2:45 pm ATTORNEY MATTERS

(Any of these items may involve an Executive Session C.R.S. 24-6-402)

- a. Executive Session: Discussion of the clean-up of the Lawson Hill Tailings, citation (4)(e).

Presented By: Hilary Cooper, Commissioner; Starr Jamison, NRSP Director

Note: Amy Markwell, County Attorney attended this portion of the meeting.

MOTION by Hilary Cooper to go into Executive Session to discuss the clean-up of the Lawson Hill Tailings, citation (4)(e). **SECONDED** by Lance Waring. **PASSED 3-0.**

3:00 p.m. Recessed.

3:23 p.m. Reconvened.

MOTION by Hilary Cooper to come out of the Executive Session. **SECONDED** by Lance Waring. **PASSED 3-0.**

Note: Only the one item stated was addressed.

15. ADJOURNMENT

MOTION by Hilary Cooper to adjourn the meeting. **SECONDED** by Lance Waring. **PASSED 3-0.**

3:24 p.m.

Respectfully submitted,


Carmen Warfield, Chief Deputy Clerk



Approved. *May 15, 2022*

SAN MIGUEL COUNTY BOARD OF COUNTY COMMISSIONERS


Kris Holstrom, Chair

ATTEST:


Mike Bordogna, County Manager

These minutes summarize the final decision made by the Board at the referenced meeting. This meeting was also audio recorded and that recording is available for review. In the event there is confusion as to what the final decision of the Board is, the Board will rely on the audio tape to interpret the Board's intent. The audio tape shall act as an official record of these proceedings for any necessary purpose when, in the opinion of the Board, the minutes are in any way insufficient. An audio copy of the Board of County Commissioners' proceedings is available on the website at <https://www.sanmiguelcountyco.gov/661/Agendas-and-Minutes> or by contacting the Deputy Clerk to the Board.

ATTACHMENT I

Date: March 21, 2022

To: San Miguel County Board of Commissioners

ATTACHMENT

Re: Special Events Permit for Mountainfilm Ltd
PO Box 1088
Telluride, Co 81435

1. Fees: \$60.00 paid March 21, 2022, to San Miguel County, to serve Malt, Vinous and Spirituous Liquors May 26, 2022 from 2 PM to 10 PM.
2. Notice for posting on the proposed site was given to applicant April 18, 2022.

Notice does not need to be published in the Weekly Planet unless petitions of remonstrance's are filed with me.

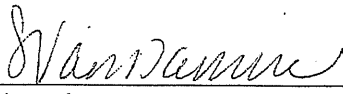
Meeting to be held at 9:30 o'clock A.M., May 4, 2022 for approval of application.

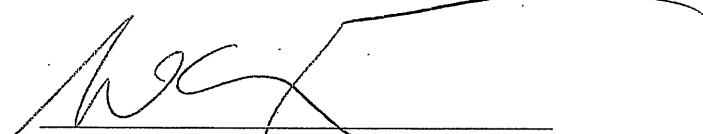
The Sheriff's office will be notified of an opportunity to comment (on any possible perceived law enforcement) at the meeting.

3. Fingerprinting is not required for a Special Events Permit.

William Masters, Sheriff, gives his approval on this application with the understanding that they be allowed to sell Malt, Vinous and Spirituous Liquor.

4. Application is complete with the following documents:
 - (a) Diagram showing where liquor will be served and consumer.
 - (b) Certificate of Good Corporate Standing.
 - (c) Letter of permission from Lawson Hill Propertyowners Company.
 - (d) Insurance attached.


Stephannie Van Damme County Clerk


William Masters, Sheriff

**PROCLAMATION OF THE BOARD OF COMMISSIONERS OF
SAN MIGUEL COUNTY, COLORADO, HEREBY PROCLAIM
MAY 2022 AS MENTAL HEALTH MONTH**

Proclamation #2022 - 002

WHEREAS, mental health is essential to everyone's overall health and well-being; and

WHEREAS, Colorado according to Mental Health Colorado, is struggling in terms of mental health, especially for kids; and

WHEREAS, all Americans face challenges in life that can impact their mental health, especially during a pandemic; and

WHEREAS, prevention is an effective way to reduce the burden of mental health conditions; and

WHEREAS, there are practical tools that all people can use to improve their mental health and increase resiliency; and

WHEREAS, mental health conditions are real and prevalent in our nation; and

WHEREAS, with effective treatment, those individuals with mental health conditions can recover and lead full, productive lives; and

WHEREAS, each business, school, government agency, health care provider, organization and citizen share the burden of mental health problems and has a responsibility to promote mental wellness and support prevention and treatment efforts.

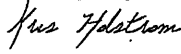
WHEREAS, organizations like Tri-County Health Network fight all year, not just in May, to bring mental health awareness to the forefront and offer programs and services to the community to address mental health needs.

WHEREAS, San Miguel County recognizes the priorities of Mental Health as the community supported and passed a mill levy creating the Mental Health Behavioral Fund improving access and support to all members of the community.

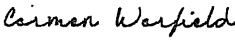
THEREFORE, the Board of County Commissioners, do hereby proclaim May 2022 as Mental Health Month in San Miguel County. The board also calls upon the citizens, government agencies, public and private institutions, businesses, and schools in San Miguel County to commit our community to increasing awareness and understanding of mental health, the steps our citizens can take to protect their mental health, and the need for appropriate and accessible services for all people with mental health conditions.

DONE AND APPROVED by the Board of County Commissioners at a regular meeting held at Norwood, Colorado, on May 4, 2022.

BOARD OF COUNTY COMMISSIONERS
SAN MIGUEL COUNTY, COLORADO

DocuSigned by:

DCF740637985480...
Kris Holstrom, Chair



ATTEST:
DocuSigned by:

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Carmen L. Warfield, Chief Deputy Clerk to the Board

VOTE:

Hilary Cooper	x	Aye	Nay	Abstain	Absent
Kris Holstrom	x	Aye	Nay	Abstain	Absent
Lance Waring	x	Aye	Nay	Abstain	Absent

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS, ACTING AS THE
BOARD OF HEALTH, SAN MIGUEL COUNTY, COLORADO, CONDITIONALLY
APPROVING A VARIANCE FOR AN ON-SITE WASTEWATER TREATMENT
SYSTEM FOR GREGORY HOPE, LOT 9/10, BLOCK 4, TOWN OF OPHIR**

Resolution #2022 - 022

WHEREAS, Gregory Hope is the owner of lot 9/10, Block 4, Town of Ophir; and

WHEREAS, the Applicant, Gregory Hope, has submitted an application requesting a variance to On-Site Wastewater Treatment System (OWTS) standards; and

WHEREAS, the Colorado On-Site Wastewater Treatment Systems Act of 2012 (the Act) includes standards for the granting of Variances (Section 25-10-105), and allows the local board of health to grant variances to OWTS rules in accordance with the criteria established by the Act; and

WHEREAS, the San Miguel County Board of Health has adopted Regulation 43 (the Regulation), which includes procedures and standards for the review of requests for variances from requirements of the Regulation; and

WHEREAS, the Applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting these Regulations; and

WHEREAS, the lot is a legally platted lot and different configurations for the home and OWTS have been attempted to determine a layout that can accommodate the home and OWTS. However, due to the steep grade of the lot, the OWTS cannot fit within the established 10' setback; and

WHEREAS, the Applicant and Design Engineer are proposing the installation of a PVC barrier to be placed between the Soil Treatment Area and the property line to prevent lateral migration of effluent from the OWTS onto the neighboring lot. This method has been used in other recent OWTS Variance requests to reduce the setbacks to property lines; and

WHEREAS, the Applicant sent notice of the proposed variance request and the Board of Health Public Hearing, to be held on Wednesday, May 4, 2022, to all property owners within 500 feet of the subject parcel; and

WHEREAS, a Public Hearing Notice for the proposed variance request and the Board of County Commissioners Hearing, acting as the Board of Health, to be held on May 4, 2022 was published in the Norwood Post on Wednesday, April 13, 2022; and

WHEREAS, a list of the items included in the Public Hearing Record is attached to this resolution as Exhibit A; and

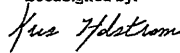
WHEREAS, the Board of Commissioners of San Miguel County, Colorado, acting as the San Miguel County Board of Health, considered this application, along with relevant evidence and testimony, and approved the requested variance at a public hearing in Norwood on Wednesday, May 4, 2022.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado, acting as the Board of Health, hereby approves the request for an On-Site Wastewater Treatment System Variance for Greg Hope, based on the finding that the proposed variance is consistent with Section 25-10-105 of the Colorado On-Site Wastewater Treatment Systems Act and Regulation 43 of the San Miguel County Board of Health, with the following conditions:

- 1. The Variance Approval and Site Plan will be recorded with the San Miguel County Clerk and Recorder and attached to the property deed.
- 2. It is understood that this Variance is granted specific to this property, Lots 9 and 10, Block 4, Town of Ophir, for use by a 2-bedroom residence.
- 3. The applicant and future owners must certify that the OWTS will be regularly inspected and maintained to ensure optimal operation.

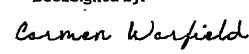
DONE AND APPROVED by the Board of County Commissioners of San Miguel County, Colorado, on May 4, 2022.

BOARD OF COUNTY COMMISSIONERS
SAN MIGUEL COUNTY, COLORADO

DocuSigned by:


Kris Holstrom, Chair

ATTEST:

DocuSigned by:


Carmen L. Warfield, Chief Deputy Clerk to the Board



VOTE:

Hilary Cooper	<u>Aye</u>	Nay	Abstain	Absent
Kris Holstrom	<u>Aye</u>	Nay	Abstain	Absent
Lance Waring	<u>Aye</u>	Nay	Abstain	Absent

EXHIBIT A – Public Hearing Record

Exhibit A

MEMORANDUM

TO: San Miguel County Board of Health
FROM: Lisa Garrett, Site Inspector, Planning and Building Department
Matt Gonzales, Building Official
RE: Onsite Wastewater Treatment System Regulation Variance for Gregory Hope
DATE: May 4, 2022

Background

Pursuant to the San Miguel County Onsite Wastewater Treatment Systems (OWTS) Regulations, Section 7 Variances, "The Board of Health may approve a variance from a requirement of this Regulation. Variances cannot be granted by staff."

The San Miguel County Planning and Building Department has received a request for a Variance for an Onsite Wastewater Treatment System for Lots 9/10, Block 4, Town of Ophir.

The Colorado "On-site Wastewater Treatment Systems Act," which was adopted in June 2012, established minimum standards for the location, design, construction, performance, installation, alteration, and use of on-site wastewater treatment systems within Colorado. The provision was made that each local board of health would adopt regulations that complied with the minimum standards established by the State. The "Act" made the following provisions for Variances.

25-10-105. Minimum standards – variances

(1) Rules adopted by local boards of health under section 25-10-104 (2) or (4) or promulgated by the department under Section 25-10-104 (1) govern all aspects of the location, design, construction, performance, alteration, installation, and use of on-site wastewater treatment systems and must include minimum standards established by the commission.

(2) (a) A local board of health may grant variances to OWTS rules in accordance with the criteria adopted by the commission under this article.

(b) Applicants for a variance from OWTS rules have the burden of supplying the local board of health with information demonstrating that conditions exist that warrant the granting of the variance.

On May 21, 2014, the San Miguel County Board of Health adopted Regulation 43 along with several additional items that each local board of health may choose to adopt or not. The San Miguel County Board of Health opted to allow Variances through the basic guidelines developed by the State. Our Regulation reads as follows:

Section 7 Variances [43.4(N)]

A. Variances Allowed

1. The Board of Health may approve a variance from a requirement of this Regulation.

- Variances cannot be granted by staff.
2. Approval of a variance must be based upon evidence presented by the applicant, or their designee, showing that the variance:
 - a) would not be injurious to the public health, water quality or the environment,
 - b) would prevent a substantial hardship incurred through no fault of the applicant.
 3. Variances must not be granted under the items identified in section 43.4(N)(5) of Regulation 43.
- B. Variance Procedure
1. Variance requests must be provided in writing to the San Miguel County Board of Health and to all adjacent landowners of record at the County Assessor within 500 feet of the subject property no less than 20 days in advance of the public hearing. The variance request will include a narrative demonstrating compliance with the requirements of Section 7A.
 2. Variance requests must include all items identified in section 43.4(N)(2)(d) of Regulation 43.
 3. The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting these Regulations. The Board of Health must determine if this item has been addressed prior to granting a variance.
 4. The Board of Health has the authority to impose site-specific requirements and conditions on any variance granted.

Requested Variance

Greg Hope, the Applicant and Property Owner, has submitted an OWTS Variance Application to request a reduction in the setback from the Soil Treatment Area (STA) to the west and south property lines from 10 feet to 2 feet.

In a letter attached to the Variance Application, the applicant explains that many different configurations for the home and OWTS have been attempted to determine a layout that can accommodate the home and OWTS. David Ballode, OWTS Design Engineer, also explains the different options that were considered. However, due to the steep grade of the lot, the OWTS cannot fit within the established 10' setback.

The applicant and design engineer are proposing the installation of a PVC barrier to be placed between the Soil Treatment Area and the property line to prevent lateral migration of effluent from the OWTS onto the neighboring lot. This method has been used in other recent OWTS Variance requests to reduce the setbacks to property lines.

Public Noticing

As required by C.R.S. § 30-28-106(1), a Notice of Public Hearing was published in the Telluride Daily Planet and in the Norwood Post on Wednesday, April 13, 2022. The applicant also provided mailed notice to all property owners within 500 ft. The list of names and addresses is included in the packet.

Referral Agencies

I received a call from the Ophir Town Manager, John Wontrobski. He requested a copy of the OWTS Variance application. I sent the application to him by email April 7, 2022.

Public Comments

I received an email April 13, 2022, from an Ophir property owner inquiring about the use of the PVC liner to reduce setbacks. She expressed interest in the possibility of requesting an OWTS Variance to utilize this method to install an OWTS on her Ophir property in the future.

A note was received April 20, 2022, from P.O. Box 325, Rico, Colorado stating "I object to reducing the setbacks to septic due to water quality and neighbor density. I am a 40 yr resident and don't like the congestion!"

I have received a few other calls with questions about the proposed variance. I encouraged the callers to provide written comments or attend the hearing on May 4, 2022.

Review Standards

The Board of Health may approve a variance from a requirements of Regulation 43. Variances cannot be granted by staff. Approval of a variance must be based upon evidence presented by the applicant, or their designee, showing that the variance: a) would not be injurious to public health, water quality or the environment, and b) would prevent a substantial hardship incurred through no fault of the applicant.

Regulation 43 describes several situations where variances cannot be granted.

No variance shall be issued where the property can accommodate a conforming OWTS.

- Due to the topography and the size of this parcel, there is insufficient room for a modest two-bedroom home and the appropriately sized OWTS to serve it without an OWTS Variance to allow a reduction in setbacks of the Soil Treatment Area to the west and south property lines.

No variance shall be issued to mitigate an error in construction involving any element of property improvements.

- There are no errors in construction.

No variance shall be allowed solely for economic gain.

- The request is to ensure the ability of the owner to build a two-bedroom residence to be occupied by the owner.

No variance shall be issued, if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without the board of health considering any concerns of the owner of property containing said feature.

- The reduction of setbacks from the proposed OWTS to property lines does not appear to concern the adjoining property owner. The PVC Liner will mitigate lateral migration of effluent onto the Kingsley's property to the west. The Kingsleys have also signed a letter from Greg offering their approval of the requested variance. The Aurum Street Right-of-Way adjoins the southerly property line, which would have limited human activity or future development.

Property lines are considered offsite features. The property owner containing said feature must be notified of the time and date of the hearing.

- All property owners within 500 feet of the property have been notified.

No variance shall be issued, if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2.

- The proposed design does not reduce separation to groundwater or bedrock.

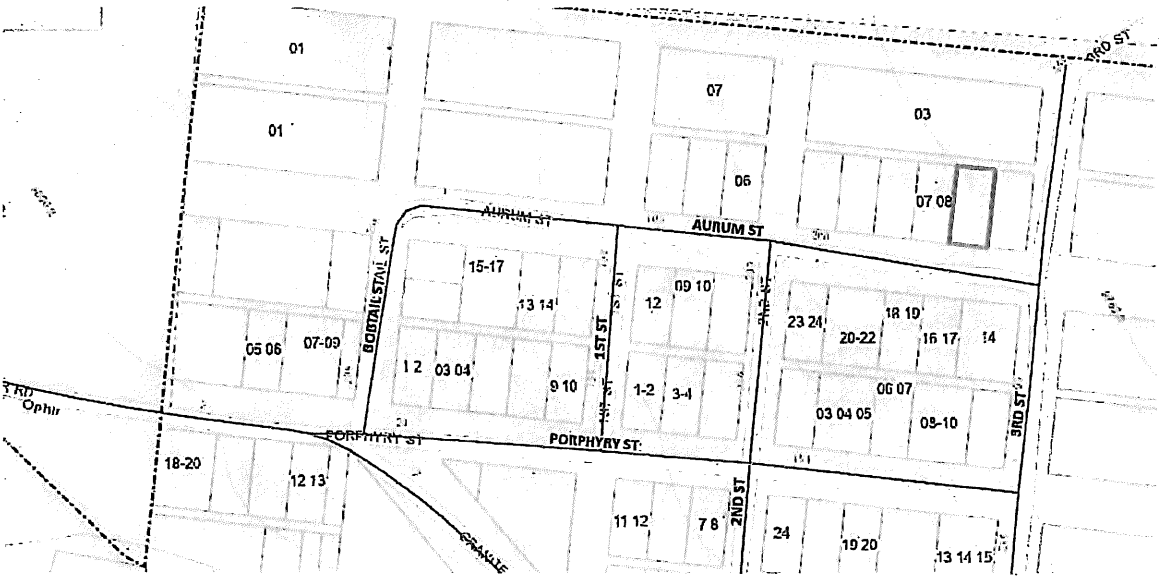
No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors.

- The Town of Ophir provides domestic water to the residents. No well is required.

No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the local public health agency having a maintenance and oversight program as defined in section 43.14.D.

- The proposed OWTS is sized for a two-bedroom house to be constructed on-site and no reductions in size of the OWTS have been requested. San Miguel County does not currently have an oversight program in place to allow a reduction.

Location Map – Town of Ophir



Aerial Photo



Photographs of Property



Discussion

The applicant for this OWTS Variance, Gregory Hope, would like to build a two-bedroom home on his property in Ophir. The information presented indicates that an OWTS Variance is required for this to be possible. The applicant and OWTS Design engineer plan to design and install the OWTS to ensure it would not pose an increased risk to the environment or to public health.

Recommendation

Staff has attempted to present factual information for the Board of Health to make an informed decision. Two sample motions are provided below.

- A. Move to approve the Hope OWTS Variance request, based on the finding that the request meets the intention of Regulation 43 and that granting a variance for the proposed OWTS would not be injurious to public health, water quality or the environment, and that it would prevent a substantial hardship incurred through no fault of the applicant or property owner.

This approval is based on the following conditions, as well:

- 1.) The Variance Approval and Site Plan will be recorded with the San Miguel County Clerk and Recorder and attached to the property deed.
- 2.) It is understood that this Variance is granted specific to this property, Lots 9 and 10, Block 4, Town of Ophir, for use by a 2-bedroom residence.
- 3.) The applicant and future owners must certify that the OWTS will be regularly inspected and maintained to ensure optimal operation.

- B. Move to deny the Hope Variance request, based on the information presented in this hearing, for the following reasons: To be addressed by the Commissioners.

**RESOLUTION OF THE BOARD OF COMMISSIONERS,
SAN MIGUEL COUNTY, COLORADO
APPROVING AND DESIGNATING PUBLIC DEPOSITORIES IN WHICH THE
SAN MIGUEL COUNTY TREASURER MAY DEPOSIT AND INVEST PUBLIC FUNDS**

Resolution #2022-²⁰_____

WHEREAS, C.R.S. 30-10-708 requires the Board of County Commissioners to approve and designate such state banks, national banks, savings and loan associations, and securities for use by the County Treasurer as public depositories;

WHEREAS, the San Miguel County Treasurer has provided a list of proposed institutions to be designated as public depositories;

WHEREAS, C.R.S. 11-10.5-101 and 11-47-101, which provide the Public Deposit Protection Act and the Savings and Loan Public Deposit Protection Act;

WHEREAS, the primary objectives of the County Investment Policy are safety, liquidity, and yield;

WHEREAS, The San Miguel County Treasurer has advised the Board of County Commissioners that all public funds will be insured or secured by eligible collateral as required by C.R.S. 11-10.5-107;

WHEREAS, the San Miguel County Treasurer has requested that the Board of County Commissioners grant approval to invest and deposit public funds as authorized under C.R.S. 24-75-601, C.R.S. 24-75-601.1, C.R.S. 24-75-603, and C.R.S. 24-75-701;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SAN MIGUEL, STATE OF COLORADO, THAT:

1. The San Miguel County Treasurer is hereby authorized to deposit the public funds of San Miguel County in the following public depositories:
 - a. Alpine Bank
 - b. ANB Bank
 - c. U.S. Bank
 - d. Community Banks of Colorado
 - e. Dolores State Bank
 - f. Citizens State Bank
2. Said institutions are hereby approved for use by the County Treasurer as depositories for all the funds and monies of whatever kind that come into the Treasurer's possession by virtue of the office.

- 3. Deposits in these institutions shall comply with C.R.S. 11-10.5-106 and C.R.S 24-75-603.
- 4. The approval and designation of these institutions shall continue until revoked by operation of law or otherwise, and so long as the institutions are designated by the State Banking Board and the institutions maintain federal deposits insurance approval and adequate collateral.
- 5. The San Miguel County Treasurer is hereby authorized to invest in securities as itemized below in compliance with the requirements through the following Broker/Dealer:
 - a. LPL Financial through Peaks Investment Management, Denver, CO
- 6. The San Miguel County Treasurer is hereby authorized to participate in Local Government Pooling as itemized:
 - a. Colotrust - Denver, CO
 - b. CSAFE - Centennial, CO
 - c. CSIP – Denver, CO
- 7. The San Miguel County Treasurer may sell securities held by the County to meet, as necessary, the primary objectives of the County Investment Policy.
- 8. The San Miguel County Treasurer is granted the authority to designate authorized personnel as signatories on the deposit and investment accounts.
- 9. All preceding resolutions Designating Public Depositories are hereby repealed.

APPROVED by the Board of Commissioners of San Miguel County, Colorado, at a public meeting in Telluride, Colorado, on May 4, 2022.

**SAN MIGUEL COUNTY, COLORADO
BOARD OF COMMISSIONERS**

By: *Kris Holstrom*
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Kris Holstrom, Chair

DocuSigned by:
Carmen Warfield
ATTEST: BE2AF0C39C05400
Carmen Warfield, Chief Deputy Clerk



VOTE:

Hilary	Cooper	Aye	☒	Nay	☐	Abstain	☐	Absent	☐
Kris	Holstrom	Aye	☒	Nay	☐	Abstain	☐	Absent	☐
Lance	Waring	Aye	☒	Nay	☐	Abstain	☐	Absent	☐