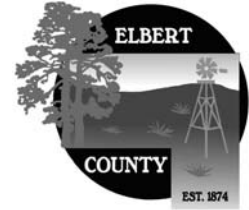




COUNTY OF ELBERT

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**January 5, 2009 for the Board of County Commissioners Public Hearing of
January 6, 2009**

TO: BOARD OF COUNTY COMMISSIONERS

**FROM: Richard L. Miller, AICP
Director – Community & Development Services Office**

**RE: Case Number: SU-08-0032, Use by Special Review Permit
Peaceful Valley Scout Ranch Shooting Facility**

SUMMARY OF REQUEST: This Special Use Review application is to permit the Denver Area Council, Boy Scouts of America to use existing firing ranges and to construct new firing/shooting facilities at the Peaceful Valley Scout Ranch, which includes relocation of the existing "Travis Family Shooting Sport Facility", continued use of the Magness Camp BB-Gun Range and archery ranges; and relocation of the Sporting Clays Course to the northeastern portion of the Scout Ranch. The relocated "Travis Family Shooting Sport Facility" is proposed for traditional Scouting use; while the Sporting Clays Course will be used primarily for fundraising events.

APPLICANT: Denver Area Council, Boy Scouts of America

REPRESENTATIVE: Carolynne C. White, Attorney
Brownstein/Hyatt/Farber/Schreck, LLP

SITE DESCRIPTION: The Peaceful Valley Scout Ranch is located approximately one mile south of the unincorporated Town of Elbert. The Scout Ranch contains approximately 3,300 acres of land with pine forest, meadows, several natural drainages and bodies of water. The proposed Travis Facility is to be located at the "Laredo Site" (Site No. 3), as depicted on the Special Use Review Permit graphic. The Sporting Clays Course and Skeet Course are to be located at the Adventure Valley Site (Site No. 5).

EXISTING ZONING: The subject property is zoned Agricultural ("A"). "Firing Ranges" require a Special Use Review in the Agricultural zone district and must be located at least one-hundred feet (100') from all property lines, with sound abatement

and projectile safeguards.

PROPOSED ZONING: The zoning for the subject property will remain Agricultural ("A"), with a Special Use Review Permit for firing/shooting facilities.

SURROUNDING LAND USES AND ZONING:

North – Large agricultural parcels zoned Agricultural

South – Large agricultural parcel to the south, zoned Agricultural, with smaller parcels having A-1 and RA zoning to the southeast

East – Large agricultural parcels zoned Agricultural, with smaller parcels to the southeast zoned RA and A-1

West – Large agricultural parcels to the west with an RA-1 zoned parcel along the northwest border

CRITERIA FOR REVIEW OF SPECIAL USE REVIEW APPLICATIONS:

The applicant provided a response to each of the criteria for review of Special Use Review applications. An abbreviated summary of this response is included, followed by comments from the Community & Development Services Office (CDSO), where appropriate. The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Special Use Review applications:

- a. ***"Whether the proposed Special Use complies with the requirements of the Elbert County Master Plan, Elbert County Zoning Regulations and the Elbert County Subdivision Regulations."***

Applicant's Response – (Master Plan compliance): *Elbert County's Master Plan does not specifically address community direction for shooting ranges. However, the Scout Ranch as a whole, the proposed relocated Travis Facility and associated Scouting use, the proposed Scouting use and Fundraising use of the Sporting Clays Course complies with and advances many of the policies found in the numerous topics such as Community Resources, Land Use, Natural Resources, and Economic Development. In addition to the scouting mission, the Scout ranch has served an asset to the community by offering the ranch to various community groups throughout the years of operation.*

The Master Plan does identify some policies regarding "noise" under its Environmental Quality section. The following are the identified policies and how the Scouts have addressed these policies:

"Land uses that generate significantly higher levels of noise than surrounding areas may be considered incompatible, unless actions are taken that effectively mitigate noise levels."

Applicant's Response: *The Scouts have gone to great lengths to be a good neighbor and propose a revised location, not only for the Sporting Clays Course, but also for the Travis Facility. The Travis Facility will only be used for Scouting use, which occurs Monday through Friday in the daytime. Noise measurements at the Scout Ranch property lines slightly exceeds the state noise statute of 55 dB(A) by 2 dB(A) when there were ten guns firing at once. Rarely, if ever, does scouting activities entail that number of Scouts firing shotguns simultaneously. The proposed Sporting Clays Course and associated skeet has been moved to Location 5, which is significantly farther away from its original location. The noise measurements exceeded the state noise statute of 55 dB(A) taken directly at the closest property lines (measurement locations M5a and M5c in the "Shooting Range Noise Impact Assessment", tab "O" in the application notebook). However, the adjacent property is used for agricultural and grazing and there are no residences in close proximity. Results indicate that measurements taken from the closest public right-of-way in the Town of Elbert and the intersection of Elbert County Road 33 and Elbert County Road 94 were below 55 dB(A): Town of Elbert average noise levels of 45-50 dB(A); and County Road intersection average noise levels of 38-40 dB(A).*

"The County shall encourage the use of existing and manmade topography and/or vegetation to help reduce noise levels."

Applicant Response: *Distance, vegetation and manmade structures provide excellent buffers to reduce noise levels emanated by shooting activity at the proposed ranges. For instance, with reference to Location 5, the developed portions of the Scout Ranch provide a large buffer that will largely reduce noise levels to neighbors to the southwest of the Scout Ranch. Dense pine trees provide a buffer to the northeast of Location 5. Similarly, Location 2 is buffered by dense vegetation, topography and is just less than one mile from the adjacent neighbors to the southwest.*

"The County shall encourage the use of construction materials and design techniques, which reduce outside or inside noise levels."

Applicant Response: *Only "target shooting load" is allowed on the Sporting Clays Course. These light loads have minimal recoil to the shooter and generate less noise than a standard hunting load. The course itself, particularly with the recent modification proposed in this application, is designed to reduce noise levels as measured at the property line.*

Applicant's Response – (Zoning Regulations): *The only specific numerical standard required by the Elbert County Zoning Regulation is the 100-foot setback from property lines for firing/shooting ranges (Part II, Section 17 (a) (20)). All shooting ranges comply with this requirement. Finally, the Scouts will explore the use of sound baffling structures around the new Travis Facility as the design for the new range is finalized.*

Community & Development Services Office (CDSO) Response: With this application, the Scouts decided to move the existing Travis Facility to the "Laredo" site, Site No. 3, which is located in the eastern portion of the Scout Ranch. Noise testing was conducted in June and July of 2008 at this site and four other sites on the Scout Ranch. The details of the noise testing are contained within the application notebooks, under tab "O". The State Noise Law bases noise limits upon the property zoning and specifically indicates that the noise limits apply to the zoning of the property from which the noise is emanated, not the zoning of the property that receives the noise. The Engineering Dynamics noise study indicates that while there is no direct application of Colorado's noise ordinance to agricultural land, the statute provides a good guideline. The camp operation could be categorized as "commercial" for noise purposes, which the State Noise Law sets at a maximum of 60 dB(A) from 7:00 AM to 7:00 PM. According to the State Noise Law, gunfire noise can be considered to be "impulsive", which reduces the State Commercial Daytime Limit by 5 dB(A), to 55 dB(A) at the property line. The 55 dB(A) noise limit at the property line has been used as the benchmark for all noise testing conducted on the Scout property for this land use application.

On page 5 of the noise study, the Laredo Site's maximum shotgun noise level at the nearest Scout Ranch property line was 50 dB(A) when two shotguns were fired, 51 dB(A) for ten guns in rapid fire and 53 dB(A) when ten guns were fired simultaneously. The recommended Conditions of Approval, as mentioned later in this report, require that all shooting activities permitted under this Special Use Permit shall be conducted such that shooting activities comply with all applicable state and local regulations, which includes noise standards. Additionally, the Development Guidelines for this Special Use Review require that one noise test be conducted under County oversight, after the new Travis Facility is constructed. The sound measured shall be generated to simulate Scouting use. Should noise levels exceed 55 dB(A) at the property lines of the Scout Ranch, sound baffling or other appropriate sound mitigation measures will be installed.

The Sporting Clays Course is to be relocated to the "Adventure Valley" site, Site No. 5. The noise measurements exceeded the state noise statute of 55 dB(A) taken directly at the closest property lines (measurement locations M5a and M5c – please see map in noise study). The adjacent property is used for agricultural with no residences in close proximity. Results indicate that measurements taken from the closest public right-of-

way in the Town of Elbert and the intersection of Elbert County Road 33 and Elbert County Road 94 were below 55 dB(A): Town of Elbert average noise levels of 45-50 dB(A); and County Road intersection average noise levels of 38-40 dB(A). As previously mentioned, the recommended Conditions of Approval require that all shooting activities permitted under this Special Use Permit shall be conducted such that shooting activities comply with all applicable state and local regulations, which includes noise standards.

b. "Whether the proposed Special Use is in harmony and compatible with the surrounding area and neighborhood."

Applicant's Response – With the proposed conditions and modifications, the Sporting Clays Course and the relocated Travis Facility will be operated in harmony with, and are compatible with the surrounding area and neighborhood. The area surrounding the Scout Ranch is a rural area. Although some scattered residential uses can be found adjacent to and near the Scout Ranch, the area is primarily agricultural. As compared to a more dense, urban environment, there is no question that a rural area such as this is better suited to the proposed Sporting Clays Course and the relocated Travis Facility.

CDSO Response: While it is difficult to argue that a shooting range is in harmony and compatible with the surrounding area and neighborhood, the relocation of the Travis Facility to the Laredo Site and the Sporting Clays Course from the Bobcat Gulch area to the Adventure Valley Site, is an improvement over the existing locations of the facilities. Fewer residences will be affected by noise from the proposed new locations; however, those residences located on the eastern side of the Scout Ranch may experience an increase in noise.

c. "Whether the proposed Special Use will adversely impact the provision of public services."

Applicant's Response – The Scouts intend to operate the Scout Ranch as it has operated since its inception. The relocation of the Travis Facility and the operation of the Sporting Clays Course will not expand any public service requirements. With respect to the Scouting use, nothing is changing except the location. Thus no additional impact on public services is anticipated as it will be utilized as an additional activity offered to the attending campers. With respect to the fundraising use, the Scouts are proposing to limit this activity to a maximum of eight days per year, and a maximum of 200 participants per event. The traffic study submitted with this application shows that the additional vehicles generated by such use is well within the capacity of the existing road system. The Scouts will work closely with the Elbert Fire District to coordinate and prepare for each event.

CDSO Response: The normal day-to-day operations of the camp will not change and

should not negatively impact the provision of public services. For the fundraising events, the Scouts should coordinate traffic control with the Elbert County Sheriff's Office to insure safe traffic operations during the events. Additionally, the Scouts should inform the Elbert Fire District of all events and coordinate adequate emergency access routes, including any required areas necessary to turn equipment around.

d. *"Whether the proposed Special Use will adversely impact the environment."*

Applicant's Response: *No response.*

CDSO Response: The environmental concerns related to this proposed Special Use centered on lead and its impact to the Scouts, soil and water, and area wildlife. In addition, the impact of noise on the surrounding environment and wildlife were also a concern. The application included a Best Management Practices Plan for lead management at the ranges, an *Ecological and Wildlife Resource Assessment*, and a Noise Impact Assessment. These items were sent to appropriate agencies for review and comment. The lead-related issues were reviewed by the County Engineer, CH2M Hill. Their comments and recommendations are included with this report. The Conditions of Approval and the final Best Management Practices Plan will address lead-related issues for soil and water. The Colorado Division of Wildlife reviewed the information and determined that the ranges should have no permanent detrimental impact to area wildlife.

e. *"Whether the proposed Special Use will increase traffic congestion or burden the existing road system."*

Applicant's Response: The Scouting use will not change and therefore there will be no increase of traffic congestion or burden to the existing roadway system. The traffic generated by the fundraising use of the Sporting Clays Course can be accommodated by the existing roadway system with minimal impact, according to a traffic study provided by the Scouts.

f. *"Whether the proposed Special Use will be adequately landscaped, buffered and screened."*

Applicant's Response: *As discussed throughout this Application, the relocated Travis Facility and revised location of the Sporting Clays Course brings these uses well into the interior of the Scout Ranch property, away from Elbert Road, and from the highest density residential area. These new locations were selected to maximize screening and buffering. Distance from property lines operates as a great buffer to adjacent property owners. Landscaping does not apply in this rural context; it would be inappropriate to provide manicured landscaping in what is essentially a wild area.*

CDSO Response: The Travis Facility has been re-located to a more interior location, which will help alleviate noise to most surrounding properties. Topography and vegetation will also help screen the range from view from off-site properties. The Sporting Clays Course abuts a large agricultural parcel. The Elbert County Zoning Regulation requires a 100' setback from property lines for shoot/firing ranges; which this application meets.

- g. Whether the proposed Special Use will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County."*

Applicant's Response: The Scouts have taken all possible measures to mitigate the impact of the proposed Scouting use and fundraising use of the relocated Travis Facility and the Sporting Clays Course on the present or future inhabitants of Elbert County. Based on the objective data provided in this application from environmental experts, sound engineers, traffic engineers, lead experts, and soil scientists, as well as extensive investigations the Scouts have undertaken, no objectively measurable negative impact on health, safety or welfare of the present or future inhabitants of Elbert County can be shown to result from the proposed uses described in this application.

CDSO Response: Several surrounding property owners have expressed concern over the impact of noise and lead from the ranges and the possible effect to their health, safety and welfare (please see attached letters and e-mails). The application items submitted by the Scouts have been reviewed by various referral agencies and departments. The CDSO has attempted to address issues and concerns that may have been raised by the referral agencies in the Conditions of Approval and with the requirement of a final Best Management Practices Plan for the ranges. The Integrated Corrective Action Plan, as approved by the Colorado Department of Public Health and Environment, will help insure that the lead on the existing ranges will be dealt with properly.

REFERRAL AGENCY COMMENTS

This Special Use Review application was sent to fourteen (14) referral agencies for comment. The following is a summary of significant items mentioned. For complete information from the referral agencies, please see the attached correspondence from each.

- Colorado Division of Wildlife – Shaun Deeney, Area Wildlife Manager and Jeromy Huntington, District Wildlife Manager, indicated that based upon the location and the type of action being proposed, impacts to area wildlife should be negligible. No endangered or threatened species were observed during a site visit. Minor disturbance to wildlife in close proximity to the shooting area could occur during events; however this disturbance should be minimal and temporary.

- Elbert County Water Advisory Board (ECWAB) – Shellane Dorman and Barbara Fillmore, Co-Chairs, indicated that more information was needed to properly evaluate the proposed new shooting range locations. The Best Management Practices Plan for lead mitigation is only conceptual at this point and outlines recommendations dependent upon the final site design and more intensive site-specific analysis. More extensive soil testing is needed at greater depths to better evaluate soils types and conditions for final site selection, design and lead mitigation efforts. ECWAB requested a copy of the Integrated Corrective Action Plan (ICAP), as submitted to the Colorado Department of Public Health and Environment for evaluation and clean-up of the existing shooting ranges. ECWAB requested an opportunity to review and comment on the ICAP. Upon review of the relocated Travis Facility to Location 3, there is an intermittent stream which runs through the proposed site that drains into a pond, a lake, and eventually to Kiowa Creek; therefore, there is a potential for lead contamination in the water. The sporting clays location has been moved to Location 5, with shooting stations being located within a densely wooded area. Lead reclamation is difficult in wooded areas because these sites do not provide adequate maneuvering ability for the reclamation equipment. Specific recommendations from ECWAB are: 1.) The clean-up of the old shooting sites be evaluated and monitored by an independent company selected by the County at the applicant's expense; 2.) soil sampling be conducted at all shooting ranges by an independent company at the applicant's expenses at least annually during the wet season; 3.) current use and capacity of wells are verified and approved by the State; 4.) appropriate permits are obtained, as necessary, from State and Federal agencies for any water diversion measures, such as dams, as well as an assessment of the impacts to senior water rights; 5.) a copy of all lead evaluation, mitigation and clean-up reports be provided to the County, the Elbert County Water Advisory Board, and appropriate State and Federal agencies. The Elbert County Water Advisory Board can not recommend approval of this application until the above items have been satisfactorily addressed.
- Elbert County Building Department – Billy Tanner, Director, stated that permits need to be obtained for all improvements on the Scout ranch.
- Colorado Department of Public Health and Environment (CDPHE) – In a correspondence dated August 15, 2008, CDPHE indicated that the Scouts have been working with the Hazardous Materials and Waste Management Division (HMWMD) of CDPHE on a voluntary Integrated Corrective Action Plan (ICAP) for the Travis Family Shooting Sports Facility, the Sporting Clays Course, and the Dietler Shotgun Range; to be implemented upon closing of the ranges. This will allow the Scouts to address and remediate site contamination that may have resulted from the shooting activity. HMWMD will oversee cleanup under the ICAP, which will be submitted to HMWMD upon closure of the ranges. HMWMD

will notify Elbert County when action regarding the ICAP is initiated.

In a second correspondence from the CDPHE, dated October 27, 2008, they acknowledged that they had reviewed the Corrective Action Plan Phase 1 for the specified ranges on the Scout property and approved the plan subject to conditions and modifications as outlined in the correspondence.

- Elbert County Assessor's Office - No objection to this proposal.
- Elbert County GIS - No objections to this proposal.
- Elbert County Fire District – Access to all events must be available for medical/fire response. Turnarounds must be graveled and brought to county specs.
- Kiowa Conservation District – No objections to this proposal.
- Elbert County Engineer (CH2M Hill) – The County Engineer reviewed the “Best Management Practices Plan” (BMPP), dated July 23, 2008, as prepared by Environmental & Turf Services, and a letter amending the BMPP, dated September 18, 2008. The County Engineer also performed a site visit to observe the two proposed shooting facility locations. Please see the attached memorandum from CH2M Hill, dated November 21, 2008, for complete information regarding their review of the BMPP and supplemental information. The following comments summarize the more significant findings based upon their review of the information and information gained during the site visit:
 1. The BMPP is conceptual in that it does not specify the locations of BMPs that will be implemented at each impacted site. The BMPs should be updated once the design for the new firing ranges is completed and before construction.
 2. New Travis Facility Site Plan – Based on the site walk and the preliminary design for the New Travis Facility Site Plan, there is a concern over the location of the firing lines for the skeet, shotgun, and trap ranges. The firing lines are south of a deep gulch with the targets launched toward the north. This will likely result in gun discharge residue and shot wads falling directly into the gulch. Since the gulch concentrates surface water it appears that lead and other residues will be concentrated in the surface water using this arrangement. Moving the firing lines north of the gulch would eliminate this potential problem.
 3. Adventure Valley Sporting Clays Course Site Plan – Positions 14, 15, and 16 will produce lead shot fall zones that are not within the drainage

collected by the existing earthen berm and pond. This area is only a quarter mile from the Kiowa Creek drainage. Under the current design, the lead from positions 14, 15, and 16 could enter the Kiowa Creek drainage. Recommend relocating or eliminating these positions.

4. Baseline soil composition should include lead, arsenic, and antimony so that their potential mobility can be assessed. This monitoring should be acknowledged in the Best Management Practices Plan.
5. Does the fact that pH tends to increase with soil depth at the site support the statement about lack of lead transport to groundwater? Future pH sampling might consider sample collections from 2 to 4 feet.
6. The reason for pH variations should be discussed. The *USEPA Best Management Practices for Lead at Outdoor Shooting Ranges* states that a pH of 6.5 to 8.5 is ideal for minimizing lead mobility. There are many areas at the Scout ranch with sub 6.5 pH levels. Coniferous trees and their needles fall can produce a soil pH in the acidic range and may be responsible for the lower pH soil samples particularly those with somewhat higher organic matter. It would appear that areas with trees should be avoided as lead impact areas. Areas in which limestone is used as an amendment to adjust the pH would have to be monitored since it will be consumed with time. A near neutral pH is also important because a near neutral pH is where iron oxyhydroxides are minimally soluble. Organic forms of phosphorus may tend to mobilize lead. Therefore, orthophosphate may be a more appropriate form of phosphorus to be analyzed in future soil sampling events.
7. The suggestion that 50,000 ppm of lead is a reasonable level for soil is unacceptable. The authors state that "Much stricter goals would apply if long-term direct human contact ever becomes an issue." Acknowledged. For example, total lead levels of 800 mg/kg are EPA Region 9's recommended preliminary remediation goals for industrial land use. Ecological risks to grazing wildlife, rodents, and raptors should also be considered in establishing acceptable lead levels in open range areas of the site. These safeguards would provide more comprehensive environmental stewardship, which is a goal of the BSA. Suggest that if remediation goals are discussed in the BMP, that an appendix be developed that provides a variety of generic cleanup goals that have been established and approved for human, wildlife and groundwater protection.
8. Cattle were observed drinking from the pond in the proposed area for the Adventure Valley Sporting Clays Course. An alternate source of drinking

water would be required if the pond becomes tainted with lead contamination.

9. The BMPP should specify who will check the area and clear the area for nesting raptors. This should be a person with some wildlife identification training.

The County Engineer recommended the following as conditions of approval for the Special Use Review application:

1. The BMP must be finalized as a part of the final design of the two new shooting range facilities. The final Best Management Practices Plan will address the comments listed above and will include maps showing the location of proposed engineered structures and other Best Management Practices that will be used to minimize lead impact to surface water and groundwater. A more complete description of each site-specific Best Management Practices should be provided in the final Best Management Practices Plan.
 2. Areas with pine needle drop should be avoided as shot impact areas unless the soil is pretreated to raise pH levels to the optimum range of 6.5 to 8.5. The Adventure Valley Sporting Clays Course may require some redesign to reduce firing into pine tree areas.
 3. Proposed shooting positions 14, 15, and 16 at the proposed Adventure Valley Sporting Clays Course should be relocated or eliminated so that all lead impact areas fall within the upland drainage of the existing earthen berm at the west end of the drainage.
 4. Redesign the New Travis Facility Site Plan so that gun discharge residue is not falling directly into the gulch that runs through the site.
 5. The revised BMP Plan should include a table of lead concentrations in soil that have been accepted by the Colorado Department of Public Health for the closure of firing ranges or other lead contaminated sites. The table should include levels that are known to be protective of grazing wildlife and raptors. Lead concentrations should not be allowed to build up in the soil to levels that endanger human health or ecological receptors. The revised BMP should propose reasonable lead action levels. Some of these action levels could be waived for the bullet trap areas at firing ranges.
- Division of Water Resources – Joanna Williams, Water Resource Engineer, indicated that since this action does not qualify as a “subdivision” and since this is not a matter of providing comments on a water supply, their statutory authority is limited. However, when they do receive a submittal like this, they do use the opportunity to identify potential problems. According to the information that was provided, there

may be a check dam, mini-berms and detention basins constructed on the property. Detailed information regarding these structures was not provided. According to the application, the structures are conceptual, dependent on County approval, and will be certified on the ground after the range location is finalized. If these structures are constructed on the site the State Engineer's Office would like to caution that any water retained or captured by the structures must be released to the stream within 72 hours.

- US Fish & Wildlife Service – No objections to this proposal.
- Elbert County Road & Bridge – No objections to this proposal.
- Colorado Geological Survey – Karen Berry, Geological Engineer, PG, AICP, CPESC-SWQ, indicated that the Geological Survey does not have any comments concerning the sporting clays course. The information that was provided was to help the Scouts and County guide the location and development of any uses accessory to the clays course.

DEVELOPMENT GUIDELINES FOR THE SPECIAL USE REVIEW PERMIT (Sheet No. "SUP-1", Special Use Review Permit graphic)

The Development Guidelines provide the specific rules of operation for the Special Use Review Permit. The Development Guidelines are enforceable and subject to annual review, if necessary, to ensure compliance with the Development Guidelines. A copy of the entire Development Guidelines are shown on Sheet "SUP-1" of the Special Use Review Permit graphic. The applicant's representative worked closely with the CDSO staff to develop the content and language for the Development Guidelines. The Development Guidelines includes definitions for "Scouting Use" and "Fundraising Use"; identifies the type of firearms that can be used of each range; establishes the months, days of the week, and hours of operation for the ranges; provides specific rules and information about the various ranges; provides criteria for the Best Management Practices Plan; and discusses closing certain identified ranges and remediation of the sites according to an approved Integrated Corrective Action Plan (ICAP), under the supervision of the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division.

Language has been added to the Development Guidelines which allows surrounding property owners and neighbors an opportunity to register with Elbert County CDSO, if they desire to be notified fifteen days in advance of a fundraising event. This will allow surrounding property owners adequate notice should they desire to plan to be away during fundraising events.

SITE PLAN COMMENTS (Sheet Nos. "SUP-2", "SUP-3", "SUP-4", Special Use Review Permit graphic)

CDSO has reviewed several generations of Site Plans related to this Special Use Review application. Each revision to the Site Plans has been in response to comments from CDSO, or to accommodate changes suggested by the Scouts. The applicant has cooperated and tried to address issues raised by various referral agencies, through modifications to the Site Plans. The latest revisions to the Site Plans (dated December 17, 2008) are in response to comments made on the "red-marked print" dated December 1, 2008. Specifically, on Sheet No. "SUP-3", based upon feedback from the County Engineer and the Elbert County Water Advisory Board, the Scouts have moved the shooting stations to the north side of the drainage to help prevent gun discharge residue from entering the drainage. In addition, the Scouts have moved the shooting ranges to the east, further away from the pond, as requested. Sheet No. SUP-4 was also modified to address some of the issues raised by the County Engineer, the Elbert County Water Advisory Board, and CDSO. In particular, proposed shooting stations 13-17 have been eliminated from the Sporting Clays Course. This will help ensure that lead will be less likely to be in the flood plain area or the area near the pond.

NOISE AND NOISE STUDIES

The Scouts have conducted four different noise studies since the initial land use application. The relocation of the Travis Facility should help reduce noise impact to surrounding properties. The following language has been added to Sheet No. "SUP-1", Section VIII. "General Standards" of the Special Use Review graphic to help insure noise is within State noise standards:

"After the new Travis Facility is constructed, the Scouts shall conduct one sound study under County oversight. The sound measured shall be generated to simulate Scouting Use. Sound measurements shall be taken at the Scout Ranch property line in the proximity of the Travis Facility. The Scouts shall install sound baffling or other appropriate sound mitigation measures if the sound measured at this designated location exceed 55 dB(A)."

Additionally, under the recommended Conditions of Approval noted below, the following language has been added:

"All shooting activities permitted under this Special Use Permit shall be conducted such that shooting activities comply with all applicable state and local regulations."

With the above-referenced language in the "General Standards" section requiring that

additional noise testing be conducted at the Travis Facility and the Condition of Approval that all shooting activities under this Special Use Review Permit shall comply with all applicable state and local regulations, CDSO felt that adequate safeguards were in place to address noise related issues.

Lead Management

The State of Colorado does not provide guidance standards for operating outdoor ranges, although the State does provide guidance for corrective action at ranges following permanent closure. The State's guidance applies to closed ranges, especially those with known contamination issues. The Scouts have provided a Best Management Practices Plan (BMPP) that provides general guidelines for conditions found on the proposed range sites. The BMPP included a study of internal drainage patterns on the site, sampling of soils for lead, arsenic, and soil properties relevant to the retention of metals and water. This BMPP will be supplemented with a final BMPP for each range once the final range design is completed and prior to construction of the ranges. The final BMPP should address comments in the memorandum from CH2MHill (County Engineer), dated November 21, 2008, and should include maps showing the location of proposed engineering structures and other Best Management Practices that will be used to minimize lead impact to surface water and groundwater. The Elbert County Engineer, or other qualified expert designated by the County on its behalf, shall review the final BMPP and provide the Community & Development Services Office with a letter accepting the findings and recommendations of the final BMP Plan, prior to construction of the ranges. Since the Adventure Valley Sporting Clays Course is located in a fairly heavily treed area, the final BMPP should address the methodology for lead mitigation in forested areas.

The Scouts have provided a voluntary "Integrated Corrective Action Plan (ICAP) to the Colorado Department of Public Health, Hazardous Materials and Waste Management Division, to address and remediate site contamination that may have resulted from shooting operations at the Travis Shooting Facility, the sporting clays course at Bobcat Gulch, and the Dietler Shotgun Range. The Hazardous Materials and Waste Management Division completed its review of the ICAP and approved the plan with conditions as outlined in their letter of October 27, 2008. The Division will oversee cleanup under the ICAP, which will begin once the ranges are closed. The Division will keep Elbert County apprised on actions taken with regard to the ICAP.

BACKGROUND INFORMATION:

The Scouts made their original Special Use Review application for the Sporting Clays Course and to allow Scout use and fundraising uses in August of 2007. Surrounding property owners filed a complaint in District Court in November of 2007. Since hearing dates for the Special Use Review were not set, and the Scouts were concern that the summer shooting season may be lost; the Scouts elected to apply for a Temporary Use

Permit to allow use of the existing and historic shooting ranges for the summer of 2008 season. This Temporary Use Permit was approved by the Board of County Commissioners in June of 2008 with the following Conditions of Approval:

- 1.) The Temporary Use Permit is to allow use of the existing Travis Shooting Sports Facility, by scouts and scouting participants. The Temporary Use Permit is being requested for the summer season through August 9, 2008, with shooting Monday through Friday, from 8:00 AM to 5:30 PM, for traditional scouting programs, such as credits for shooting merit badges. No fund-raising events will be allowed under the requested Temporary Use Permit.
- 2.) The applicant must submit a formal application for a Special Use Permit within thirty (30) days of the issuance of any Temporary Use Permit, by the Board of County Commissioners. The Special Use Permit application will include the following conditions:
 - a.) All existing shooting ranges and shooting related activities will be moved to a new location (to be determined), subject to the results of various tests at the alternate sites and approval of the Special Use Permit;
 - b.) Upon approval of the requested Special Use Permit, the Scouts will close the existing shooting ranges and remediate the lead from the existing shooting ranges, subject to the requirements of applicable local, state, and federal laws; and
 - c.) The Scouts will provide all the requisite reports as part of the Special Use Permit application, including: a noise study, updated traffic report, wildlife report, lead management best practices plan, and other reports the County deems necessary to adequately evaluate the proposed new location.

The Scouts submitted the current Special Use Review application in July of 2008, which included the various reports and studies as outlined in the Temporary Use Permit and addressed the Conditions of Approval specified in the Temporary Use Permit. The application was deemed acceptable by CDSO and a hearing date was set for the Planning Commission for October 30, 2008. Prior to the hearing, several neighbors and referral agencies raised concerns about the completeness of the application and questioned whether the application was ready to proceed to hearing. CDSO evaluated those concerns and determined that the hearing date had been set prematurely and that additional information was needed to have a complete application. The required additional items were outlined in an e-mail and follow-up letter to the applicant's representative. The following is a summary of the requested items and CDSO's response regarding the status of the item:

1.) Specific locations for the shooting facilities and removal of the reference to “conceptual” on the Site Plans, and the statement that “Final size and location of the facilities will be provided to the county prior to construction”.

CDSO Response – Sheet “SUP-3” of the Special Use Review Permit graphic (dated 12-17-08) shows the locations of the Archery Range, Black Powder Range, Rifle Range, 5-Station Shotgun Range, Skeet Range, Trap Range, and the 3-Station Shotgun Range. At the request of CDSO, the Scouts have delineated a perimeter boundary which encompassing all ranges at the new Travis Facility (Site No. 3, the Laredo Site). This perimeter boundary contains approximately 65 acres and has been legally described, complete with a metes and bounds description and linear distances. The “Notes” on Sheet SUP-3 indicate that: “Minor modifications in dimensions (not to exceed ten (10) percent) of the dimension shown on the Site Plan, and locations of the facilities shown on this sheet are permissible so long as they are within the legally described area shown on the Site Plan, and it can be demonstrated that such modifications do not increase the sound level at the property line above 55 dB(A).” This note was negotiated with CDSO to allow for minor modifications to the Site Plan, without requiring a completely new Special Use Review application.

Sheet “SUP-4” of the Special Use Review Permit graphic (dated 12-17-08) shows the Adventure Valley Sporting Clays Course and a Skeet Range in the northern portion of the site. This is the first graphic delineation of the Skeet Range in the Adventure Valley site; however, it has been mentioned in the application notebook and was included in the *Best Management Practices Plan for the Peaceful Valley Scout Ranch Shooting Ranges*. This Skeet Range has been referenced in the Development Guidelines on Sheet “SUP-1” of the Special Use Review Permit graphic in Section IV., B., and specifies that there shall be no more eight skeet shooting stations and only one station may be used at a time.

At the request of CDSO, the Scouts have delineated a perimeter boundary which encompasses all ranges at the Adventure Valley Site (Site No. 5). This perimeter boundary contains approximately 219.4 acres and has been legally described, complete with a metes and bounds description and linear distances. The “Notes” on Sheet “SUP-4” indicate that: “The Sporting Clays Course shown on this sheet is a mobile course, designed to be periodically reconfigured to maximize variety. The alignment shown is a sample alignment. BMP’s will be adjusted accordingly for each alternative alignment. All mobile stations will be positioned within the legally described area shown on the Site Plan.”

2.) What shooting range facilities are proposed for construction?

CDSO Response – The Scouts have shown the locations of ranges, parking areas, a training facility (24' X 50'), and several proposed shelter buildings. Additionally, they have provided an artist's conceptual drawing showing the "Rifle Range" shelter and a graphic of the "Trap Field" (please see tab "C" in the application notebook). CDSO had originally requested construction plans for shelters at the shooting facilities and structures which might be required in the Best Management Practices Plan (dams, berms, etc.). Upon further consideration, CDSO decided that construction plans are not appropriate during the land use application phase. The following language has been suggested as a Condition of Approval and will be added to Sheet "SUP-1", under Section VII., "Best Management Practices for New Ranges":

"Should the Final Best Management Practices Plan indicate the need for engineered structures, check dams, mini-berms, storm water detention, and/or other items, that require state or federal permitting; then, and in such event, all applicable required state, federal, and Elbert County 1041 (if applicable) permits will be obtained prior to construction."

3.) What firearms will be used on the proposed shooting facilities?

CDSO Response – The applicant has specified the types of firearms that will be used for "Scouting Use" at both the Travis Facility and the Sporting Clays/Skeet Course (please see Sheet "SUP-1" on the Special Use Review graphic, Section III.). Firearms and loads that can be used at fundraising events are also specified in Section III.

CDSO had also requested copies of any noise studies that were done for specific firearms allowed at the Travis Facility and the Sporting Clays/Skeet Course. The Scouts have conducted four different noise studies since the initial land use application. The relocation of the Travis Facility should help reduce noise impact to surrounding properties. The following language has been added to Sheet No. "SUP-1", Section VIII. "General Standards" of the Special Use Review graphic to help insure noise is within State noise standards:

"After the new Travis Facility is constructed, the Scouts shall conduct one sound study under County oversight. The sound measured shall be generated to simulate Scouting Use. Sound measurements shall be taken at the Scout Ranch property line in the proximity of the Travis Facility. The Scouts shall install sound baffling or other appropriate sound mitigation measures if the sound measured at this designated location

exceed 55 dB(A)."

Additionally, under the recommended Conditions of Approval below, the following language has been added:

"All shooting activities permitted under this Special Use Permit shall be conducted such that shooting activities comply with all applicable state and local regulations."

With the above-referenced language in the "General Standards" section requiring that additional noise testing be conducted at the Travis Facility and the Condition of Approval that all shooting activities under this Special Use Review Permit shall comply with all applicable state and local regulations, CDSO felt that adequate safeguards were in place to address noise related issues.

4.) Who will use the proposed shooting range facilities?

CDSO Response – Additional language has been added to the Development Guidelines to clarify "Scouting Use" and "Fundraising Use". Use of the shooting facilities by others is limited to the "historic volume and frequency of use", in the Development Guidelines (please see Sections III., of Sheet "SUP-1" of the Special Use Review Permit graphic).

5.) Water & Water Quality Issues

CDSO Response – The items referenced under this topic have been addressed by the following recommended Condition of Approval:

"Applicant has provided Preliminary Best Management Practices. Applicant will provide Final Best Management Practices Plans for all ranges covered by this Special Use Permit once Applicant completes final range designs and prior to construction of the ranges. The final Best Management Practices Plan should address comments in the memorandum from CH2MHill (County Engineer), dated November 21, 2008, and should include maps showing the location of proposed engineering structures and other Best Management Practices that will be used to minimize lead impact to surface water and groundwater. The Elbert County Engineer, or other qualified expert designated by the County on its behalf, shall review the final Best Management Practices Plans and provide the Community & Development Services Office with a letter accepting the findings and recommendations of the final BMP Plan, prior to construction of the ranges."

Additionally, the following recommended Condition of Approval should help address water quality issues:

“Should the Final Best Management Practices Plan indicate the need for engineered structures, check dams, mini-berms, storm water detention, and/or other items, that require state or federal permitting; then, and in such event, all applicable required state, federal, and Elbert County 1041 (if applicable) permits will be obtained prior to construction.”

6.) Baseline Survey Issues – CDSO requested baseline soil survey information for the Laredo Site and the Adventure Valley site.

CDSO Response – The applicant had previously provided CDSO with this information in a correspondence from Carolynne White, the applicant's representative, dated September 22, 2008, (along with an attachment to the letter from Environmental & Turf Services, Inc., which discusses the soil sampling for the Laredo Site). Soil sampling for the Adventure Valley site will be conducted as part of the final Best Management Practices Plan. The final Best Management Practices Plan must be conducted before any construction of the ranges.

7.) Safety Issue – This comment pertained to a possible line-of-fire conflict between the proposed archery range and the firearms ranges at the Laredo Site (Site No. 3).

CDSO Response – The Site Plan has since been revised to address this concern.

8.) Best Management Practices Plans are conceptual. Please provide final Best Management Practice Plans for all ranges.

CDSO Response - Discussions were held between the Scout's lead consultant and the County Engineer to discuss the Best Management Practices Plan. The County Engineer also reviewed the new site plans and supplemental information provided by the Scout's consultant. The County Engineer performed a site visit to inspect the proposed ranges. Based upon feedback from the County Engineer, the Best Management Practices Plan, as submitted, and the additional information they had reviewed; the County Engineer felt the information was adequate for the hearing to go forward, provided a final Best Management Practices Plan is provided for review and approval after final design of the two new shooting ranges and prior to construction of the facilities. The final Best Management Practices Plan should include maps showing the location of proposed engineered structures and other Best Management Practices that will be used to

minimize lead impact to surface water and groundwater.

9.) Modifications to the Development Guidelines for the Special Use Review per the "red-marked print" dated 10-29-08.

CDSO Response – The applicant provided revised Special Use Review Permit graphics, dated November 10, 2008, which addressed these modifications.

SUPPORT & OPPOSITION CORRESPONDENCE: Community & Development Services received many letters and e-mails related to this application, both in support of the application and opposed to the application. These letters have been included with the staff report.

PLANNING COMMISSION ACTION: The Planning Commission initially heard this case at a public hearing on December 22, 2008. At that hearing, C&DS presented the case, the applicant presented, and public input was started. The public hearing was ended at 11:00 P.M., per County requirements and continued to a special hearing date of January 5th, 2009. At the January 5th public hearing, additional testimony was taken from the public and the Planning Commission had several questions regarding lead management for the County Engineer and the applicant's lead consultant. The Planning Commission asked C&DS to review the proposed conditions of approval and added one additional condition of approval which dealt with the timing of soil sampling at the Sporting Clays Course. This additional condition has been added to item number 6, in the Conditions of Approval section of this staff report. Several Planning Commission members mentioned that the applicant had provided much more detail with this Special Use Review application than other shooting facilities had in the past. The Planning Commission expressed appreciation for the amount of time and effort the applicant had put into the application and submittal materials. The Planning Commission felt that the proposed conditions of approval provided assurances that the lead management issues would be properly addressed. The Planning Commission forwarded a unanimous recommendation of approval for this Special Use Review application, with a vote of 7 to 0.

RECOMMENDATION: Community & Development Services and the Elbert County Planning Commission are recommending **APPROVAL** of Case Number SU-08-0032, Special Use Review Permit for the Peaceful Valley Scout Ranch shooting facilities, subject to the following recommended Conditions of Approval:

Noise

1.) All shooting activities permitted under this Special Use Permit shall be conducted such that shooting activities comply with all applicable state and local regulations.

Best Management Practices Plan

- 1.) Applicant has provided Preliminary Best Management Practices. Applicant will provide final Best Management Practices Plans for all ranges covered by this Special Use Permit once Applicant completes final range designs and prior to construction of the ranges. The final Best Management Practices Plan should address comments in the memorandum from CH2MHill (County Engineer), dated November 21, 2008, and should include maps showing the location of proposed engineering structures and other Best Management Practices that will be used to minimize lead impact to surface water and groundwater. The Elbert County Engineer, or other qualified expert designated by the County on its behalf, shall review the final Best Management Practices Plans and provide the Community & Development Services Office with a letter accepting the findings and recommendations of the final BMP Plan, prior to construction of the ranges.
- 2.) The Adventure Valley Sporting Clays Course is located in a fairly heavily treed area. The Final Best Management Practices Plan should address the methodology for lead mitigation in forested areas.
- 3.) Proposed shooting stations 14, 15, 16, and 17; at the Adventure Valley Sporting Clays Course, should be relocated or eliminated so that all lead impact areas fall to the east of the existing earthen berm and pond. Please note, the latest revision to Sheet No. SUP-4, dated December 16, 2008, shows proposed shooting stations 13, 14, 15, 16, and 17 eliminated from the Sporting Clays Course and replaced with the Skeet Range, with the "shot fall area" being directed away from the drainage and flood plain area.
- 4.) The Travis Facility should be re-designed so that the "Skeet Range", "5-Station Shotgun Range", and the "Trap Range" are moved to the north side of the drainage, to prevent gun discharge residue from falling directly into the gulch that runs through the site. The "Skeet Range" should be moved further to the east to avoid residue from falling into the pond. Please note, the latest revision to Sheet No. SUP-3, dated December 16, 2008, shows the shooting stations having been moved north of the drainage and shifted to the east to help reduce gun-discharge residue from entering the drainage.
- 5.) The final Best Management Practices Plan should include a table of lead concentrations in soil that have been accepted by the Colorado Department of Public Health for the closure of firing ranges or other lead contaminated sites. The table should include levels that are known to be protective of grazing wildlife and raptors. The table does not apply to firing ranges during operation and only applies to firing ranges once the Scouts have ceased operation and initiated closure of said ranges. Lead concentrations shall not be allowed to build up in the soil to levels that endanger human health or ecological receptors. The final Best Management Practices Plan should

propose reasonable action levels. Some of these action levels could be waived for the bullet trap areas at firing ranges.

6.) Soil sampling shall be conducted according to approved best practices for soil sampling, at locations specified in the final Best Management Practices Plan, for: pH, total lead, total arsenic, total phosphorus (including orthophosphate), and leachable (SPLP, EPA Method 1312) lead and arsenic. Soil samples shall be collected at 6-inch intervals beginning at the ground surface and extending downwards to a depth where contamination is below the "level of concern". For example, sample 1 shall be taken from 0-6 inch depth; sample 2 shall be taken from 6-12 inch depth and so on until a soil sample indicates that contamination is below the "level of concern". A copy of all soil sampling reports shall be provided to the County Engineer or other qualified expert for review and comment. Any concerns regarding the soil sampling, noted by the County Engineer/qualified expert, will be discussed with the Scout's soils expert and a solution acceptable to the Scouts and the County agreed upon to address any such concern.

A lead-loading inventory for the Sporting Clays Course will be conducted after the first year of shooting activities on the course. This lead-loading inventory will include information regarding the number of shooters, number of days shooting activities occurred on the course, the total number of rounds fired at the course, and a calculation of the amount of lead on the course as a result of the shooting activities. The findings of this lead-loading inventory will be compared to the projections for lead loading amounts in the final Best Management Practices Plan. Should the findings of the lead-loading inventory show an increase in lead over the amount projected in the final Best Management Practices Plan, the final Best Management Plan will be modified to address the increased amount of lead and suggest management practices to deal with the increased amount of lead.

Dams – Berms, Detention, etc.

1.) Should the final Best Management Practices Plan indicate the need for engineered structures, check dams, mini-berms, storm water detention, and/or other items, that require state or federal permitting; then, and in such event, all applicable required state, federal, and Elbert County 1041 (if applicable) permits will be obtained prior to construction.

Red-Marked Print

The latest revision of the Special Use Review Permit graphic, dated December 17, 2008, has addressed the comments on the red-marked print dated December 1, 2008. A check-print of the Special Use Review Permit graphic shall be provided to Community & Development Services for review and approval, should this Special Use Review Permit be approved by the Board of County Commissioners. The check print shall be submitted prior to the final Special Use Review graphic Mylar being made for

recordation.

General Conditions of Approval

- 1.) This Special Use Permit, and the provisions herein, shall be reviewed on an annual basis.
- 2.) The Scouts will initiate a voluntary RCRA Integrated Corrective Action Plan (“ICAP”) for the Travis Facility, Sporting Clays Course, and Camp Dietler under the supervision and approval of the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division. Additionally, the Scouts will conduct soils sampling in Bobcat Gulch to determine whether there is any lead contamination migrating toward neighboring properties to the west of Elbert Highway. The results of such soils samplings shall be sent to the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and the County Engineer for review and comment.
- 3.) The Scouts will apply for building permits for any buildings which require or required a building permit from Elbert County.

Respectfully submitted,

Richard L. Miller, AICP
Director – Community & Development Services Office

attachments