



COAN, PAYTON & PAYNE, LLC

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Nansi Crom, Mayor  
Town of Pierce  
P.O. Box 57  
Pierce, CO 80650  
\*\*sent by email only to tqb@frie.com

**Re: Letter regarding analysis by Twin Peaks Partners, LLC**

Dear Honorable Mayor Crom and Pierce Board of Trustees:

On Monday, August 27, an undated report by Dave Kisker, Ph.D. of Twin Peaks Partners, LLC was submitted to the Town of Pierce regarding the proposed Rimrock Energy Partners (REP) natural gas processing facility. In this report, Dr. Kisker identifies five topics of consideration for the Town Board in determining mitigation of externalities that impact the compatibility of the proposed project.

Steps to mitigate sound from the facility

The report identifies a number of mitigation steps that are recommended. First and foremost, is the application of a maximum permissible noise level. This report agrees with REP's position that the facility be designed, built and operated under Residential Zone standards, as opposed to Industrial Zone standards. As has been shown by the independent consultant, Behrens and Associates, Inc., the proposed facility with proposed mitigation will result in dBA readings well below the nighttime level in the Residential Zone (50 dBA). In addition, the report agrees with REP's proposal that the plant compressors, at final buildout of phase one, be electrically driven and that the inlet and residue compressors be enclosed in insulated metal buildings. REP would only consider the use of gas compressors in the event that electrical service were not available to the site. Moreover, as reviewed by Behrens and Associates, Inc. the proposed equipment has been evaluated for its sound-producing attributes and sound muffling technology has been recommended. The report also is in agreement with the REP proposal in that routine maintenance that may require flaring will be limited to daylight hours. Regarding the additional suggestion that noise monitoring be conducted until the facility has demonstrated compliance, REP is prepared to conduct two independent studies with noise monitoring equipment per year for the first two years after operation to ensure compliance.

Twin Peaks Partners, in the aforementioned report, further recommends a 25' sound wall to assure compliance with the noise limits. As has been demonstrated by Behrens and Associates, Inc., the proposed noise mitigation efforts result in noise levels significantly below the 50 dBA limit. As such, a 25' sound wall which may have been appropriate in a separate

instance which Dr. Kisker found to be comparable, it is excessive and unnecessary based on the Behrens and Associates, Inc. study presented. This is especially the case where the compressors are enclosed by buildings to provide sound mitigation. Furthermore, a 25' sound wall would create a significant visual impairment and in fact make the facility less compatible with surrounding community by increasing the size of the visual impact. The noise mitigation efforts proposed by REP will result in meeting and exceeding the Residential noise standard.

#### Implementation of International Dark Sky Association recommendations limits light pollution

REP has incorporated the International Dark Sky Association recommendations and standards into the planning of this facility. These include only turning on lighting when needed, designing the lighting to illuminate required areas, rather than general locations, limit lumens so that lighting is only as bright as safety measures require and that the lighting be directed towards work areas, rather than generally broadcast. Dr. Kisker's report supports REP's lighting plan in these standards. The report further cites light mitigation as a result of a 25' sound wall. As stated above, a sound wall would be unnecessary for noise mitigation purposes as well as increased the footprint of the facility and would negatively impact the compatibility of the facility.

#### Planning for public safety is of primary importance

Prior to submitting its application, REP communicated with both the Ault Pierce Fire Department, Nunn Fire District, Ault Police Department and the Principal of Highland Elementary School to review public safety concerns. In addition, REP met with Roy Rudisill of Weld County Office of Emergency Management to discuss emergency planning. According to Chief Varra of Nunn Fire Protection District, they are able to provide a 10-15 minute response time. Captain Ferrell of the Ault Pierce Fire Department indicated a response time of 6-7 minutes. REP will continue communication and coordination with these entities regarding public safety and will provide an emergency response plan to Weld County Office of Emergency Management and the above fire protection districts for review and comment. This plan is supported by the Twin Peaks Partners report. The Twin Peaks report states that a "comprehensive evacuation plan" should be included, however, the handling of an evacuation is not within the authority of a private company. This is the appropriate activity of public safety officials and REP is committed to continuing its coordination and support of local public safety bodies. As a result of public input, further contact was made with the school district and no concerns were noted from the Highland Elementary School staff. Highland Elementary School is located to the west of the intersection of County Road 90 and Highway 85, in closer proximity to industrially zoned sites than the proposed facility.

Integral with public safety is public communication and REP has demonstrated its commitment to communicating with its neighbors. Prior to and during the land use process, REP has had continuous communication with surrounding property owners. These efforts have included a public meeting, one-on-one meetings, emails and phone calls. In order to maintain strong routes of communication following approval, REP will establish and maintain a website to provide construction and facility updates. As part of its signage, the facility signage will feature

an emergency telephone number. These ongoing communication efforts are supported by Dr. Kisker's report.

Landscaping as proposed will lessen visual impacts of the proposed facility as well as increase compatibility with surrounding uses

A detailed landscaping plan was submitted with REP's application materials and, after considering input from the public and the Pierce Planning Commission, a revised plan was provided. This plan demonstrates a significant investment in plant materials onsite and detail by citing the 237 shrubs and trees on the property. The soil study that was provided allowed for consideration of plant material which will have the best opportunity to thrive in the soils available on site. The Twin Peaks report indicates that a detailed landscaping plan be provided and this condition is met by the REP landscaping plan. The Twin Peaks Partners report recommends construction hours from 6 a.m. to 8 p.m. and no Sunday construction. This is also in line with the REP plan of construction six days a week, ten to twelve hours per day, with Sundays typically serving as the off day.

The assertion that a proposed development must provide compensation to surrounding property owners is not supported by Colorado law.

Through the extensive mitigation efforts described above, the impacts upon surrounding property owners has been limited. Also, the Real Estate Diminution Study provided by Michael Smith of Foster Valuation further shows that there is no loss of value to surrounding property owners as a result of siting and permitting a natural gas processing facility in the proximate area. The Twin Peaks report goes to great length to dispute particular methodologies in the Real Estate Diminution Study to support the recommendation that REP hire a second independent consultant to evaluate Dr. Kisker's prejudged conclusion of loss of value and to "propose a method to compensate property owners." Regardless of the methodological dispute and prejudicial conclusion in the Twin Peaks report, Colorado law does not provide for property owners to be compensated through a municipality's land use process. This recommendation appears to improperly confuse condemnation and land use permitting. The Town of Pierce is not empowered to consider a land use application as a use of its eminent domain power and thus need not consider this recommendation of Twin Peaks Partners.

In conclusion, REP has considered its impacts on surrounding property owners as well as listened to the public and the Town Planning Commission. These efforts have resulted in mitigation efforts that lessen impacts upon neighbors and increase the proposed facility's compatibility with the surrounding region. As such, most of the mitigation efforts outlined in the Twin Peaks Partners report intended to demonstrate compatibility have been met and, although not intended by the author, this report largely supports approval of the present application based on REP's initial plans and additional mitigation efforts.

Sincerely,  
**Coan, Payton & Payne, LLC**

A handwritten signature in blue ink, appearing to read 'WFG', followed by a horizontal line.

William F. Garcia

cc: Don Hoff, Town Attorney  
dhoff@nocoattorneys.com