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DATE: March 14, 2024  
TO: Mayor and Council  
FROM: Karp Neu Hanlon, P.C.  
RE: Battle Mountain termination of PUD zoning from 2008

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As part of the Battle Mountain settlement agreement, the parties agreed:

(e) Disconnection of Gilman Property. In connection with the contemplated Settlement, the Town has proposed and Battle South has agreed to effect disconnection of the Gilman Property. Accordingly, Battle South will submit to Town Council an application for disconnection of the Gilman Property by ordinance pursuant to C.R.S. §§ 31-12-501, *et seq.* The disconnection becoming legally effective will fully release Battle, the Town and the Gilman Property from any further rights, obligations and liabilities under or with respect to the Prior Agreements and the PUD Preliminary Plan relating to the Gilman Property.

As was previously discussed with Council, the Town's consultation with Battle Mountain concluded that in addition to Gilman, the disconnection should include the "roster pile" areas along the Eagle River together with Rex Flats. These properties are all contaminated, included in the superfund site, and not easily developable in the future.

Battle Mountain has submitted a complete application for disconnection of the above referenced lands in accordance with Town Code §16-1-70(b)(2). C.R.S. § 31-12-501 provides that a disconnection is appropriate when in the "best interests of the municipality". Under the Town Code, the "best interests of the municipality" includes:

- a. Resolution of any current, pending, or threatened legal actions;
- b. Resolution of any commitments, claims, or obligations required by any agreement, or terms of an agreement relating to the property proposed for disconnection;
- c. The impact of disconnection upon the Town's ability to maintain infrastructure and rights-of-way that were dedicated to a public entity;

d. That disconnection will not create an enclave as defined by C.R.S. § 31-12-106, or sever the contiguity of the Town's boundaries without adequately providing for access and the provision of utilities and services to areas that will remain within the Town.

The proposed disconnection meets these requirements. The disconnection is in furtherance of resolving the Battle Mountain litigation. The disconnection will not hamper the Town's ability to maintain infrastructure. The disconnection will not create an enclave as the Mountain Property will still be connected to the Town's boundaries. Most importantly, the disconnection will remove heavily contaminated land from the Town's boundaries.

Staff recommends approving the disconnection ordinance.