

TOWN OF BLUFF RESOLUTION NO. 2023-73

**A RESOLUTION DENYING A PETITION FOR MUNICIPAL DISCONNECTION OF
LANDS LOCATED WITHIN THE TOWN OF BLUFF**

The Town makes the following findings in support of this resolution.

1. On May 5, 2023, Kim E. Acton and Ida E. Acton (Actons or the Petitioners) submitted a petition to the Town of Bluff (the Town) seeking the disconnection of certain lands from the municipal boundaries of the Town. The Petitioners are successors in title to Judy F. Lyman, who submitted a similar petition applicable to a parcel of approximately 640 acres identified as Township 40 South, Range 22 East, Section 16. The Lyman petition was denied by the Town on January 10, 2023, due in part to the fact that the petition would have created an unlawful island of unincorporated territory surrounded by incorporated lands. The current Petition is a second, much larger, attempt to remedy the defect in the Lyman petition.

2. The lands owned by Petitioners are described as Section 16, Township 40 South, Range 22 East, SLM (the Property). The Property is entirely within the municipal boundaries of the Town. Additionally, the Petitioners seek disconnection of additional lands within the Town owned/managed by the Utah State Institutional Trust Lands Administration (SITLA); the Bureau of Land Management (BLM); and the Saint Christopher's Episcopal Mission (St. Christopher's), with the total petition encompassing approximately 9,514 acres. See **Exhibit 1**, attached. Ownership/management of the lands subject to the Petition is described as follows:

Actons	640 acres	6.7%
SITLA	7,370 acres	77.5%
BLM	1,338 acres	14.1%
St. Christopher's	166 acres	1.7%

SITLA has informed the Town that it joins in the Petition. The BLM has not provided any written statement on its position relative to the Petition. St. Christopher's opposes the Petition and affirmatively states that Petitioners did not consult or contact it for consent prior to filing.

3. The incorporated lands of Bluff comprise approximately 23,697 acres. The current Petition, if approved, would remove 40.1 percent of the total incorporated land from the Town. The Acton property itself comprises 16.2% of the private land within the Town.

The Town finds that disconnection of the Petition lands would harm the potential future tax base of the Town, and harm prospects for future development within the Town.

4. The bulk of the land subject to the Petition is located on the “Bluff Bench,” an area at the east end of the Town along Highway 191, and which constitutes a “gateway” entrance to the community. The Bluff Bench is an area where future growth could occur within the Town. With the exception of the St. Christopher lands, the area of the Petition is largely undeveloped. There is no other adjacent municipality. Thus, disconnection of the Petition lands would fragment local government by creating an unincorporated area in the Bluff gateway.
5. The Town has adopted comprehensive zoning, subdivision, and related land use ordinances. The Acton lands are zoned A-2; SITLA/BLM lands are zoned A-1; and the St. Christopher Lands are zoned C-2, with another 40 acres zoned A-3. There is no confusion or lack of clarity about municipal ordinances, and the Town has adopted processes for amendment of its ordinances, if appropriate, for future development. See B.M.C. § 6.01.040 (process for zoning text amendments and map amendments).
6. The Actons have not sought any development approval from the Town, nor have they disclosed any future development intentions. The Town has not engaged in any conduct that would constitute an injury to the interests of the Actons.
7. SITLA has disclosed a lease on a part of its lands, SULA 1900, which encompasses approximately 1,000 acres of land planned for development as a solar farm. The lessee, Community Energy Solar, LLC, has not sought any development approval from the Town, though Town representatives have had very preliminary communications with the lessee about requirements for development in the Town. The Town has expressed a willingness to review any solar-farm land use that may be proposed, and this has included consideration of a possible land use code text amendment to process same.
8. The Town currently maintains a number of public Class C roads within the Petition area, summarized as follows:
 - Highway 163
 - The Horn; Sections 8, 9; 300 C Road, Natural
 - Cow Canyon / Bluff Bench Road; Sections 19, 20, 21, 22; 100 C Road, Oil
 - Foot Bridge; Section 28; 200 C Road, Gravel
 - Evaporation Pond; Section 23; 200 C Road, Gravel
 - Trading Post Spur/ Horn Pasture; Section 22, 15; 300 C Road, Natural
 - (unnamed, near drill hole); Section 10; 300 C Road, NaturalPrior to incorporation, these roads were not regularly maintained by San Juan County. The disconnection of the Class C Roads would shift maintenance responsibilities to San Juan County and would result in a needless negative impact to the roads and the residents of the Town.

9. Municipal services are limited in Bluff, which incorporated in 2018. Domestic water is provided by the Bluff Water Works (BWW), and the subject water rights are owned by the Town. The lands within the Petition have not sought culinary water service, but service could be extended when or if they develop. There is no sanitary sewer service within the Town, as all properties have individual septic disposal systems. Future development within the Petition area would likely have similar septic disposal systems, though, again, no land use applications have been sought. Moreover, the lack of services to the Petition area is not dispositive of anything, as it is the policy of the Town that new development include access to municipal services, which are constructed by the developer. See *e.g.*, B.M.C. § 5.01.030 (subdivision performance standards); B.M.C. § (utility plans required in site plan review).
10. Culinary water in Bluff is supplied by a number of wells served by the “N Aquifer,” a high-quality source of culinary water that underlies the Bluff Bench and beyond. The Town has committed to seeking sole-source aquifer protection for the aquifer. Disconnection could hamper or limit the Town’s ability to protect the aquifer which serves its residents, as well as many residents of the adjacent Navajo nation.
11. Rocky Mountain Power provides electricity in the Town, and that would likely apply to any future development in the Petition area. The same is true for telecommunications, which are provided by Emery Telcom. A Rocky Mountain Power substation exists within the Petition area and could provide service when or if development occurs.
12. Law enforcement in the Town is provided by through an intergovernmental agreement with San Juan County, and that applies to the Petition area. Emergency Medical Services (EMS) and fire protection are currently provided by the Bluff Volunteer Fire Department (BVFD), which is the closest responding agency for fire/EMS services. The Bluff Volunteer Fire Department would provide service to the Petition area when called. The agreement that the Town has for wildland fire support requires that the BVFD assist in fire fighting in the area.
13. The municipal tax burden on the lands within the Petition area is de minimis. Bluff collects sales taxes on business activities, but there is no such activity in the Petition area. Bluff collects a small property tax levy, though no such taxes are assessed on SITLA or BLM lands. The last information available to the Town shows that the Acton property pays \$124.12 in property tax annually, most of which is payable to San Juan County School District. Municipal taxation presents no undue burden on the Actons.
14. The SITLA lands within the Petition area may be developed in the future, as development and the generation of revenue are mandates of SITLA’s enabling legislation. As such,

those lands could come into private ownership and would be subject to Bluff ordinances. In its ordinances, Bluff has enacted a policy that public lands within the Town "...should be developed in a manner that is consistent with the ordinances and advisory documents of the Town. The Town will engage in dialogue and pursue agreements with the public and state agencies to assure that public and state lands within the Town are developed in a manner that benefits the Town and the public interest." B.M.C. § 6.01.020(K). Disconnection of the Petition lands would run contrary to that stated policy of the Town.

15. There is no good cause to disconnect the St. Christopher's lands. The evidence provided by representatives of St. Christopher's is that they oppose disconnection and were never consulted about the Petition prior to its filing. Additionally, exclusion of St. Christopher's from the Petition would likely create an unlawful incorporated peninsula, in violation of U.C.A. § 10-2-502.7(3)(c)(iii)
16. A public hearing was held on August 15, 2023. The Town Council heard testimony from staff, the Petitioners' counsel, SITLA, St. Christophers, and members of the public. Testimony from the public and written comments, apart from Petitioners and SITLA, was overwhelmingly against granting the Petition.
17. At the public hearing representatives of SITLA offered a map showing that significant portions of the Petition area that are currently SITLA lands would be transferred to the BLM pursuant to a Memorandum of Understanding (MOU), which in turn is contingent upon Congressional approval via H.R. 3049, the Utah School and Institutional Trust Lands Exchange Act of 2023. The MOU would transfer portions of Sections 12, 13, 15, 21, 22, 23, and 24 from SITLA to the BLM. While the H.R. 3049 has not yet been enacted, the transaction suggests that any claims by SITLA of injury or harm to its interests as a result of Petition lands being included in the Town is largely fictitious, since the agency intends to transfer ownership of most of the subject lands to BLM anyway.
18. San Juan County provided no information to the Town as to its ability or willingness to provide services to the Petition area, either as presently situated or when developed.
19. On September 25, 2023, the Town Council considered the Petition. The Town finds that its municipal boundaries were created after careful study and a public process by a group of concerned citizens and stakeholders. This process culminated in the incorporation of the Town in 2018.
20. The Council finds that:
 - i) there is no good cause shown for the disconnection;

- ii) the Petition lands should properly be developed within and subject to the ordinances of the Town;
- iii) disconnection would be adverse to the stated interests and desires of the St. Christopher's Mission;
- iv) disconnection would negatively affect the remainder of the Town and prospects for future development;
- v) disconnection would harm the ability of the Town to protect the aquifer providing culinary water to the Town;
- vi) there is no harm to the Petitioners or SITLA, nor have those parties suffered any injury as a result of any actions by Town officials;
- vii) the burdens of the Petition lands remaining in the Town are minimal; and
- viii) justice and equity does not require the disconnection of the Petition lands from the Town.

21. The predominant position of the Petitioners, as stated by their counsel, appears to be simply that they do not want to be part of the Town, a position which has no basis in the applicable statute.

THEREFORE, it is resolved by a majority of the Bluff Town Council, at a special meeting of the Council on September 25, 2023, as follows:

The Petition for disconnection is hereby denied. This resolution shall take effect immediately upon passage.

TOWN OF BLUFF



 Ann Leppanen, Mayor

9/25/2023

 Date

ATTEST:



 Linda Sosa, Recorder

9/25/23

 Date

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