

RESOLUTION NO. 2013-014

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
REGARDING AN APPLICATION FOR A MODIFICATION TO AN
EXISTING TELECOMMUNICATIONS FACILITY LOCATED NORTHWEST OF COLONA,
AND A DETERMINATION OF SUBSTANTIAL VS NON-SUBSTANTIAL CHANGE**

WHEREAS, the Telecommunications Act of 1996 was amended in February 2012 by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, H.R. 3630, 126 Stat. 156 ("Tax Act") to limit the authority of local governments to regulate modifications to existing telecommunications facilities and requires approval of requests for modifications that are not substantial; and

WHEREAS, Matt Fillmore representing JAB Wireless DBA Skybeam, authorized agent for SBA Communications Corporation, applied to the Land Use Department for approval of a modification of an existing telecommunications facility; and

WHEREAS, the Board of County Commissioners has directed staff to bring such applications to them for initial determination of the threshold issue of whether the requested modification is substantial or non-substantial; and

WHEREAS, information regarding the subject request was posted on the County website on January 17, 2013; and

WHEREAS, all application materials were provided to the Board of County Commissioners; and

WHEREAS, Board of County Commissioners reviewed and considered materials provided by staff, including a memo from the County Attorney stating that in her opinion the proposed modification is one contemplated by Section 6409(a) of the Tax Act, and the Wireless Telecommunications Bureau of the FCC Guidance document dated January 25, 2013 interpreting Section 6409(a) and specifically addressing the Bureau's interpretation of the statutory language "substantial increase in the size of the tower"; and

WHEREAS, Section 6409(a) provides that the County is required to approve a modification that will not result in a substantial increase in the size of the tower; and

WHEREAS, the Board of County Commissioners held a properly noticed public hearing on March 5, 2013 to hear and consider public comments and the materials presented by staff.

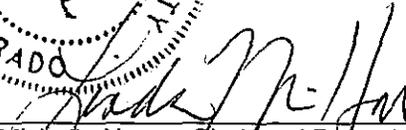
NOW THEREFORE, BE IT RESOLVED that the Board of County Commissioners determined that the proposed modification to an existing telecommunications facility was *not a substantial change*.

APPROVED AND ADOPTED THIS 12th DAY OF MARCH, 2013.

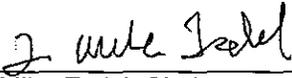
Voting for: Commissioners Fedel and Batchelder
Voting against: None
Absent: Commissioner Padgett

**BOARD OF COUNTY COMMISSIONERS OF
OURAY COUNTY, COLORADO**





Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board



F. Mike Fedel, Chair

ABSTAINED

Lynn M. Padgett, Vice-Chair



Don Batchelder, Member