

**BEFORE THE DEPARTMENT OF STATE
STATE OF COLORADO**

**FINDINGS OF FACT, DETERMINATION, AND DECLARATION OF
ABANDONMENT**

**RE: SAGUACHE COUNTY'S PETITION FOR THE ABANDONMENT OF THE
TOWN OF BONANZA IN ACCORDANCE WITH § 31-3-201, C.R.S.**

This matter came before the Department of State for a hearing on January 7, 2014, at 11:00 A.M., at the Secretary of State's Office, regarding whether the Secretary must declare the town of Bonanza in Saguache County abandoned in accordance with § 31-3-201, C.R.S., (2014). Deputy Secretary of State Suzanne Staiert presided over the hearing. Deputy Secretary Staiert extended the record several times throughout the year and held a second hearing on October 14, 2014, at 1:30 P.M. at the Saguache Community Center. The Deputy Secretary considered all evidence admitted, including witness testimony and exhibits, and considered the legal arguments presented. The Deputy Secretary specifically finds there is substantial and credible evidence in the record to support her findings and that there is a reasonable basis in the law to support this Decision.

The Deputy Secretary makes the following findings and conclusions of law:

Procedural History

1. The Board of County Commissioners for Saguache County, through the Saguache County Attorney, submitted a written application to the Secretary of State for the determination of abandonment of the town of Bonanza ("application") on October 28, 2013.

2. The Secretary published public notice of the application and original hearing location and time ("notice") in the Center-Post Dispatch, a newspaper of general circulation in Saguache County, on December 5, 2013; the notice was also posted in the town of Bonanza.

3. The Deputy Secretary held a public hearing regarding Saguache County's application on January 7, 2014, at 11:00 A.M. at the Blue Spruce Conference Room, Colorado Department of State, 1700 Broadway, Denver, Colorado. Present at the hearing were Department of State personnel, including Troy Bratton, Vanessa Conway, and Andrea Gyger.

4. The Deputy Secretary allowed all interested persons to present evidence and argument regarding the application. Several individuals living outside of Bonanza contested the abandonment and offered testimony over the phone. Because the individuals

objecting to the abandonment were having difficulty locating town records, the Deputy Secretary held the record open for additional evidence until February 6, 2014.

5. On February 5, 2014, the Secretary received a request from the Board of Commissioners for Saguache County, through their county attorney, to stay the decision until March 14, 2014. The Deputy Secretary granted this request and held the record open for additional evidence until March 14, 2014.

6. On March 13, 2014, the Secretary received a request from the Board of Commissioners for Saguache County, through their county attorney, to stay the decision until September 1, 2014. The Deputy Secretary granted this request and held the record open for additional evidence until September 1, 2014.

7. On September 12, 2014, the Deputy Secretary, in her discretion, determined that a second hearing was necessary in order to allow testimony by citizens who had been unable to participate at the January hearing due to inclement weather. The Deputy Secretary published notice of the second hearing on the Secretary of State website and in the town of Bonanza on September 12, 2014. Members of the public who had previously submitted evidence were also personally notified of the second hearing via email.

8. The Deputy Secretary held a public hearing regarding Saguache County's application on October 14, 2014, at 1:30 P.M. at the Saguache Community Center, 515 7th Street, Saguache, Colorado. At the conclusion of the hearing the Deputy Secretary held the record open for additional evidence until October 21, 2014.

Documentary Evidence

9. The Deputy Secretary admitted a total of forty-two exhibits into evidence. Many of the exhibits submitted duplicated previous exhibits submitted.

Decision

10. The Deputy Secretary finds and concludes that the evidence establishes the town of Bonanza is not abandoned as contemplated by § 31-3-201, C.R.S. (2014). The relevant statute includes two elements which must both be met for a town to be abandoned:

“When any town has failed, for a period of five years or longer immediately prior to the filing of the application under this section, *to hold any regular or special election or to elect officers and to maintain any town government*, such town may be determined to be abandoned...” § 31-3-201, C.R.S. (2014) (italics added).

In order for the Secretary to abandon a town, proponents of the application must show that no election has been held *and* that no town government has been maintained in the five years immediately prior to the application. In this case, the relevant five-year period is from October 28, 2008 to October 28, 2013 (the date the application was filed). The

Deputy Secretary finds that because an election was held and a town government did exist in the relevant time period, the application was premature and the town of Bonanza is not abandoned.

11. The Deputy Secretary finds that a special election was held in Bonanza in the five-year period immediately prior to the application. Evidence submitted as Exhibit 25 includes three articles published in the Pueblo Chieftain describing a special election during the relevant five-year period in which Bonanza residents voted, ironically, on whether the town should be dis-incorporated.

12. The Deputy Secretary finds that a town government existed for some of the five-year period immediately prior to the application. Evidence submitted as Exhibit 27 includes court documents establishing an election for town trustees on April 4, 2006. The results of this election were disputed in court, based on a claim that the elected trustees did not reside in Bonanza for the 12-month period immediately preceding the election. (Exhibit 36). The court found that the trustees failed to establish their eligibility because they did not reside in Bonanza, and removed the non-resident trustees from office. In the same order, dated January 7, 2007, the court installed the three individuals receiving the next highest number of votes as trustees. Town trustees are elected for four-year terms. (§ 31-4-301(5) C.R.S. (2014)). No evidence was presented clarifying the start date of the new trustees' term, but under even the most generous assumption (that the term began in April 2006), the four-year term would have extended into at least early 2010, well into the relevant five-year period for town abandonment.

13. This decision may be appealed by commencing an action for judicial review in the Denver District Court within thirty days of the date of this Order in accordance with § 24-4-106(4) C.R.S.

Done this 25th day of November, 2014.



Suzanne Staiert
Deputy Secretary of State