

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
August 6, 2008 - 5:00 p.m.**

**In Attendance were:**

Shelly Fabrizio, Planning Commission Chairperson  
Leon Sweat, Planning Commission  
Chris Peatross, Planning Commission  
Dean Burton, Planning Commission  
Randy Mair, Planning Commission  
John Jorgensen, Planning Commission  
Kent Olsen, Planning Commission  
Mike Hyde, Community Development Administrator  
Laraine Dickinson, Planning Secretary

**Visitors:**

**Agenda Item**

Dorothy Scott	
Marjorie Beal	
Scott Taylor	Hosco
David Marks	Hosco
Ronda Gillman	Iowa Tanklines & RNI
Jason Danley	
Ed Whicker	
Tom & Boni Monks	
Dale & Becky Rasmussen	
Lorin Tonks	
Scott Hacking (DEQ/Tri-County Health)	All
Dale Johnson	
Ken Moon	
Renee Howes	Moondance Ranch #2
Jerry Allred	
Lee Moon	
Brent Gillman	Iowa Tanklines & RNI
Leon Gillman	
Karolyn Gillman	
Geoff Liesik	
Marlene Tanner	
Ryan Chapman	RNI
Roger Chapman	RNI
Bill Fausett	
Keith Hicken	
Kay Robinson	
Kellee Harvey	

Chairperson Fabrizio opened the meeting at 5:00 PM

Chairperson Fabrizio asked the members of the Planning Commission if they had any involvement with any item on the agenda. Commissioner Peatross stated that Todd Moon had contacted him and he referred Mr. Moon to Mr. Hyde. Commissioner Burton stated that the first item on the agenda, the applicant, Scott Taylor and Mrs. Burton are related. There were no objections to either Commissioner's Peatross or Burton being able to participate.

**PUBLIC HEARINGS:**

**A. Recommendation to the County Commissioners regarding a request by Scott Taylor, Hosco, Inc., to rezone a 5.35-acre parcel from Agricultural-Residential to Industrial. The property is located at 4407 West 3000 South (Ioka Lane).**

Mr. Hyde stated that the applicant has decided to go with a rezone rather than applying for a Conditional Use permit because a lot of property in this area is an Industrial zone. The applicant had acquired an additional 5.35 acres of land to the west and wishes to construct a larger office, warehouse and truck shop building.

Mr. Hyde stated that there are six criteria that need to be met for a rezone and all of those have been met. Mr. Hyde stated that in the Nebeker rezone, from the July meeting, Tri-County Health and DEQ expressed concerns about industrial facilities out in areas where there is no sewer system so in that case there was a condition that was imposed that they work with those two agencies.

Mr. Hyde referred to the site plan and aerial photos of this location that were included in the Staff Report.

Commissioner Jorgensen stated that on the map it does not show an easement. Mr. Hyde stated that there is frontage on Ioka Lane on the north side and another access would be on the northeast corner of the property where there is already an existing shop. Mr. Hyde asked what type of easement are you asking about? Commissioner Jorgensen stated that he thought there was an easement for Dry Gulch Irrigation on that property. Mr. Hyde stated that for a rezone that does not come into play but when they are applying for a building permit then they should find out where that easement is so that they do not build on it. It was stated that it is a 4-inch line in the southwest corner of the property.

Scott Taylor stated that on his deed it does not indicate anything about an easement for Dry Gulch Irrigation nor does his Title Report but if there is an easement then we would be willing to work around it. Mr. Taylor stated that would be the far end of the parking lot and that there would not be any buildings in that area.

Mr. Taylor stated that in the recommendations it states that we coordinate wastewater disposal with Tri-County Health and DEQ and Mr. Taylor stated that those things are already being done.

Chairperson Fabrizio asked if there were any other questions or comments? Since there were none the public hearing was closed.

Commissioner Sweat motioned that the Planning Commission adopt the findings and conclusions herein and recommend approval of this rezone from Agricultural-Residential to Industrial to the County Commissioners, provided that the applicant coordinate wastewater disposal with the Tri-County Health Department and the Utah DEQ.

Commissioner Mair seconded the motion and it passed unanimously.

**B. Request for a Conditional Use Permit by K. W. Robinson Construction, Inc., to establish a construction company shop and storage yard on a 10-acre parcel at 6206 South Highway 87, north of Duchesne City.**

Mr. Hyde stated that this proposal is located on the west side of Highway 87 just south of the sub-station which is on the east side at 6000 South just north of the Lupold property, which is zoned commercial.

Mr. Hyde stated that the proposed site would be for a general contractor's shop and storage yard. Mr. Hyde stated that the criteria for Conditional Use permit were listed in the Staff Report and stated that the request would comply with the Conditional Use Permit requirements.

Commissioner Olsen stated that in the first recommendation in regards to the dust and noise, would this yard be paved or graveled? Mr. Hyde stated that it would be a compacted road base type material so there could be a dust issue but it would probably be minimal.

Commissioner Sweat stated that in a letter from Mr. Robinson it states that there is already water and power on the site, which is connected to a residence located on the site. Are there people living at that residence? Mr. Hyde stated that there was not, that it is more of a dilapidated shack rather than a residence. Commissioner Jorgensen asked if the water was from a well and Mr. Hyde stated that it was East Duchesne Culinary Water.

Chairperson Fabrizio asked if there were any questions or comments? There were none and the public hearing was closed.

Commissioner Peatross motioned that the Planning Commission approve the Conditional Use Permit requested by K.W. Robinson Construction, Inc., subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance.
2. Applicant shall provide a new fire hydrant, across Highway 87 from the business driveway, if required by the Building Official and/or County Fire and Emergency Management Director, prior to occupancy of the building.
3. Applicant shall obtain a building permit for the proposed building and a Duchesne County business license prior to conducting business.
4. Prior to issuance of a building permit, the applicant shall obtain approval from UDOT for the proposed access driveway from Highway 87.
5. Signage, other than flush wall mounted signage, shall be limited to 32 square feet in size and be located on private property to avoid vision clearance problems at the driveway intersection.
6. Applicant shall coordinate wastewater disposal associated with grease pits and equipment washing facilities with the Utah DEQ and Tri-County Health Department.

Commissioner Olsen seconded that motion and it passed unanimously.

**G. Request for a Conditional Use Permit by Ames Construction, Inc., to operate a gravel pit and rock crusher on 2.5 acres of a 240-acre parcel owned by Hunt Oil Company, located in Section 32, Township 11 South, Range 15 East, at the mouth of Pete's Canyon on the Nine Mile Canyon Road.**

Mr. Hyde stated that in the Staff Report we will first look at findings for denial of this proposed Conditional Use Permit for a gravel pit and rock crushing operation.

Mr. Hyde stated that the criteria for a mining operation are:

1. The proposed location would not be detrimental to the public health, safety or general welfare.

Mr. Hyde stated that these types of operations need to be a ¼ mile from any residential units and in this case the nearest dwelling is about 875 feet away, which is owned by the Hunt Oil Company and so because it is on the property of the operation it is normally not counted.

Mr. Hyde stated that if the permit is approved the applicants would need to coordinate with the Duchesne County Road Department to ensure an access point acceptable in terms of public safety.

Mr. Hyde stated that the site is located within the proposed Nine Mile Canyon National Register Archeological Historic District and would be visible from the Nine Mile Canyon

Back Country Byway, which was designated on June 21, 1989. So, locating a gravel pit in this area would detract from the character of the area and additional truck traffic would be detrimental to public safety.

Mr. Hyde stated that due to tourism use of the canyon and archeological resources nearby, gravel extraction and rock crushing would more appropriately occur in an upland site, away from the canyon.

2. The proposed use would comply with the goals and policies of the Duchesne County General Plan.

Mr. Hyde stated that the mining activity would support the oil and gas industry and produce gravel that would help in the upgrading of the roads in this area. However, there are other locations outside of the canyon that should be explored as a source for road construction materials. So, the proposal does comply with portions of the general plan but does not comply with the portion that encourages the protection of cultural resources.

3. That the property is of adequate size.

Mr. Hyde stated that the gravel pit would be on a portion of a 240-acre parcel, which is large enough so that detrimental impacts on other private property owners would be minimized. However, the operation would generate dust, noise and traffic that would be detrimental to cultural resources and tourism in the canyon.

Mr. Hyde stated that there are other criteria that would need to meet such as:

1. Must maintain a near dust-free condition.

Mr. Hyde stated that the applicants indicated that the pit and crusher are in accordance with Utah DEQ air and water quality standards. They would supply a tanker truck to provide dust control, with water coming from Hunt Oil Company water rights and a dust control plan has been provided.

2. Bonding would be issued in the amount of \$5,000.00 for the first acre and \$3,000.00 for each additional acre.

Mr. Hyde stated that bonding for 2.5 acres would be \$9,500.00 and such bonding would need to be received by the County prior to the commencement of mining operations.

3. Reconditioning of the property.

Mr. Hyde stated that safe cut or fill slopes must be established and disturbed areas must be re-seeded and the application meets these standards.

4. Rock crushing operations must be a minimum of 1,320 feet from any city, town, or residential use.

Mr. Hyde stated that the nearest residential use is on the same 240-acre site.

Mr. Hyde stated that on the basis that the application for a Conditional Use Permit does not meet all of the requirements there is a recommendation for denial. Mr. Hyde referred to the packet the applicants information, the lease they have with Hunt Oil Company, dust control plan, and maps showing the contour of the site where the materials would be extracted.

Mr. Hyde stated that at the end of the packet there are also findings to approve this Conditional Use Permit if desired after testimony has been presented tonight.

Chairperson Fabrizio asked if there were any questions for Mr. Hyde, there were none and the public hearing was opened up for comments.

Leonard Botella (Ames Construction) stated that they have reviewed both the findings for denial and approval and support the findings for approval.

Mr. Botella stated that on the aerial map, the Pete's Canyon drainage has water in it only part of the time. Also, working with the Nutter Ranch people they have experience overtime with flood events that come down the canal had filled up with silt, sand and gravel and running down the down the road and impacted the farm house. So, a benefit from extracting material would provide some additional storage and direct the water across the county road and into Nine Mile Creek.

Mr. Botella stated as far as the scenic impacts in their site designs they felt that it had been addressed with a berm about 8-foot high and about 50 to 60 feet off the county road and the pit would ramp down about 18 to 20 foot depth. So, they felt that this would not be detrimental in any way and especially with all of the other construction in the area. We do have a dust-control plan because we know how sensitive this is in the canyon and that is one of the primary uses of the gravel is to upgrade the roads. Being a 2½-acre parcel it would be small and we do not plan on increasing that. There would be no drilling or blasting it would just be excavating out of the ground.

Mr. Botella stated that Hunt Oil's main concern is to stabilize the roads in the area so that there is not as much dust. The place where the trucks would be entering the road there is plenty of visibility and there would signs stating that trucks are entering and there would also be a stop sign. Mr. Botella stated that they would coordinate with the County Road Department with the placement of those signs.

Commissioner Sweat asked how long do you plan to have this as a crushing site? Mr. Botella that it would be approximately 2 years and that would be to do the road in the lower part of the canyon.

Commissioner Olsen asked where is the closest pit to this area? Mr. Botella stated that he was uncertain but Commissioner Jorgensen stated Duchesne and Price.

Jim Day stated that he owns a ranch in Nine Mile Canyon and as far as he knew that road has had nothing down on it in the past 40 years. Mr. Day stated that the oil companies have tried different ways to suppress the dust and it works temporary but without some type of surfacing on the road the dust is uncontrollable.

Mr. Day stated that if anyone has been in Gates Canyon with the truck traffic there now it is not very safe. That is why this particular site was chosen at the bottom of the canyon to minimize the truck traffic and there is approximately 200 trucks that run in and out of that canyon every day. Also, as a landowner in the canyon, I am totally in favor of this operation to make the roads better.

Commissioner Olsen asked Mr. Day how far is your property from this proposed pit? Mr. Day stated that it was approximately eight miles to the west.

Commissioner Sweat asked if there were any other sites investigated for this or was this basically the prime site? Mr. Day stated that they looked on top, Gate Canyon, and Water Canyon on Wrinkles Road. The only access is through Gate Canyon and it is awfully winding. Mr. Day stated that the oil companies have basically done everything that they can do that was feasible.

Commissioner Burton asked who is going to be the beneficiary of the gravel would it be the oil companies or the county? Mr. Day stated that he thought everyone would benefit from it. Commissioner Burton asked then would the county buy it to use on county roads? Mr. Hyde stated that he could only rely on what the application stated, which was, "The aggregate products manufactured would be used on the local roads for surfacing". Mr. Hyde stated that the oil companies and the County have worked together on the roads out in these areas because they are so far out. Mr. Day stated that there has not been any contracts or obligations made because until the Conditional Use Permit has been approved.

Chairperson asked if there were any questions or comments?

Mr. Hyde read into the minutes an e-mail that was been received from the Nine Mile Coalition stating that they are not taking a position regarding the proposal.

Commissioner Jorgensen motioned that the Planning Commission approve the Conditional Use Permit requested by Ames Construction and Hunt Oil Company, subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance. The dust control plan provided shall be implemented throughout the course of the operations.
2. Applicant shall maintain a reclamation bond in effect during the course of the mining operations. The bond shall name the County as a beneficiary to the level of at least \$5,000.00 for the first acre and \$3,000.00 per additional acre to be disturbed at any one time.
3. Applicant agrees to reclaim (re-contour and re-seed) the site at the conclusion of mining operations in a manner acceptable to Duchesne County and the property owner.
4. Applicant agrees to obtain a road approach permit from the Duchesne County Road Department for the access to the site from the Nine Mile Canyon Road, prior to constructing or modifying this access.

Commissioner Peatross seconded that motion with six voting yes and Commissioner Sweat abstaining.

**E. Request for a Conditional Use Permit by Iowa Tanklines, Inc., to establish a produced water disposal facility on a portion of a 475-acre parcel owned by Todd Moon, located in Section 30, Township 4 South, Range 2 West, on the north side of the BLM Fence Road.**

Mr. Hyde stated that on May 7, 2008 Iowa Tanklines received a Conditional Use Permit for a produced water disposal facility on 100 acres of land on the west side of the Wells Draw Road. Mr. Hyde stated that no one appeared in person or in writing in opposition to the proposal and there was no appeal of the Planning Commission decision. But about one month later, residents and property owners in Pleasant Valley area began voicing opposition to the proposal and as a result the applicant elected to move the facility about one mile south and one mile west of the first proposed site.

Mr. Hyde referred to the Staff Report, aerial photos and maps showing the site, which was approved on May 7, 2008 and new map showing the new proposed site.

Mr. Hyde stated that the criteria for this type of Conditional Use Permit are:

1. The proposed located detrimental to the public health, safety or general welfare.

Mr. Hyde stated that wastewater evaporation ponds need to be a mile away any city, town or residential use. In this case, the nearest dwelling would be about 2.8 miles to the northeast and the Division of Oil, Gas and Mining requirements would protect public and environmental safety. Mr. Hyde stated that the U.S. Army Corp. of Engineers regarding this proposal had contacted the County. They administer the Section 404 process through the clean water act and they asked if the request is approved to require the applicant to submit plans to coordinate with them to make sure that there is no chance for the waters to get into the natural drainage course in the area.

2. The proposed location would be in compliance with the goals and policies of the Duchesne County General Plan.

Mr. Hyde stated that the proposal complies with respect to mining activities.

3. The property is of adequate size.

Mr. Hyde stated that the parcel is 475 acres and the applicant proposes to lease 100-acres, so the site would be large enough.

Mr. Hyde stated that for produced water disposal facilities there are six conditions that needs to be met, such as;

1. The site must be fenced.

Mr. Hyde stated that the U.S. Fish and Wildlife Service has concerns that animals cannot get into the ponds to drink water and that some type of actions be taken to minimize migratory birds landing on the ponds and die from ingesting on the brine water.

2. Mandatory compliance with State of Utah Division of Oil, Gas and Mining General Rules.

Mr. Hyde stated that the applicants are aware a DOGM permit is required for this facility and are in the process of preparing the application.

3. Mandatory odor control.

Mr. Hyde stated that odor is caused by (1) hydrocarbon residuals and (2) bacterial activity in the water. Mr. Hyde stated that in this case, Iowa Tanklines is looking at the feasibility of a water treatment plant, which would use a reverse osmosis process to treat the water before it enters the ponds. And if it were successful it would eliminate odor and the water could be re-used in the oil field or for irrigation.

4. Minimum of one mile from any city, town or residential use or state route or US highway.

Mr. Hyde stated that the nearest residence is 2.8 miles and the closest state or federal highway is Highway 40, which is about four miles to the north. The closest city or town is Myton, which is about seven miles to the northeast.

5. Produced water disposal ponds shall be limited by number and cannot be enlarged or modified until approval from Planning Commission.

Mr. Hyde stated that from the May 7, 2008 meeting the applicant proposed ten disposal ponds each holding about 250,000 barrels of water but since scaled back with a revised plan showing three larger disposal ponds holding a total of 750,000 barrels of water.

6. Mandatory bonding.

Mr. Hyde stated that the applicant must comply with the bonding requirements of the county and DOGM prior to start of operation and also, The U.S. Army Corp. of Engineers and the U.S. Fish and Wildlife Service.

Chairperson Fabrizio asked if there were any questions or comments?

Todd Bro stated that since the meeting in May he now has an engineering drawing of the pond construction, which was entered into the record.

Mr. Bro stated that he also had a statement from the property owners that Dale Rasmussen was the spokesman. Mr. Bro stated that there was a meeting at the Myton Community Center and was uncertain of the number of people in attendance but of those in attendance about 40 signatures were obtained with their signature attesting to their willingness to waive their rights to protest during the public comment period in exchange for Iowa Tanklines moving from their original site to the new location further away. Mr. Bro passed those documents on to the Planning Commission.

Commissioner Jorgensen asked Mr. Bro what are the considerations on the pilot water treatment plant? Mr. Bro stated that there are many different systems and they have looked at about half of them and have found some parts that would work and others that would not. So, at this time it is an on going process and we have not yet determined what exactly is the process that we would land on. It is our goal but electricity is a big factor and Moon Lake Electric has given us a quote. And due to the complexity of it that is probably why no else has done it. Commissioner Jorgensen asked with the reuse of the water and oil does that not generate enough funds to replenish the cost of putting this in? Mr. Bro stated that it depends on how long you want to wait for a return on your investment.

Commissioner Sweat asked in what direction does the wind blow at the new proposed site? Mr. Bro stated that it was from west to east.

Commissioner Olsen asked what was the purpose for changing from ten ponds to three ponds? Mr. Bro stated that his first consideration was how many barrels he was able to deal in that radius and the secondary consideration property owners stated that the original plans were for 750,000 barrels on the Wells Road site and decided to stay with that plan.

Mr. Hyde asked Mr. Bro what could you do with your facility to comply with Corp. of Engineers Section 404 to keep wastewater out of the natural drainage courses and what can you do to keep migratory birds off of the ponds? Mr. Bro stated that he had not read Section 404 but had read some excerpts from it and been in contact with their representative out of Grand Junction, Colorado and based on communication with her, she is saying subject to an onsite inspection by herself that she does not believe that Section 404 would apply. Of course, that could change when she looks at the site and there could be a permit that would be required to cover any exposure.

Mr. Bro stated that the main concern with U.S. Fish and Wildlife Service is that you keep hydrocarbons off the evaporative ponds and in this type of business that is everyone's goal. Mr. Bro stated that their design is in three steps (1) skimming on a settling pond with the standard oil water separator tank system, (2) in the second tank we would be installing a new device which Keith Haslem has been involved with and it is to eliminate all hydrocarbons from water. It is easy to remove the oil but it is hard to get all of the emulsion out and, (3) send the emulsion and a little bit of water to the oil tank and then deal with the water in the oil tank later. Mr. Bro stated that in addition to what I have suggested is a product I'm going to call a propane cannon which would produce some type of noise that would keep birds at bay. And their final concern is water quality in the evaporative ponds and there is a company called Multi-Chem and that is what they do. Mr. Bro stated that after they are up and running they plan to install a small lab to test the water in the ponds to make sure that everything is running smoothly.

Chairperson Fabrizio asked if there were any questions or comments?

Commissioner Peatross asked just to clarify this is an actual Act, the Migratory Bird Treaty Act, so this is not something they are asking it is an actual Law? Mr. Hyde stated that it was.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by Iowa Tanklines, Inc., subject to the following conditions:

1. Prior to start of construction, the applicants shall submit to the county a copy of their DOGM permit and evidence of compliance with the Section 404 program administered by the US Army Corps of Engineers and the Migratory Bird Treaty Act administered by the U.S. Fish and Wildlife Service.
2. Prior to start of facility operation, the applicants shall construct the required fencing, post the required bonding and obtain a county business license for the facility.

3. After operations begin, applicants agree to take prompt action to control and eliminate odors if the county receives complaints.

Commissioner Jorgensen seconded the motion and it passed unanimously.

**D. Request for a Conditional Use Permit by R.N. Industries, to establish a produced water evaporation facility on 200 acres of land owned by Todd Moon, located on the northeast side of the intersection of the BLM Fence Road and the Shearing Corral Cutoff Road.**

Mr. Hyde referred to three aerial maps that would give a better idea of where the property was located. This property is located north of BLM land and about 3-miles east of Antelope Canyon. This proposed site is about 1.5 miles to the west of the proposal by Iowa Tanklines. Mr. Hyde stated that the site plan shows that this facility would consist of twelve ponds.

Mr. Hyde stated that the criteria for this proposal would be:

1. The proposed site be detrimental to public health, safety or general welfare.

Mr. Hyde stated that since this facility is located to the southwest of the nearest dwelling, which is about 4.3-miles there would be no adverse impact to public health, safety and welfare.

2. The proposed use is in compliance with the goals and policies of the Duchesne County General Plan.

Mr. Hyde stated that the proposed use would provide a service needed by the oil and gas industry, which is important to the local economy.

3. The property is adequate in size.

Mr. Hyde stated that the proposed site would be 200 acres, which is large enough and situated in a remote area away from developed areas.

Mr. Hyde stated that Produced Water Disposal Facilities requirements would be the same as those presented for Iowa Tanklines in the previous item on the agenda.

Chairperson Fabrizio opened up discussion from the Planning Commission.

Commissioner Sweat asked if it were known what size these ponds would be? Mr. Hyde stated that would need to be directed to the applicant because he was unaware of the barrel capacity.

Roger Chapman (President, R.N. Industries) stated that they operate through their company several of these types of facilities in Utah and Colorado and have been doing it for about eighteen years.

Mr. Chapman stated that there are some issues with these types of facilities, such as when the water comes in it stinks and as it goes through the process there are ways of controlling that.

Commissioner Sweat asked the quantity size of each pond? Mr. Chapman stated that it would depend on the sub-surface rock but they should average about 400,000 barrels per pond at capacity.

Mr. Hyde asked Mr. Chapman the same questions that were asked of Mr. Bro in regards to the U.S. Army Corp. of Engineers and the U.S. Fish and Wildlife Service. Mr. Chapman stated that they deal with these issues in every facility in every State, the Engineer addresses the Section 404 requirements and we also prepare a storm water protection plan and in that plan we put in secondary containment dikes around the outside perimeter.

Mr. Chapman stated in regards to the bird issue their facilities have been visited by the U.S. Fish and Wildlife Service several times and any oil on the water needs to be netted and if any birds have been killed there is a fine. Mr. Chapman stated that as the facilities are built water always travels through one inlet on tank 1, 2, and 3 and from then it can be distributed. On the back ponds, it is very common to have ducks on those ponds and they don't stay long because there is nothing to eat just a little algae. There is a double high net fence with very strong corners to withstand wild horses, antelope, deer, and elk etc.

Mr. Hyde asked for a little insight on the odor control. Mr. Chapman stated that they used their own skimming and separating process through years of trial and error and that controls the odor in the back ponds but the first two or three ponds would have a smell. We do a number of things to control the smell (1) oxygen injection, (2) bacteria injection but on occasion the water has been left at the drill site for a number of months and that water is pretty nasty when brought to a facility. Mr. Chapman passed around samples of water from ponds 1, 5, and 8 for those that wanted to smell it.

Mr. Chapman stated that a large site is needed for what we feel is coming.

Mr. Hyde stated that another question was regarding injection well as an alternative. Is that something that you are also involved with? Mr. Chapman stated that it was not and that their involvement has been with evaporative ponds.

Chairperson Fabrizio asked if there were any comments or questions?

Becky Rasmussen stated that they are the nearest resident to these ponds and at this time there is already four ponds in the area located on Indian Land and could possibly be expanding their site and Iowa Tanklines putting in an additional three ponds and if R.N. Industries are approved for twelve ponds that totals nineteen ponds and I feel that is too many ponds in our area. I would recommend that the commission limit the number of ponds in this area.

The main concerns with property owners (Dale and Becky Rasmussen, Merle Dallin, Boni Monks, Leon Gillman, and the others in attendance that were asked to stand in opposition of this proposal) from Pleasant Valley area were with the odors from these ponds and those with health issue this would just increase the problem. Also the number of ponds in one area should be limited because the concentration is so heavy and with the winds it would blow towards the east into the residential areas.

Dale Rasmussen presented a topographical map to show a better idea of how the terrain was.

Chairperson Fabrizio called a recess at 6:55 PM and the meeting resumed at 7:05 PM.

Mr. Rasmussen referred to page 4 of the Staff Report and read into the minute's paragraph 2, which basically stated that the planning commission might impose reasonable conditions or restrictions.

Mr. Rasmussen stated that with the lay of the land if for some reason there were a breach on these ponds it would flow down Rabbit Gulch towards our ground and this concerns me.

Commissioner Olsen asked at this point do you want odor control or do you not want the ponds? Mr. Rasmussen stated that if the ponds were limited to three ponds, which would be larger than Mr. Bro's operation and larger than the Bluebell operation and all the odors stayed on his 200 acres then I would be OK with Mr. Chapman receiving a Conditional Use Permit under those restrictions. Chairperson Fabrizio stated that no matter the number of ponds the first pond is always going to smell and Mr. Rasmussen stated that when living in the Hancock Cove area he never was able to smell the ponds there but now when he returns he is able to smell those ponds.

Commissioner Olsen asked looking at a waiver of rights with signatures not opposing Mr. Bro's operation and you are opposing this operation of R.N. Industries. Mr. Rasmussen stated that at the May meeting the Conditional Use Permit for Iowa Tanklines was approved without opposition, since that time we have met with Mr. Bro about our concerns and his operation is a much smaller operation and that is why we are opposing R.N. Industries proposal because it is a much larger operation.

Roland Uresk (Attorney) stated that he was representing the Pleasant Valley property owners. Mr. Uresk stated that there were some safety concerns that needed to be addressed that were not in the findings. 1. From the proposed site there is a wash that historically carries water in the springtime and is basically a flood plain and Mr. Hyde stated that this could be addressed by the U.S. Army Corp. of Engineers, rightfully so, but if there is any kind of breach it would travel down this water way and would not only affect the nearest resident but would affect everyone in the Pleasant Valley area. Thus, this should be reason enough to deny this permit. 2. This was supposed to happen in phases and the original was six with three phases, two ponds per phase and the proposal tonight was for twelve ponds.

Mr. Uresk stated that the neighbors concerns are with the size because you are adding more odors in that area and there is a limit to how that can be controlled. Based on the topography and the weather pattern, if the Board decides to approve this proposal we request that it be limited to two ponds initially and come back for more with answers to some of these questions.

Chairperson Fabrizio asked if there were any questions or comments?

Mr. Hyde asked Mr. Uresk if he was familiar with the ponds on Indian Land? Mr. Uresk stated that he was not but I am familiar with the issues on the Denver ponds and they were guaranteed to be safe with no problems and one of those ponds was breached and caused extensive damage to homeowners in that area.

In rebuttal, Mr. Chapman wanted to clarify some misconceptions (1) being there is a single dike to hold the water in, each pond has a set of dikes to hold the water in, with a plastic liner inside that and inside that is a leak detection and if a leak occurs we know within the maximum of seven days and then the water is drained out and the leak is repaired. Under the plastic liner is a clay liner, which also helps to contain the water. Mr. Chapman stated that outside the ponds there is additional diking outside the entire perimeter to hold back any water in the case there is a breach.

Commissioner Peatross asked in regards to size how does this compare to other sites that you have? Mr. Chapman stated that they have two others that are larger one being on a 600-acre site in Colorado and there is one in the Chipeta field and it is a 300-acre site but there are oil and gas wells in the middle. To build a dyke around the perimeter of one of these is not cheap and two ponds are not feasible.

Mr. Hyde stated that if there are odor complaints they are referred to my office and about a month ago I received a complaint from a person in Hancock Cove and I called your company. Could you describe what happened as a result of that complaint? Mr. Chapman stated that he felt it got resolved but that it was still ongoing, we received a large amount of very stinky water and we had to increase our bacteria count not only once but twice and then went into some of that back ponds to reduce those smells, it is minimizing now but we do try to keep them under control. One of problems was that one of the mechanisms was not working properly because a plastic bag had wrapped around it. Mr. Chapman stated that in the Ouray field there are four or five unload sites in that small area there are five inflows rather than just one inflow and the area is so remote that there are not many issues there but it does get smelly at times. There are two or three more facilities being built out there now so the problems are only get worst and it is the inflow that is the problem.

Commissioner Jorgensen asked if any other sites had been looked at? Mr. Chapman stated that they chose a site further north and Mr. Rasmussen approached us about the same time he spoke with Mr. Bro and asked us to move it closer to Mr. Bro's project but

when he found out that we were putting in twelve ponds, he stated that he no longer wants us there he wanted us to move further away.

Commissioner Burton asked if a survey had been done to secure the dike so that no water is able to escape? Mr. Chapman stated that we have a basic survey but we will make sure that it retains all of the water.

Mr. Hyde asked Mr. Chapman if he knew anything about the ponds on the Indian Land? Mr. Chapman stated that he knew they were there and that they were operational but other than that he did not.

Ken Moon stated that in regards to the draw and the direction of flow in the case of a breach by the lay of the land it would flow towards the north rather than toward Pleasant Valley. Mr. Moon stated that the two small draws that come together flows directly north. Mr. Rasmussen stated that he knows the Moon brothers own this land and point to the aerial map show one draw about the size of a pickup truck and the other draw have greasewoods and that is the one that we have major concerns about.

Chairperson Fabrizio asked if there were any other comments?

Commissioner Jorgensen stated that his concerns are that there are becoming more and more ponds in area and it is just added to the odor issues and then how do you know just which ponds are the odors coming from.

Commissioner Sweat stated that our duty as a Board is to look at the request and make sure that all the requirements have been met laid out by the County and odor is an issue but no one likes odors.

Mr. Hyde stated that whatever decision is made tonight, anyone is able to appeal this to the County Commissioners within ten days of the decision letter being sent out.

Mr. Chapman asked Mr. Hyde how many complaints has he received regarding RNI ponds since working for the County. Mr. Hyde stated that just the one a couple of months ago. Mr. Chapman asked Mr. Hyde do you feel that we addressed that problem? Mr. Hyde stated that when he called to relay the message from the complaint a person said they would get in contact with the complainant and when I called back to see if the issue had been resolved that person said that they thought so.

Chairperson Fabrizio asked if there were any comments or questions. There was not so the public hearing was closed.

Commissioner Peatross motioned that the Planning Commission approve the Conditional Use Permit requested by R.N. Industries, subject to the following conditions:

1. Prior to start of construction, the applicants shall submit to the county a copy of their DOGM permit and evidence of compliance with the Section 404 program administered by the US Army Corps of Engineers and the Migratory Bird Treaty Act administered by the U.S. Fish and Wildlife Service.
2. Prior to start of facility operation, the applicants shall construct the required fencing, post the required bonding and obtain a county business license for the facility.
3. After operations begin, applicants agree to take prompt action to control and eliminate odors if the county receives complaints.

Commissioner Mair seconded that motion with four in favor (Commissioners Fabrizio, Peatross, Mair and Olsen), and 3 against (Commissioners Sweat, Jorgensen, and Burton).

**D. Request for approval of the Moondance Ranch Subdivision, Phase 2, by Utah Land and Ranches.**

## **1. Preliminary Plat**

Mr. Hyde stated this a recreational subdivision, consisting of 50 lots, ranging from 40.02 acres to 56.01 acres in size on 2,154.99 acres located south of Bridgeland in the Antelope and Sowers Canyon area. The proposed subdivision lies southeast of a similar development created in 2007, which is known as Silver Moon Ranch.

Mr. Hyde stated that this subdivision is one of those that are 40-acres and up and there is no water, the roads are done to county standards and there is Tri-County Health Department approval.

Mr. Hyde stated that the recommendations for preliminary plat approval would be that the final plat provide a 66-foot right of way access between Lots 89 and 90 and near Lot 95 to provide road connections for future development. Also, that there needs to be a bond posted to guarantee the roads for two winters.

Mr. Hyde stated that all the requirements have been met for preliminary plat approval.

Mr. Hyde stated that we received one letter from Mr. Lee Williams who owns Lot 91 of the Silver Moon Subdivision expressing his approval of this subdivision.

Commissioner Burton asked does the county accept these as county roads after they are constructed? Mr. Hyde stated that they are inspected by the County Road Department and the county has received a letter of approval from that department, so there is just the two-year guarantee. Commissioner Burton asked are the roads then maintained by the county? Mr. Hyde stated yes, on a low maintenance basis.

Chairperson Fabrizio asked if there was a representative from Utah Ranches present?

Renee Howes stated that she had nothing else to add only that the roads had been constructed last year and so they have had one year to settle.

Commissioner Sweat motioned that the Planning Commission adopt the Findings of Fact and Conclusions set forth in this Staff Report and approve the preliminary plat of the Moondance Ranch Subdivision, Phase 2, subject to the following conditions:

1. The final plat shall provide 66-foot right of way access between Lots 89 and 90 and near Lot 95 to provide road connections to future development on lands abutting this subdivision.
2. Prior to recording of the final plat, the developer shall post a bond with the county in the amount of 10% of the road construction cost, to guarantee the roads will continue to meet county standards two winters after acceptance.
3. The applicant shall coordinate installation of road signs with the Duchesne County Road Department, with such signs to be installed prior to the issuance of any building permits within the subdivision.

Commissioner Mair seconded the motioned and it passed unanimously.

## **1. Final Plat**

Mr. Hyde stated that on the final plat the county checks to make sure that the roads are in and the roads have already been approved by the County Road Department. Also, that the water system is in or there is bonding but in this case there is no water, which is allowed because the lot sizes are larger than 40-acres.

Chairperson Fabrizio asked if there were any questions or comments. There were none and the public hearing was closed.

Commissioner Mair motioned that the Planning Commission recommend to the County

Commission the adoption of the Findings of Fact and Conclusions set forth in this report and approval of the final plat of the Moondance Ranch Subdivision, Phase 2, subject to the following conditions:

When the final plat is submitted for recording, the subdivider shall provide the county with a disk containing the final plat drawing in an AutoCAD compatible format, such as dxf, dwg or shp.

The final plat shall provide 66-foot right of way access between Lots 89 and 90 and near Lot 95 to provide road connections to future development on lands abutting this subdivision.

Prior to recording of the final plat, the developer shall post a bond with the county in the amount of 10% of the road construction cost, to guarantee the roads will continue to meet county standards two winters after acceptance.

The applicant shall coordinate installation of road signs with the Duchesne County Road Department, with such signs to be installed prior to the issuance of any building permits within the subdivision.

Commissioner Sweat seconded that motion and it passed unanimously.

#### **Commission Comments and Staff Information Items**

Mr. Hyde stated that the September meeting El Paso has applied for some evaporative ponds just south of the Blue Bench Landfill and it would be for El Paso's own use. Also, there is a request for a rezone just north of Newfield, out in the Pleasant Valley area.

#### **Adjournment:**

Commissioner Sweat motioned to adjourn the meeting at 8:20 PM  
Commissioner Mair seconded that motion and it passed unanimously.