

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
December 3, 2008 - 5:00 p.m.**

In Attendance were:

Shelly Fabrizio, Planning Commission Chairperson
Leon Sweat, Planning Commission
Randy Mair, Planning Commission
John Jorgensen, Planning Commission
Dean Burton, Planning Commission
Kent Olsen, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Abby Roberts	Deerfield Subdivision
Eddy Roberts	Deerfield Subdivision
Alan Beach	Deerfield Subdivision
Dale M. Rasmussen	Lazy E Bulls
Becky T. Rasmussen	Lazy E Bulls
Scott Hacking	DEQ
Nicole Harvey	
Ryan Harvey	
Nathan Robinson	Triple R Water
Stephanie Rentz	Triple R Water
Sam Robinson	Triple R. Water
Blaine Thomas	Evaporation Ponds
Kelly Kielbasa	
Van Robinson	Lazy E Bulls
Keith Hicken	Evaporation Ponds
Joan Thomas	

Chairperson Fabrizio opened the meeting at 5:00 PM.

Chairperson Fabrizio asked if any of the Planning Commission had any involvement with either item on the agenda. Commissioner Sweat excused himself from the Deerfield Subdivision item as the applicants from Deerfield Subdivision are friends of his.

PUBLIC HEARINGS:

A. Recommendation to County Commissioners regarding a request by Edward and Abigail Roberts and Alan and Katie Beach for Final Plat approval of the Deerfield Subdivision, located at 5375 South 46000 West in the Fruitland area.

Mr. Hyde stated the Deerfield Subdivision contains 8 lots, 7 are just over 5 acres and 1 is just over 3 acres, and is located at 5375 South 46000 West in Fruitland. The Planning Commission approved the preliminary plat on October 3, 2007 subject to the following conditions.

1. Prior to final plat approval, an operating permit for the water system must be issued by the Utah Division of Drinking Water and all impact fees and water shares shall be provided to the Fruitland Water District. Scott Hacking from the Utah DEQ has informed me the permit has been issued but I have not received the letter at this time. Also the impact fees were paid to Fruitland Water on April 9, 2008.
2. Prior to final plat approval, the developers shall either construct the required road to county gravel standards or post bonding in an amount not less than 125% of the construction cost estimate. The Road Supervisor has issued a letter accepting 5375 South within this subdivision for county maintenance on November 17, 2008.
3. Developer shall work with the County Public Works Department in the provision of street signs, which shall be installed prior to occupancy of homes in the subdivision. This remains to be completed; thus, a condition should be imposed.
4. Developer agrees that all homes constructed within the subdivision shall be provided with a residential fire sprinkler system approved by the Building Official and Fire Department prior to occupancy. Since preliminary plat approval, the developers have met with the Fire Department and reached an agreement that fire protection may be provided by residential fire sprinkler systems, water storage tanks, defensible space, fire-resistant construction materials or a combination thereof. A condition should be imposed to reflect this modified approach to fire protection.
5. Developer agrees to provide a fire department connection to the flush hydrant at the end of the cul de sac and to mark the hydrant with a tag specifying, "free flow only, do not pump. This requirement has been completed as part of the water system.

Mr. Hyde recommended that the planning commission recommend to the Duchesne County Commissioners that the Deer Field Subdivision be approved subject to the following conditions.

1. No occupancy of homes in this subdivision will be allowed until the street sign at the intersection of 46000 West and 5375 South has been installed.

2. The developer, or the surveyor, shall provide an electronic copy of the final plat to the County Recorder when recording the final plat.
3. Condition #4 of the preliminary plat approval is amended to read: "Developer agrees that all homes constructed within the subdivision shall be provided with residential fire sprinkler systems, water storage tanks, defensible space, fire-resistant construction materials or a combination thereof, approved by the Building Official and Fire Department, prior to occupancy."

Mr. Hyde also stated the final plat can not be recorded until after the operating permit letter is received from the Utah Division of Drinking Water. If the commission makes their recommendation tonight, this matter will go before the County Commissioner's on December 8 at 1:30 p.m. for their approval.

As there were no questions of the staff report, Chairperson Fabrizio asked if anyone wanted to speak for Deer Field Subdivision.

Abby Roberts, Deer Field Subdivision, stated we received an extension of time to file the plat last month. The water system and road have been completed.

Commissioner Olsen asked if the street signs were the responsibility of the developer. Mr. Hyde stated the County Road Department would order and install the signs. Mrs. Roberts stated it is her responsibility to make sure the signs get installed.

Chairperson Fabrizio asked if there were any other questions. There were none, so the hearing was closed.

Commissioner Mair motioned to approve the final plat of Deer Field Subdivision subject to the three conditions as stated. Commissioner Olsen seconded the motion and it passed unanimously.

B. Request by B&G Crane and Oilfield Service, Inc. for a Conditional Use Permit to establish an equipment storage yard on an 80-acre parcel, west of the Pariette Road in the Pleasant Valley area.

Mr. Hyde stated in the Commissions packets there are some aerial photos and site photos at this location. The location is just South of Newfield's operation, on the west side of Pariette Road. There is a canal road that crosses over to the 80 acre parcel. From the site photos the land is cleared and the business is in operation at this time. This Altamont-based business needs a place to store equipment used in the oilfield south of Pleasant Valley, rather than transporting it to and from Altamont. The applicant does pump unit work for Newfield, so equipment such as pump jacks and tanks will also be stored at this location. Such commercial uses are a conditionally permitted use in the Agricultural-Residential zone.

Mr. Hyde also stated the conditions for the conditional use permit approval are as follows.

1. **The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.** There will be no fuel storage at the site therefore will reduce the potential for fire danger and safety hazards, also there will be no structures requiring a septic system and there are no properties nearby that will be effected so long as the dust and noise are controlled.
2. **The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The Duchesne County General Plan states that future growth and development decisions should be made with sensitivity to rural residential/agricultural interests. The plan indicates that the county wishes to encourage business activity and that the county will support efforts to recruit new businesses, retain existing businesses and assist with the expansion of existing businesses. In light of these plan policies, the Conditional Use request should be approved to support the creation of a new business site, knowing that conditions of approval will be imposed to protect rural residential and agricultural interests in the area.
3. **That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.** Mr. Hyde stated the property is 80 acres in size, with about 30 acres on the SE side of the property to be used initially for equipment storage. The property is of adequate size and dimensions to allow for the conduct of the use in a manner not detrimental to surrounding properties, which are sparsely populated. The applicant will need to coordinate with the Utah Department of Environmental Quality to ensure that surface disturbance does not create storm water erosion or sedimentation problems.

Mr. Hyde also stated some other conditions may include the following:

1. **That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all building and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.** Mr. Hyde stated there are not any buildings or structures are being proposed. Of the 80-acre site, about 30 acres is to be improved for parking and equipment storage. No fencing is proposed and there is no water for landscaping.
2. **Provisions of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.** Mr. Hyde stated rock surfacing will be

used to provide an acceptable all-weather driving and parking surface for trucks used in the business operation. There is acceptable ingress and egress to the Pariette Road via a recorded easement that follows a canal road. The Duchesne County Road Department has approved the access permit for this driveway by email dated October 30, 2008. Hr. Hyde also stated there will need to be some additional rock added to the road.

- 3. The provision of required street and highway dedication and improvements and adequate water supply, sewage disposal and fire protection.** Mr. Hyde stated no water supply or sewage disposal is required as no buildings are proposed at this site. Portable toilets will be used to serve the needs of personnel at the site. There is no roadway dedication required, as the site does not front on a county road. The property has access to the Pariette Road via a recorded easement running along a canal that runs west to east through the area. Since there will be no fuel storage at the site, the Fire Department had no concerns with fire protection.
- 4. Regulation of signs.** Mr. Hyde stated the County does not have a sign code that regulates sign size and height. Due to the agricultural-residential zoning, signage should be limited to 32 square feet in size. Signage must be kept on private property, by written agreement with the property owner, and not create a vision clearance hazard at the driveway intersection with the Pariette Road.
- 5. The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electro-magnetic disturbances and radiation.** Mr. Hyde stated the county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). The applicant indicated their operating hours are from 7:00 A.M. to 6:00 P.M. The operator will need to keep these time limits in mind to avoid creating noise disturbance. Also, if dust is created by the operation of the facility that disturbs other property owners or residents, the applicant will need to apply dust inhibitors, pave or take other action as directed by the county. Since Newfield equipment is to be stored at the site, the applicants indicate that Newfield water trucks will be used to keep the dust down.
- 6. The regulation of operating hours for activities affecting normal schedules and functions.** The applicant indicates that the operating hours at the facility will be 7:00 AM to 6:00 PM. The noise limits of the nuisance ordinance (see above) apply and the hours proposed are acceptable for weekdays.

Mr. Hyde stated it is his recommendation that the Planning Commission approve the conditional use permit requested by B & G Crane and Oilfield Service, Inc.,

subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance. Rock shall be applied to the driving surfaces and access road to minimize dust and minimize the tracking of mud onto the County Road.
2. Prior to conducting business at this site, the applicant shall obtain a Duchesne County business license for this new location.
3. Signage shall be limited to 32 square feet in size and be located on private property, by written agreement with the property owner, and not create a vision clearance hazard at the driveway intersection with the Pariette Road. Pole signs require a building permit.
4. Prior to any surface disturbance, the applicant shall obtain a storm water permit, if required by the Utah Department of Environmental Quality.
5. There shall be no fuel storage unless a permit for such storage has been approved by the Duchesne County Fire Department.

Mr. Hyde asked if there were any questions at this time.

Mr. Olsen asked if the canal was abandoned. Mr. Hyde stated the canal does go thru the property but is not sure if there is water in it during the irrigation season.

Chairperson Fabrizio asked if there were any further questions. There were none, so the applicant was invited to speak.

Karma Timothy, B & G Crane and Oilfield Service Inc., stated there is no water in the canal; it has been abandoned. She also stated they have been in touch with Epic Engineering about the storm water but Epic can not do the engineering until the permit is approved.

Commissioner Sweat asked if any equipment or tanks will have hazardous waste. Mrs. Timothy stated there will not be any, it is just pump units and tanks for the well locations. Commissioner Olsen asked if there will be any cranes. Mrs. Timothy replied yes.

Commissioner Olsen asked why would there be no fuel storage. Mrs. Timothy replied they deliver fuel to their trucks on site or they fuel up in Myton so there will be no fuel storage at this location.

Mr. Hyde asked Mrs. Timothy if they have reviewed the 5 conditions, she replied yes and they would apply more rock so the roads are not muddy in the spring.

Commissioner Jorgensen asked Mrs. Timothy why they cleared the ground, moved their equipment on site and then applied for the conditional use permit, she replied they

did not know they needed a conditional use permit just to store equipment on vacant ground or it would have been taken care of.

Chairperson Fabrizio asked if there had been any complaints. Mrs. Timothy replied no.

Chairperson Fabrizio asked if there were any other questions, There were none, so the hearing was closed.

Commissioner Muir motioned to approve the Conditional Use Permit subject to the 5 conditions previously stated. Commissioner Sweat seconded the motion and it passed unanimously.

Mr. Hyde stated this matter will not go to the County Commissioners, there will not be any appeals as no one appeared in opposition to the request.

C. Request by Lazy E Bulls LLC for a Conditional Use Permit to establish a produced water disposal facility on 80 acres of land south of the Shearing Corral Cutoff Road, east of Antelope Canyon.

Mr. Hyde stated in your packets there are photos of this location. The applicants are proposing a produced water evaporation facility on 80 acres of land on the south side of the Shearing Corral Cutoff Road, about 2.5 miles east of the Antelope Canyon Road. The site is located west of similar facilities approved on the BLM Fence Road for RNI and Iowa Tanklines.

Mr. Hyde also stated there are criteria for approving a conditional use permit, the planning commission may impose such requirements and conditions as follows: location, construction, maintenance, odor control, operation, site planning, traffic control, dust control, noise, time limits and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

1. **The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.** Due to the remote location of the proposed facility, the public's health, safety and welfare will not be adversely impacted. As shown by aerial photos, the nearest dwelling is located 2.6 miles to the northwest in Antelope Canyon. Populated areas in Pleasant Valley are over 4 miles away to the northeast. Division of Oil, Gas and Mining and federal agency requirements will also protect public and environmental safety. To protect vehicular public safety along the county road, the applicant will need to obtain a road approach permit from the County Road Department for a new driveway access to the facility and enter into any road maintenance agreements deemed necessary by the Public Works Supervisor as the result of increased truck traffic.

2. **The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The proposal complies with the Duchesne County General Plan, which contains the following statements with respect to mining activities also Page 4: “Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean.” The proposed use would provide a service needed by the oil and gas industry, which is so important to the local economy.
3. **That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.** The applicants propose to purchase 80 acres. This will require a survey and Minor Subdivision approval. The site is large enough and situated remote from developed property, as demonstrated by aerial photos, such that detrimental impacts will not occur.

Other criteria pertaining to produced water disposal are:

1. **The site must be fenced to sustain safety, and prevent access by livestock, wildlife, and unauthorized personnel.** The applicant's site plan shows perimeter fencing; however, a condition should be imposed to ensure this requirement is met.
2. **Mandatory compliance with State of Utah Division of Oil, Gas and Mining General Rules.** The public hearing notice has been provided to DOGM for review and comment. The applicants are aware that a DOGM permit is required for this facility and will prepare the necessary application if this permit is granted.
3. **Mandatory odor control.** The county understands that there are two primary causes of odor at produced water evaporation ponds. The first source is the hydrocarbon residuals. The facility will have equipment to separate the residual oil from the water and store it in tanks for sale. The second source is bacterial activity in the water. Chemical treatments can be applied to the water to reduce or eliminate the bacterial activity. Further, the location is far removed from odor receptors.
4. **Must be located a minimum of five thousand two hundred eighty feet from any city, town or residential use or state route or US highway.** The proposed facility is 2.6 miles from the nearest dwelling, which is located in Antelope Canyon to the northwest. Dwellings in the Pleasant

Valley area are about 4 miles away to the northeast. The closest state or federal highway is Highway 40, which is about 4 miles to the north. The closest city or town is Myton, which is about 9 miles to the northeast. The setback standards are met.

5. Produced water disposal ponds shall be limited by number, on each Conditional Use Permit, and cannot be enlarged or modified until the issue is re-presented to the Planning Commission and the enlargement or modification is approved. Six disposal ponds are shown on the site plan. The applicant will need to be under construction within six months to keep the permit valid. Each is 400 X 600 feet in size and would hold about 350,000 barrels of water. Future expansion beyond six ponds would require another conditional use permit.

6. Mandatory bonding or other assurance shall be furnished to the county in the amount of \$25,000.00 per acre of pond or open pit to guarantee reclamation will be accomplished. This is in addition to Utah Division of Oil, Gas and Mining General Rules (R649-9-9), which require bonding to treat or remove waste from the site and secure the site to prevent future contamination. Findings: The applicant must comply with the bonding requirements of the county and DOGM prior to start of operations.

Mr. Hyde also stated The US Army Corps of Engineers and the US Fish and Wildlife Service have expressed concerns in the past regarding this type of facility and the potential for harm should contaminated water escape from the facility or if it is not adequately designed to keep wildlife out of the ponds. The applicant will need to coordinate with the Corps of Engineers to ensure compliance with Section 404 of the Clean Water Act. The applicant will need to coordinate with the Fish and Wildlife Service to ensure compliance with the Migratory Bird Treaty Act.

It is the recommendation of Mr. Hyde that the Planning Commission approve the Conditional Use Permit requested by Lazy E Bulls LLC, subject to the following conditions

1. Prior to start of construction, the applicants shall submit to the county a copy of their approved DOGM permit.
2. Prior to start of facility operation, the applicants shall construct the required fencing, post the required bonding, obtain a county business license for the facility and demonstrate compliance with Section 404 of the Clean Water Act and the Migratory Bird Treaty Act.
3. After operations begin, applicants agree to take prompt action to control and eliminate odors if the county receives complaints.
4. Prior to start of construction, the applicant will need to obtain a road approach permit from the County Road Department for a new driveway access to the facility and enter into any road maintenance agreements deemed necessary by the Public Works Supervisor.

Mr. Hyde asked if there were any questions.

Commissioner Jorgensen asked if the construction needs to begin on all the ponds or just one.

Mr. Hyde replied construction just needs to be started on any portion of the facility within 18 months. If construction has not begun within 18 months as required a new conditional use permit would need to be applied for. Commissioner Burton asked if there is a completion deadline. Mr. Hyde replied there is not a deadline for completion.

Mr. Hyde stated Todd Moon has authorized the application on his property and Uintah Engineering has provided some maps of the area and project and Van Robinson is the representative of Lazy E Bulls, LLC.

Chairperson Fabrizio asked if there were any questions. There were none, so the applicant was requested to speak.

Van Robinson agent of Lazy E Bulls, LLC, stated they are requesting the conditional use permit for six ponds with a capacity of 2.1 million barrels. They are waiting on the engineering status and are requesting some flexibility with the commission, not to hold them to six ponds but maybe two or three with the maximum capacity of the 2.1 million barrels as a whole. Mr. Robinson also stated he has read the staff conditions and plan to fully address those as they move forward.

There was some discussion with the commission on the standard size of waste water ponds. Mr. Hyde stated there is not a standard in the zoning ordinance on size. If they want to have 3 larger ponds instead of the 6 they requested, it will be acceptable as long as they don't go over the maximum capacity, as requested in the application.

Chairperson Fabrizio asked if there was any testimony in opposition.

Dale Rasmussen, Myton, Utah has some concerns about the number of ponds in the area that are approved but are not yet in operation and the proposal of these ponds by Lazy E Bull. We do not know the full effect on our existing and future uses of their land, what the damages concerning the traffic and the air quality will be when the ponds are operational. Mr. Rasmussen asked Mr. Robinson the specifics of how their company is going to control the odor problem.

Mr. Robinson stated the ponds are a high priority for Lazy E Bulls as a protection for their trucking company. They have 21 trucks hauling produced water in the Newfield area and these ponds will be a back up for the trucking operation. Also, they will offer a service to the oil and gas industry to the extent as they can. As to the odor control, Mr. Robinson feels that will be an engineering solution. He feels it is tough to define today how that will be controlled depending on the produced and waste water they haul in coupled with the chemicals and an engineered solution. Lazy E Bulls will take affirmative action to control the problem if one arises.

Commissioner Jorgensen asked if Lazy E Bulls will have an individual on site to maintain the ponds or will the truckers be responsible for maintenance. Mr. Robinson stated depending on the level of technology at the dump station when they start operations, they will decide whether the operation needs to be manned or use technology to manage the operation.

Chairperson Fabrizio asked if there were any others wishing to testify.

Becky Rasmussen, Myton, Utah 84052 is concerned about the 24 ponds in their front yard. Also, she asked how the planning department is going to decide which location has an odor problem and how long they will have to deal with the smell. Mr. Hyde stated if the planning department receives any complaints we will determine which company is operating at the time. I will call or send a letter and request they check their operations to see what the problem is. Mrs. Rasmussen asked if the odors persist and complaints are received on a regular basis and the operators do not clean up their operation can they lose their permits? Mr. Hyde referred the commission to page 5 of the staff report for the revocation and modification process of the Conditional Use Permit. Mr. Hyde also asked Mrs. Rasmussen to keep a record of the days, times and calls made when problems occur. Mrs. Rasmussen also asked Mr. Hyde if they have the documentation in writing about the operators problems and the companies want to expand their operations will the commission allow them to do so. Mr. Hyde replied the companies will have to re-apply for a new permit to expand their operations. They would also have to follow the zoning ordinances (the commission is talking about making some changes) and if there are consistent problems and complaints the commission will consider that in their new application.

Commissioner Olsen asked Mr. Rasmussen about the drainage of this pond. Mr. Rasmussen replied that it should move the other direction toward Antelope Creek area.

Commissioner Jorgensen stated the companies and owners of these ponds make money from these operations so if there are odor concerns and complaints from the public it is in their best interest to take care of the problems.

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

Commissioner Burton made a comment referring to all the operators of waste water ponds, If they take care of business concerning the odor, which will be offensive to some people and not to others and not give the public a reason to complain and allow the planning commission reason to take action against the operators, we can all work together to help the oil and gas industry be productive and protect the environment.

Commissioner Sweat motioned that the Planning Commission approve the Conditional Use Permit requested by Lazy E Bulls, LLC subject to the 4 existing and an additional condition that the applicant does not exceed the 2.1 million barrel capacity and they have the latitude to use the number of ponds they need. Commissioner Mair seconded the motion and it passed unanimously.

D. Request by R-Rock Sand and Gravel for a Conditional Use Permit to extract earth products (gravel pit and rock crusher) on an 80-acre parcel near 3000 West and 10000 South, southeast of Myton.

Mr. Hyde stated in the Planning Commission agenda there are some photos of the area. The applicants are proposing to conduct gravel mining and rock crushing operations on an 80-acre parcel owned by Ryan Harvey located about three miles southeast of Myton. This activity requires a Conditional Use Permit in the Agricultural-Residential zone.

Mr. Hyde outlined the criteria for approval of the applicant's request.

1. **The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.** The zoning code contains a ¼ mile (1,320 foot) separation distance from residential units to mitigate the impacts of rock crushing operations. In this case, the closest dwelling unit (owned by Gloria Jones) is located ¼ mile west of the northwest corner of the subject property, as shown on the aerial photo. If the use complies with dust and noise standards, it will not be injurious to public health, safety or welfare. Also Mr. Harvey is related to Mrs. Jones and there has been no objection from her.
2. **The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The Duchesne County General Plan, contains the following statements with respect to mining activities: Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean." In this case, the mining activity will support the road construction industry, which is very active due to the oil and gas boom in the region. Production of gravel at this location would help with the upgrading of roads in the area, such as the Pariette Road project between Duchesne and Uintah Counties.

Mr. Hyde also stated on page 4 if the Conditional Use permit criteria are met the purposes of the zoning ordinance will be met also.

3. **That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.** The proposed mining will begin on five acres of the 80-acre parcel. When that portion is completed and reclaimed, the operation will move to another five acres. This parcel is large enough and situated such that detrimental impacts on other properties will be minimized. If standard conditions are imposed regarding noise and dust control, the proposed use will be acceptable at this location.

Mr. Hyde also stated there are some special minimum conditions for the extraction of earth products as follows:

1. **Must be maintained in a near dust-free condition. Watering the site and street during times of operation is considered maintaining a near dust-free condition.** The applicants indicate that the pit and crusher will operate in accordance with Utah DEQ air and water quality s

standards. Dust will be controlled using water trucks and water hauled from an approved source.

- 2. A bond shall be issued in the amount of one five thousand dollars (\$5,000.00) for the first acre and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. This requirement may be met by naming the County as an obligee on the required Division of Oil, Gas and Mining bond. The number of acres must be specified on the Conditional Use Permit and cannot be enlarged or modified until the issue is re-presented to the Planning Commission and the enlargement or modification is approved.** Bonding for 5 acres of disturbance would be \$17,000.00. The applicant can consecutively disturb and reclaim smaller areas, reducing bonding costs. A bond in the amount of \$17,000.00 will need to be received by the County prior to the start of mining operations and maintained during the course of operations.
- 3. Reconditioning to assure the surrounding property is protected along with the beauty of the landscape.** Reconditioning must occur after the conclusion of mining operations on the site. Safe cut or fill slopes must be established and disturbed areas re-seeded with grasses suitable for the area. The application meets these standards. The applicants have a lease agreement with the property owner that meets these standards.
- 4. Rock crushing operations must be a minimum of one thousand three hundred twenty feet from any city, town or residential use.** The 1,320-foot rule is met in this case, with the nearest residential use being 1,320 feet west of the northwest corner of the subject property. The county Nuisance Ordinance sets forth time limits during which noise is permitted (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). If noise becomes an issue, these hours of operation will be enforced.

Mr. Hyde stated the road accessing this property is a maintained County Road #42, but is not improved enough to accommodate heavy truck use. Prior to beginning mining operations the applicants will have to improve the road to Duchesne County standards and agree to maintain and repair damage caused by heavy truck use while the gravel pit is in operation. Also, Mr. Hyde stated that the 10000 South County road crosses tribal lands and the property is separated from the road by approximately 200 feet. The applicants need to work with the Ute Indian Tribe or the BIA for a right of way across their property, or access the site thru the Gloria Jones property just off 3000 West.

Mr. Hyde stated he recommends the Planning Commission approve the Conditional Use Permit requested by R-Rock Sand and Gravel, subject to the following conditions:

1. Applicant shall control dust and noise so neither becomes a nuisance. A dust control plan 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 coordinate use of the county road with the Ute Tribe and/or Bureau of Indian Affairs prior to commencing mining operations, unless private access is obtained.
5. Prior to starting mining operations, the applicants will need to improve County Road #42 to a standard approved by the Duchesne County Road Department and agree to repair damage caused by gravel pit traffic over the course of mining operations, unless private access is obtained.

Mr. Hyde asked if there were any questions at this time.

Commissioner Jorgensen asked if they were mining only 5 acres at a time. Mr. Hyde replied it was his understanding that they would mine in 5 acre increments continuing as long as there is material and until the 80 acres is used.

Commissioner Jorgensen also asked Mr. Harvey if the property was currently under Greenbelt and if the permit is approved he will need to pay some rollback tax. Mr. Hyde stated according to the Duchesne County taxroll, it is under Greenbelt.

Chairperson Fabrizio called for the applicant to speak.

Nate Brockbank, Murray, Utah and Ryan Harvey, Myton, Utah agents for R Rock Sand and Gravel.

Mr. Hyde asked if they plan to mine all 80 acres. Mr. Brockbank stated they hoped so over a 10 year period. Mr. Harvey also replied to the commission he is aware that the county tax status will change if the permit is approved.

Mr. Hyde asked Mr. Brockbank if he has had contact with the Ute Tribe. Mr. Brockbank stated they are working with the tribe to get access in writing. Mr. Hyde stated that Mr. Brockbank needs to get in contact with Ferron Sekakuku. Mr. Brockbank also stated they do have another option for access if the tribe will not give a right of way.

Chairperson Fabrizio asked if there were any questions. There were none, so the hearing was closed.

Commissioner Burton motioned that the Planning Commission approve the Conditional Use Permit requested by R-Rock Sand and Gravel, subject to the conditions as stated. Commissioner Mair seconded the motion and it passed unanimously.

- E. Request by Kelly and Kevin Kielbasa for a Conditional Use Permit to establish a produced water disposal facility (12 evaporation ponds) on the "Sand Pass Ranch" located near the Uintah County line, about 4 miles southeast of Myton.**

Mr. Hyde stated in your agenda there are some photos of the site, the applicants are proposing a produced water evaporation facility on the "Sand Pass Ranch," located on the Uintah County line about 4 miles southeast of Myton. Such uses require a Conditional Use Permit in the A-5 zone.

Mr. Hyde stated there are some criteria to meet before the planning commission may grant a conditional use permit.

1. **The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.** Due to the remote location of the proposed facility, the public's health, safety and welfare will not be adversely impacted. As shown by aerial photos, the nearest dwelling is located 1.5 miles to the north in the Duchesne River valley, separated from the site by hills. Division of Oil, Gas and Mining and federal agency requirements will also protect public and environmental safety.
2. **The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The proposal complies with the Duchesne County General Plan, which contains the following statements with respect to mining activities:

Page 4: "Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean." The proposed use would provide a service needed by the oil and gas industry, which is so important to the local economy.
3. **That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.** The applicants propose to utilize about 126.5 acres of their 536 acres of land in Sections 3, 9 and 10 for this project (with the total pond area not to exceed 66.12 acres). The site is large enough and situated remote from developed property, as demonstrated by aerial photos, such that detrimental impacts will not occur.

Mr. Hyde outlined the additional criteria for produced water disposal:

1. **The site must be fenced to sustain safety, and prevent access by livestock, wildlife, and unauthorized personnel.** The applicant's site plan shows perimeter fencing; however, a condition should be imposed to ensure this requirement is met.
2. **Mandatory compliance with State of Utah Division of Oil, Gas and Mining General Rules.** The public hearing notice has been provided to DOGM for review and comment. The applicants are aware that a DOGM permit is required for this facility and will prepare the necessary application if this permit is granted.
3. **Mandatory odor control.** The county understands that there are two primary causes of odor at produced water evaporation ponds. The first source is the hydrocarbon residuals. The facility will have equipment to separate the residual oil from the water and store it in tanks for sale. The second source is bacterial activity in the water. Chemical treatments can be applied to the water to reduce or eliminate the bacterial activity. Further, the location is far removed from odor receptors.
4. **Must be located a minimum of five thousand two hundred eighty feet from any city, town or residential use or state route or US highway.** The proposed facility is 1.5 miles from the nearest dwelling, which is located to the north, in the Duchesne River valley. A hill separates the site from the residence to the north. The closest state or federal highway is Highway 40, which is about 4.7 miles to the northwest. The closest city or town is Myton, which is about 3.9 miles to the northwest. The setback standards are met.
5. **Produced water disposal ponds shall be limited by number, on each Conditional Use Permit, and cannot be enlarged or modified until the issue is re-presented to the Planning Commission and the enlargement or modification is approved.** Twelve evaporation ponds are shown on the site plan. Each is 400 X 600 feet in size and would hold about 350,000 barrels of water. Future expansion beyond twelve ponds would require another conditional use permit.
6. **Mandatory bonding or other assurance shall be furnished to the county in the amount of \$25,000.00 per acre of pond or open pit to guarantee reclamation will be accomplished. This is in addition to Utah Division of Oil, Gas and Mining General Rules (R649-9-9), which require bonding to treat or remove waste from the site and secure the site to prevent future contamination.** The applicant must comply with the bonding requirements of the county and DOGM prior to start of operations.

Mr. Hyde stated there some other agencies that have replied in this matter. The Utah Division of Oil, Gas and Mining, Army Corps of Engineers, US Fish and

Wildlife Service have some requirements. Mr. Hyde also stated the road accessing this property from the west is County Road #42, but it has not been improved to a standard that will accommodate heavy truck use. County maintenance of this road stops about 1.5 miles to the west of the site and there is a steep hill to negotiate. If the applicants propose to use this or another Duchesne County road for access, they will need to coordinate such use with the Public Works Director, make improvements as needed and maintain the road over the course of operations. Also, County Road #42 crosses land owned by the US Government for the benefit of the Ute Tribe. The applicants will need to coordinate with the Ute Tribe or Bureau of Indian Affairs regarding the proposed use of this road.

The applicants indicate that another means of access will be via a private road that connects with the paved county road to the north, the runs along the Duchesne River. If this private road connects with a Uintah County Road, the applicants will need to verify whether the change of use will require permitting from the Uintah County Road Department.

Mr. Hyde recommends that the planning commission approve the Conditional Use Permit requested by Kevin and Kelly Kielbasa subject to the following conditions.

1. Prior to start of construction, the applicants shall submit to the county a copy of their approved DOGM permit.
2. Prior to start of facility operation, the applicants shall construct the required fencing, post the required bonding, obtain a county business license for the facility and demonstrate compliance with Section 404 of the Clean Water Act and the Migratory Bird Treaty Act.
3. After operations begin, applicants agree to take prompt action to control and eliminate odors if the county receives complaints.
4. Applicant agrees to coordinate use of the Duchesne County road with the Ute Tribe and/or Bureau of Indian Affairs prior to commencing operations, unless private access is obtained.
5. Prior to starting operations, the applicants will need to improve County Road #42 to a standard approved by the Duchesne County Road Department and agree to repair damage caused by business traffic over the course of operations, unless private access is obtained.
6. If the applicants access the facility from a private road connecting with a Uintah County Road, the applicants will need to verify whether the change of use of the driveway access will require permitting from the Uintah County Road Department.

Mr. Hyde asked if there were any questions from the commission.

Commissioner Mair asked Mr. Hyde if the bond is for the repair of the roads. Mr. Hyde replied the coordination with the county road department is not only to upgrade the road but agree to help with maintenance caused by the heavy trucks and traffic over the course of the operation.

Chairperson Fabrizio asked if the applicant's are requesting approval for 12 ponds will they be using all 12 ponds. Mr. Hyde referred that question to the applicant.

Chairperson Fabrizio asked if there were any additional questions at this time. There were none so the applicant was invited to speak.

Kelly Kielbasa, Bridgeland, Utah representative for this request.

Chairperson Fabrizio asked about using all 12 ponds. Mr. Kielbasa intends to phase the ponds in as needed. Chairperson Fabrizio asked how many barrels each pond hold. Mr. Kielbasa replied the ponds are 400 feet by 600 feet. Also he requests the same flexibility granted to Lazy E Bulls to allow their engineering department to determine which size would be better.

Commissioner Mair asked Mr. Kielbasa about the pond in the photo. Mr. Kielbasa stated it is their irrigation storage and refers to the aerial photos the major drainage is to the south. Mr. Kielbasa also assures that their engineers will address the drainage problems to keep within DOGM'S requirements.

Commissioner Burton asked Mr. Kielbasa about the Chevron Pipeline running thru the site. Mr. Kielbasa stated they will leave Chevron the room needed to maintain that right of way.

Commissioner Jorgensen asked how wide is the access easement. Mr. Kielbasa stated they have not determined the width and before they go through the construction process the width will be determined.

Mr. Hyde asked Mr. Kielbasa how many ponds would be in the first phase. Mr. Kielbasa stated that would depend on the need and when they enter the construction phase of the project. Also Mr. Hyde is concerned about the county road a couple of miles to the site. Mr. Kielbasa stated they would work with Duchesne County road department on maintenance and repair issues, but as previously stated there is an alternative entrance in Uintah County associated with a permitted gravel pit in the area.

Chairperson Fabrizio asked if there was any one neutral or opposed wishing to speak.

Keith Hicken, Myton Utah had some questions and concerns:

1. Is concerned about the odor, the fresh water being dumped into ponds while there is stale water still present.
2. Once the chemicals that are dumped into the water are evaporated into the air? How does it effect the public and the air quality?
3. Also, Mr. Hicken asked the commission how many trucks a day will travel on this road? If the commission has recently drove on the county roads or has seen how much traffic is in the area and how much damage is being done to the roads. How is the County going to repair these roads?

Mr. Hicken stated the roads that are proposed to be traveled on for this operation are not built for heavy hauling. The county road on 3500 south is built for heavy loads and he feels that is where they should travel. The traffic in front of Mr. Hicken's home has increased tremendously and it is dangerous. Mr. Hicken also stated the trucks should use the truck route outside of Myton.

One more concern Mr. Hicken had is the wildlife refuge in the sand pass area, how will this effect their habitat?

Mr. Hicken proposed the oil companies purchase and build these ponds in the desert where the water is produced and keep it out of residential areas through out the county.

Chairperson Fabrizio asked Mr. Kielbasa if he would like to speak in rebuttal.

Mr. Kielbasa stated this location is a very remote area and we are hoping the odors will be contained by the mountain range and the chemicals the applicants will use. As far as the road issues Mr. Kielbasa stated this county is energy driven and oil related industry, he feels the county roads are for the public and business uses and it is an ongoing process to maintain and repair these roads.

There was some discussion about the road signs and the county's enforcement keeping the trucks off the smaller county roads. Maybe there does need to be more signs warning of trucks entering the county roads.

Mr. Hyde also asked Mr. Hicken about the wildlife refuge, he asked Mr. Hicken if it was Mallard Springs? Mr. Hicken replied it was the Kielbasa irrigation storage ponds with hundreds of ducks and geese. Mr. Kielbasa stated they would comply with the Migratory Bird Treaty Act to keep disruption to a minimum.

Commissioner Olsen asked Mr. Kielbasa about the truck traffic. Mr. Kielbasa stated they would like to fill the ponds to full capacity and hopes the traffic will be divided between both Uintah and Duchesne Counties.

Commissioner Jorgensen asked if the applicants are going to improve and maintain all of county road #42 from the point the county has ended their improvements, Mr. Kielbasa stated they are not going to grade it but will make it a good road as it is in their best interest. Mr. Kielbasa also stated they do own a gravel pit in Uintah County and between that and R Rock and Gravel the two companies will be able to do most of the improvements and maintenance.

Chairperson Fabrizio asked if there were any additional questions.

Mr. Hicken is still concerned about the traffic, gravel and the costs to the county maintaining the county roads on a long term basis.

There was some discussion with the Commission about posting signs and enforcing the laws around the heavy traffic areas and possibly re-routing the traffic to the truck route thru Myton. The public hearing was closed.

Commissioner Jorgensen motioned to approve the applicants request for the Conditional Use Permit subject to the six conditions as stated in the staff report, plus the flexibility on pond size and number, provided the maximum capacity does not exceed 4.2 million gallons.

Commissioner Mair seconded the motion and it passed unanimously.

F. Request by Triple R Water Disposal for a Conditional Use Permit and Variance, to re-establish a produced water disposal facility (3 evaporation ponds) on a 40-acre parcel located near the Blue Bench landfill north of Duchesne.

Mr. Hyde stated in your packets there are some photos of the site that the applicants are proposing to re-open. It is an abandoned produced water evaporation facility on 40 acres of land located at 20250 West 2000 South, near the Blue Bench landfill. The disposal facility was formerly operated by Grant Bleazard, who left behind petroleum contaminants and junk when the facility closed because of leaking and there was no bonding to ensure cleanup (see photos). The facility last operated in September of

1990, so it has lost its grandfather rights and must comply with today's standards to re-open. Today's standards require a conditional use permit and a variance to the setback standards. Mr. Hyde also stated there are 2 reasons the applicants need a variance, #1-The ponds are less than a mile from Highway 87 and # 2-The ponds are only about three quarters of a mile from the nearest residence.

Mr. Hyde has prepared two sets of findings, one for the approval of the conditional use permit and variance and one for the denial, depending on the testimony from the public and the Panning Commissions desires.

Mr. Hyde also stated there are some criteria for the conditions of approval as follows.

- 1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.** Public health, safety and general welfare is being jeopardized by the current state of the abandoned facility as stated in the November 17, 2008 letter from the Division of Oil, Gas and Mining. If the abandoned facility can be sold and re-opened, there will be an economic incentive to clean up the site and bring it to today's environmental standards. In addition if the facility is allowed to re-open, regulations enforced by the Utah Division of Oil, Gas and Mining, the US Army Corps of Engineers and the US Fish and Wildlife Service and conditions imposed on this permit will protect public health, safety and welfare.

- 2. The proposed use will be located and conducted in compliance with the goals and policies of the Duchesne County General Plan and the purposes of this ordinance.** The proposal complies with the Duchesne County General Plan, which contains the following statements with respect to mining activities:

Page 4: "Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean." The proposed use would provide a service needed by the oil and gas industry, which is so important to the local economy.

- 3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.** The applicants propose to purchase a 40-acre site that has been used for water disposal in the past. The site is large enough and situated remote from developed property, near the county landfill and is not a desirable area, such that detrimental impacts will not occur.

Mr. Hyde stated in approving a conditional use permit, the planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of the Duchesne County General Plan and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity.

Mr. Hyde also stated the applicants will still need (1) the perimeter fencing required, (2) the DOGM permits, (3) the odor control. The applicants have stated they are trying to get an abandoned injection well about 1 mile away to help with the more offensive water loads. Instead of using the ponds, they could inject the water into the well, minimizing the odor at the ponds.

4. Must be located a minimum of five thousand two hundred eighty feet from any city, town or residential use or state route or US highway.

The proposed facility is .75 miles from the nearest dwelling, which is located on the Brent Farnsworth property to the east-northeast. The closest state highway is Highway 87, which is about 1/3 mile to the west. Since the setback requirements of one mile to a dwelling and highway are not met, a variance has been requested. The closest city or town is Duchesne, which is about 7 miles to the south.

5. Produced water disposal ponds shall be limited by number, on each Conditional Use Permit, and cannot be enlarged or modified until the issue is re-presented to the Planning Commission and the enlargement or modification is approved. Three disposal ponds are shown on the site plan. Future expansion beyond three ponds would require another conditional use permit.

6. Mandatory bonding or other assurance shall be furnished to the county in the amount of \$25,000.00 per acre of pond or open pit to guarantee reclamation will be accomplished. This is in addition to Utah Division of Oil, Gas and Mining General Rules (R649-9-9), which require bonding to treat or remove waste from the site and secure the site to prevent future contamination. The applicant must comply with the bonding requirements of the county and DOGM prior to start of operations.

Mr. Hyde stated the variances to the requirements of the Zoning Ordinance (in this case, the one-mile setback from a produced water evaporation facility to a state highway and a dwelling) may be granted by the land use authority if the following criteria are met:

A. Literal enforcement of the zoning district provisions of this ordinance would cause an unreasonable hardship for the applicant not necessary to carry out the general purpose of the zoning district or this ordinance. A finding of unreasonable hardship shall not be rendered if the alleged

hardship is self imposed or solely economic. The purposes of the zoning ordinance are to implement the goals and policies of the Duchesne County General Plan. This ordinance contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of Duchesne County by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources. It is the intent of this ordinance to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

Mr. Hyde also stated the main purpose of the Zoning Ordinance is to protect the health, safety and welfare of the citizens of Duchesne County by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources, enforcement of the one mile setbacks is not necessary to achieve that purpose. The one-mile setback from the state highway is intended to protect the public from odors while traveling; however, the applicants indicate that they can control odors by injection and chemical treatments. Prevailing winds would tend to move odors away from the highway. The one-mile setback from a dwelling is intended to provide for dispersal of odors in the atmosphere between the two land uses. In this case, the owner of the only dwelling within one mile has supported the request in writing.

- B. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district. No finding of special circumstances shall be made unless they relate to the hardship complained of and deprive the property of privileges available to other properties in the same zoning district.** The special circumstances in this case are associated with the abandoned wastewater disposal facility on the property, which constitutes an environmental hazard. According to the Division of Oil, Gas and Mining, one solution to this problem would be to find a new operator, who would have an incentive to bring the facility into compliance with today's standards.
- C. The variance is essential to the enjoyment of a substantial property right possessed by other property in the zoning district.** Granting of the variance would allow this property owner to re-open and operate a facility similar to the one permitted for El Paso, about 1.5 miles to the south.
- D. The granting of the variance will not substantially affect the goals, objectives, policies or standards of the Duchesne County General Plan and will not be contrary to the public interest.** Granting of the variance to the one-mile setback from a dwelling would not be against the public interest in that the applicants have received a letter from the owner of the dwelling owner granting permission for the facility to re-open $\frac{3}{4}$ of a mile from the house. There are no other permanent residences within 1 mile. Granting of the variance to the one-

mile setback from Highway 87 would not be against the public interest in that the prevailing winds are from the west or north, which would tend to blow any odors away from the highway and populated areas.

E. The spirit of the requirements and provisions of Section 17.04.040 shall be observed and substantial justice done. This Section does not apply in that this Variance is not appropriately considered by the Board of Adjustment. Section 17.04.042 of the Zoning Ordinance states that the Board of Adjustment has no authority to grant variances to any of the standards associated with Conditional Use permits.

Mr. Hyde stated it is his recommendation for the Planning Commission to approve the Conditional Use Permit and Variance requested by Triple R. Water Disposal subject to the following conditions:

1. Prior to start of construction, the applicants shall submit to the county a copy of their approved DOGM permit.
2. Prior to start of facility operation, the applicants shall construct the required fencing, post the required bonding, obtain a county business license for the facility and demonstrate compliance with Section 404 of the Clean Water Act and the Migratory Bird Treaty Act.
3. After operations begin, applicants agree to take prompt action to control and eliminate odors if the county receives complaints. Applicants shall seek to establish an injection well and inject water most likely to cause odor problems.

Mr. Hyde stated the Findings for Denial are also in the planning commission packets and summarized the conditions and exceptions of the staff report with the commission.

Chairperson Fabrizio asked if there were any questions. There were none, so the applicant was invited to speak

Sam Robinson agent for Triple R Water stated they have done some research into this project hoping to clean up an ongoing problem with the leaking from the prior facility. The applicant's are hoping the impact shouldn't be that great since the facility is next to the county landfill and they are in the process of putting an injection site into operation to keep the high odor water to a minimum. Also, Mr. Robinson stated they would like to contain some of the water and oil that is separated into tanks. The applicants will comply with DOGM requirements.

Mr. Robinson stated they are in the process of purchasing additional land adjacent to this site to eliminate any hardship to other landowners. They are going to have an employee at the facility during all operating hours. The applicants will pay a fee to the state per barrel and will be entering the site from a state highway and feels the road is built to withstand the traffic.

Chairperson Fabrizio asked Mr. Robinson if they are building the injection site why do they need the ponds. Mr. Robinson stated the ponds will be a secondary site once the injection well is in operation.

Mr. Hyde asked where the injection site is located and if they have legal access. Mr. Robinson stated the site is just to the west of the El Paso ponds that were just Approved by the commission, also according to seller disclosure they do have access to the site.

Commissioner Olsen asked who the property owner is and how long has this site been there. Mr. Robinson stated Lois Bleazard is the owner and the site has been there longer than 18 years just not in operation.

Doug Swasey, Altamont Utah, stated Grant Bleazard opened the pits in 1983, abided by all state requirements at the time that there is no leakage and never has been. Commissioner Olsen asked what kind of monitoring system there is at the site. Mr. Swasey replied he wasn't sure how the system worked. Also Mr. Swasey stated because of age and lack of contracts, Mr. Bleazard went out of business.

Mr. Hyde stated to clarify the leakage issue; there is a letter in your packets from Brad Hill, DOGM dated November 17. It was the State of Utah Department of Health that approved the facility in 1983 and then transferred it to Division of Oil Gas and Mining in 1987. When the leakage was detected, the permit was rescinded and the operation was ordered closed in 1990.

There was some discussion about the ponds leaking and contamination thru the clay between Mr. Swasey, Commissioner Olsen, Mr. Hyde and Mr. Robinson.

Chairperson Fabrizio asked if there were any others wishing to testify.

Scott Hacking DEQ-District Engineer relayed a message from Darrin Brown from the Tri-County Health Department. Mr. Brown has received many complaints about the site and views this transaction and operation as a positive venture for all involved. Mr. Hacking feels that the letter from Brad Hill covers the State of Utah's perspective.

Mr. Hyde asked Mr. Hacking if there are any studies planned for the future on air quality in the Uintah Basin. It seems the more ponds we have and more chemicals we release into the air the more dangerous it would seem to be. Mr. Hacking stated the Division of Air Quality staff is meeting in December with Tri County Health to talk about some proposals. Mr. Hacking also stated this is a valid concern and is being addressed. Mr. Hyde asked if the county could request a monitor on the Wells Draw Road near the series of ponds in Pleasant Valley. Mr. Hacking was hopeful that within one year or so, the County could get a monitor in place.

There was some discussion between Mr. Hacking and Commissioner Jorgensen about

some different storage, recycling and separation programs that other companies are trying.

Chairperson Fabrizio asked if there were any others wishing to speak. There were none, so the hearing was closed.

Commissioner Olsen motioned to approve the applicants request for the conditional use permit and variance as requested subject to the three conditions stated in the staff report. Commissioner Sweat seconded the motion and it passed unanimously.

G. Recommendation to the County Commission regarding an Ordinance amending the Zoning Ordinance (amending definitions, establishing parking requirements and amending Conditional Use permit standards for produced water disposal facilities and extraction of earth products).

Mr. Hyde stated there are some concerns about some definitions and requirements in the current Zoning Ordinance, and the establishment of parking requirements for Duchesne County. The first change on line 37 of the ordinance draft is a definition of the Concentrated Animal feeding operation, to delete an erroneous reference to an Administrative rule. The definition of Open Range is proposed to clarify it refers to those lands designated as "open range" under state or federal laws or regulations. In section 3 of the ordinance, the county has established a parking ordinance for the different types of land uses within Duchesne County. Mr. Hyde also stated on page 6 section 4 of the ordinance draft, there are several changes to the Produced water facilities those changes in bold are new and the ones that are crossed out would no longer be in effect. There is a copy of the draft amendment in your packets to refer to. Mr. Hyde stated this is a public hearing for the Planning Commission to make a recommendation to the County Commissioners. Their hearing will be December 15, at 1:30 p.m.

Chairperson Fabrizio asked if there were any questions.

Kelly Kielbasa had a comment concerning natural barriers for existing dwellings and the two mile setback. Mr. Hyde stated the applicants can apply for a variance if special circumstances exist.

As there was no additional testimony, the public hearing was closed.

Dale Rasmussen stated these ordinance amendments have incorporated the changes needed for all concerned.

Commissioner Jorgensen motioned to recommend the changes to the zoning ordinance to the County Commissioners. Commissioner Mair seconded the motion and it passed unanimously.

NEW BUSINESS

None.

Minutes: Approval of November 5, 2008

Commissioner Mair moved to approve the minutes of November 5, 2008 Commissioner Sweat seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

None.

Adjournment:

Meeting adjourned at 7.39 p.m.