

**Planning & Zoning Commission Meeting  
County Administrative Offices, Duchesne, Utah  
January 2, 2013 - 5:00 p.m.**

**In Attendance were:**

Kent Olsen, Planning Commission  
Ken Moon, Planning Commission  
Kathy Giles, Planning Commission  
Allen Lindsay, Planning Commission  
Mike Hyde, Community Development Administrator  
CoraLee Sanchez, Planning Secretary

**Visitors:**

Allen and Susan Rydman	IWM
John Beck	IWM
Jim Hogan	Morris-CUP
Dan Jarvis-DOGM	
Darrin Brown-TriCounty Health Department	
Ammon McDonald-DOGM	
Debi Tracy-Uintah Basin Standard	
LeRoy and Beth Morris	Morris-CUP
Robert and Kathy Meeks	IWM
Ryan Snow	Morris-CUP
Dick Timothy	IWM
Scott Hacking-UtahDEQ	
Brad Hill-DOGM	

Mr. Hyde opened the meeting at 5:00 PM.

**Election of a Chair and Vice Chair for 2013.**

Commissioner Moon nominated Randy Mair to serve as chairman for 2013, Commissioner Olsen seconded the motion and it passed unanimously. Commissioner Moon nominated Commissioner Olsen vice-chair, Commissioner Lindsay seconded the motion and it passed unanimously.

Vice Chairman Olsen read the rules of order and asked if any of the Planning Commission had any ex-parte contacts of conflicts of interest associated with any item on the agenda. Commissioner Lindsay stated he would abstain from voting on the IWM hearing due to his business relationship. There were no other disclosures, so the hearing proceeded.

## **PUBLIC HEARINGS:**

### **A. Request by Beth and LeRoy Morris for a Conditional Use Permit to authorize the extraction of earth products (gravel pit and rock crusher) from a portion of a 200-acre site located on the Harmston Bench, northwest of Roosevelt.**

Mr. Hyde referred the commission to their packets including a map and some site and aerial photos, stating Beth & LeRoy Morris are applying for this permit to authorize a gravel pit, with rock crushing, on portions of a 200-acre site located on the Harmston Bench. Extraction of earth products is a conditionally permitted use in the A-5 zone. It is anticipated that rock from this location will be used for a variety of construction activities, including oil well pads and roads. The southerly 160 acres of land was formerly zoned A-2.5; which did not permit this use. The property was rezoned by the Duchesne County Commissioners by Ordinance #12-309, passed on December 17, 2012, which is scheduled to take effect on January 9, 2013.

Some criteria for approval are as follows:

**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.**

Mr. Hyde explained the extraction of earth products can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from operation of equipment, windblown dust and dust from equipment movement. However, if the applicant and operators comply with dust and noise standards, the proposal is less likely to be injurious to public health, safety or welfare. Detrimental impacts can also occur if the extraction area is not reclaimed properly. The county has "material pit finishing" standards that should prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed. Additional impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process; however, no waterways exist near this site. Mr. Hyde stated according to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Rock extraction activity and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially the county roads. In this case, Mr. Hyde stated access to the site would be via County Road #8, which leaves the Neola Highway and extends easterly to the pit area. This road is paved and rotomilled from the highway to the top of the bench. The Class D county road leaving Highway 121 north of County Road #8 is not improved to accommodate truck traffic and is not anticipated to be used for transport of gravel.

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). Such time limits should be applied in this case if noise complaints are received by the county.

**The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.**

Mr. Hyde stated in this case, the applicants intend to use the rock products to support the construction and energy industries, which is beneficial to the economy of the county and in compliance with the general plan.

**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 proposed mining would take place on up to about 154 acres of the subject 200-acre site, which is certainly large enough to accommodate the proposed use. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished pit level. The applicants are also required to set the mining area back 660 from the Roosevelt City limit line on the southwest side of the property. These two setbacks reduce the usable mining area down to about 154 acres. The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.

Some additional standards for approval are as follows:

**Dust Free Condition:** Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ that contains an inventory of dust control equipment and procedures that will be utilized at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by the Utah DEQ. Watering or applying chemical treatments to active pit areas and driving surfaces during times of operation is considered maintaining a near dust free condition.

Mr. Hyde stated a dust control plan must be presented by the applicant or authorized agent to the TriCounty Health Department and Utah DEQ for approval prior to operations beginning. The applicant or authorized agent must follow this plan to control dust at active pit areas and driving surfaces. Also with extraction of rock, haul roads between the quarry and the nearest paved road can generate dust and heavy truck traffic that can be a nuisance for nearby dwellings. In this case, dust should travel away from residents along the Neola Highway during prevailing wind conditions. The haul road currently has a paved surface from the top of the bench to Highway 121.

**Bond Required:** A bond shall be issued in the amount of 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. 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 for a new conditional use permit and the enlargement or modification is approved. This bonding

requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements. In this case the bonding requirement has not been waived by the property owners; thus, bonding will be required as set forth above.

**Reconditioning:** Reconditioning, in a manner agreed to by the county, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the *Material Pit Finishing Standards* on file at the County Planning Department are suggested for use in reclamation planning.

Mr. Hyde stated the “Material Pit Finishing Standards” are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents shall be subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced.

**Distance Requirement for Gravel Pits and Rock Crushing Operations:** Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the gravel pit boundary shall be set back 660 feet from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or gravel pit boundary shall be set back at least 50 feet from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consent to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the extraction of earth products would occur.

Mr. Hyde stated the distance requirements of this section are met. The proposed gravel pit boundaries will be set back at least 50 feet from the property line to meet the minimum standard of the ordinance. The gravel pit boundary will be set back 660 feet from the Roosevelt City limit line along the Cottonwood Creek Estates subdivision. The rock crusher location will meet the ¼ mile setback requirement (from a dwelling or city limit line) as demonstrated by the map attached.

Mr. Hyde’s recommendation is for approval of the Conditional Use Permit requested by Beth & LeRoy Morris, for extraction of earth products, subject to the following conditions:

1. Owners or their authorized agent(s) shall control dust and noise so neither becomes a nuisance.
  - a. A dust control plan approved by the TriCounty Health Department and Utah DEQ shall be implemented throughout the course of the operations by the owners or authorized agents. Dust control agents shall be applied at active portions of the site and on gravel access roads between the site and the nearest paved road during periods of hauling.

- b. If noise complaints are received by the county, owners and their authorized agents shall comply with the following hours of crusher operation: (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).
2. Owner(s) or their authorized agents shall post the required reclamation bonding and reclaim the property in accordance with the county's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage and/or fencing. Mining areas shall be set back at least 50 feet from the property lines and at least 660 feet from the Roosevelt City limits line.
3. A DEQ Air Quality permit shall be obtained for the crusher and a copy provided to the County prior to the start of crushing operations.
4. The crusher location shall be kept at least 1,320 feet from the Roosevelt City limit line.
5. The Class D county road north of County Road #8 is not to be used for ingress or egress from the proposed gravel pit.

Mr. Hyde asked if there were any questions of the staff report.

There was some discussion with Mr. Hyde and Commissioners Olsen and Lindsay about the setback requirements and the amount of acres that cannot be used.

There were no other questions so the applicant was invited to speak.

Ryan Snow, a representative of the Morris's and Burdick Paving, stated they will be adjacent to 3 other pits already in operation. This will be a perfect location for them and the conditions for approval are acceptable and ones they can comply with.

Commissioner Lindsay asked Mr. Snow about the pipeline running thru the proposed gravel pit. Mr. Snow stated they are aware of the pipeline and will coordinate with the owner to meet their requirements.

Commissioner Olsen asked where they are hauling the product to. Mr. Snow stated the Roosevelt area and the east side of Duchesne County.

Commissioner Olsen asked if there were any other questions or comments. There were none and with no one either in favor or opposed wishing to speak, the hearing was closed.

Commissioner Moon motioned to approve of the Conditional Use Permit requested by Beth & LeRoy Morris, for extraction of earth products, subject to the conditions stated in the staff report. Commissioner Lindsay seconded the motion and it passed unanimously.

**B. Continuation of public hearing to determine if Integrated Water Management is complying with the odor control terms of their conditional use permit for their commercial produced water disposal facility located at 20250 W 2000 South near the Blue Bench landfill, north of Duchesne.**

Commissioner Olsen invited a representative of Integrated Water Management to speak.

Matt Nelson, attorney for Integrated Water Management LLC, gave a brief update of the events leading up to tonight's meeting and then discussed the measures IWM is taking to control and eliminate the odor problems in order to be in compliance with their Conditional Use permit. They have negotiated the purchase of the Christman-Bland production well and also have purchased a location on the west side of the county for a future injection facility to relieve some of the pressure at the location on Blue Bench. In a statement from JT Martin, Managing Director for Integrated Water Management, Mr. Nelson explained they have had some issues and feel they are dealing with them in a timely manner. It is the hope of IWM with the ponds being drained to a minimal level, the purchase of different properties, the researching and investigating being done to better the facility, the County and local community can all benefit and prosper in the future. Mr. Nelson indicated Integrated Water Management is here for the long haul they want to be good neighbors and are concerned about the citizens of this county.

Commissioner Moon asked how many barrels IWM is currently receiving, injecting and what is the ultimate goal. Mr. Nelson replied 3-4000 barrels per day are being received and, they are injecting approximately 8000 barrels per day. Eventually they hope to only inject and not utilize ponds.

There was some discussion with Mr. Hyde, Mr. Nelson, the Planning Commission and Mr. Nathan Robinson about the Christman-Bland well and its limitations with the casing problems, DOGM and their concerns about the 2 locations and the future of the ponds and liner integrity if they are drained completely. At this time, the ponds are approximately 20% full. It is IWM's hope to eventually use both locations for injection only and use tanks for storage.

Commissioner Olsen asked how deep the water can be injected and what about fresh water. Mr. Robinson stated 4-5000 feet and it should not interfere with any fresh water zones. Their fresh water well on the bench is at 300 feet.

Dick Timothy a Duchesne resident, had a comment about why use this location when there are thousands of acres all around the Uintah basin and feels they should move this facility before they ruin this community and poison the residents.

Mr. Hyde stated in 1983 when Mr. Bleazard started this facility, regulations were

different and there were some serious environmental issues. Integrated Water has improved the environment by cleaning up the crude oil left for 20 plus years and installing pit liners. For now, ground water protection is better than when the facility was established and considering the heavy regulation of DOGM, Utah DEQ and Tri County Health the injection wells should be beneficial to all.

Commissioner Olsen asked if anyone in opposition wants to speak.

Allen Rydman, a resident on Caravan Lane, stated his concerns about the lack of progress. We have dealt with this for the last year and a half and there is still a serious problem. If IWM is going plug and abandon the Christman-Bland location will increased injection contaminate the 3 water wells that are in the area? Mr. Rydman stated his well is 450 feet deep which gets sampled every year and he would be concerned if they ruin my well by injecting more water into the ground. Mr. Rydman does not feel the produced water issue is a small problem and it needs to be addressed.

Commissioner Olsen asked if there were any other questions or comments. Mr. Hyde invited a representative from Utah Division of Oil and Gas to clarify some issues and concerns regarding salt water injection wells.

Brad Hill, a DOGM permitting manager, explained the evaluations, regulations, restrictions and permits required for injection wells and waste facilities. Mr. Hill stated their rules are more stringent than the EPA and there is a full review of the facilities and public notices are required when there are new applications or applications up for review.

Commissioner Lindsay asked if the Christman-Bland location was plugged and abandoned would the cement keep the ground water protected. Mr. Hill replied several cement plugs are placed inside and outside the casing to prevent any water migration within the wellbore.

Kathy Meeks, a Mountain Home resident wanted Mr. Hill to confirm there was no way that any water in the Duchesne River or Starvation Reservoir could be contaminated by any injection well. Mr. Hill replied he could not confirm that statement but they do everything they can to make it highly unlikely.

There was some discussion with Mr. Hill and Commissioner Olsen about the different geologic layers and how they sample the water sources within the protection zones.

Mr. Timothy does not feel his questions were answered when he first spoke. Again asking why not use the Newfield, Ouray or the Sandwash areas. Commissioner Moon stated there are injection wells in all those areas he mentioned. Mr. Timothy does not feel water disposal should be allowed in this community.

Mr. Rydman is confused on the amount of barrels received and the amount that is being injected. Mr. Nelson stated they are receiving about 4000 barrels a day and

injecting approximately 8000 barrels which is keeping the ponds at a level to keep the integrity of the pit liners. It is the hope of IWM to completely inject and move away from the ponds for obvious reasons but the future plans are unknown at this point. Mr. Nelson also feels DOGM takes their jobs very seriously and are very thorough, IWM knows they will have to satisfy all of DOGM's requirements for the Christman-Bland well to be a successful endeavor.

Mr. Nelson acknowledged the problems they have, letting the Planning Commission know they are committed to resolving them and with their future plans and long term solutions they are hopeful everyone will be satisfied.

Dan Jarvis, a DOGM representative, spoke in response to Mr. Rydman's concerns about the sampling of various wells each year. They have done for 15 years and will continue to do so with no anticipated issues either in the past and hopefully in the future with fresh water sources. They sample different locations between the west side of Duchesne County over to Uintah County.

Commissioner Olsen asked if there were any other questions or comments. There were none so the public hearing was closed.

Mr. Hyde wanted to thank IWM for moving from evaporation ponds to injection and thinks they are moving in the right direction. He also thanked Mr. Rydman for diligently keeping a log of the odors he observed, with date and times and sending the planning department updated lists since this process began.

Mr. Hyde suggested to the commission that they recess the hearing until such time that the acquisition of the Christman-Bland well can be finalized and see where that leads; whether they can drain the ponds, giving IWM a reasonable amount of time to see how their other projects turn out.

Commissioner Olsen asked about the date of the last odor observation. Mr. Hyde stated December 19<sup>th</sup> was the last day with 12 observations total in December. Commissioner Moon asked about the other residents and the odors. No one else was in attendance to speak.

Commissioner Moon motioned to recess the hearing until April 3, 2013. Commissioner Giles seconded the motion, passing 3-0 with Commissioner Lindsay abstaining from the vote.

#### **NEW BUSINESS:**

None

#### **Minutes: Approval of December 5, 2012 minutes**

Commissioner Giles moved to approve the minutes of December 5, 2012. Commissioner Moon seconded the motion and it passed unanimously.

**Commission Comments and Staff Information Items**

As of now Mr. Hyde stated there is nothing on the agenda for the February meeting.

**Adjournment:**

Meeting adjourned at 6:30 p.m.