



435 North Main Street
La Verkin, Utah 84745
(435) 635-2581 (435) 635-2104 Fax
www.laverkin.org

La Verkin City Council Meeting Agenda
Wednesday, March 5, 2025, 6:00 p.m.
Council Chambers, 111 S. Main, La Verkin, Utah

A. Meeting Called to Order: Invocation by Invitation; Pledge of Allegiance

B. Presentation: Nick Wright from HVFD

C. Consent Agenda: (Items on the consent agenda may not require discussion. These items will be a single motion unless removed at the request of the Mayor or City Council.)

1. Declarations of conflict of interest
2. Agenda
3. Meeting Minutes: February 19, 2025, work meeting, and January 5, 2025, regular meeting
4. Checks and Invoices: \$ 249,415.84

D. Business:

1. Discussion and direction on the culinary water report.
2. Discussion and approval for further action regarding Interstate Rock Critical Infrastructure Materials Protection area.
3. Discussion and direction regarding the animal shelter addition.

E. Mayor & Council Reports:

Mayor Wilson:

Blair Gubler: Washington County Solid Waste, Homeland Security/CERT

Wise: Planning Commission/Zoning, Beautification/Trails Committee, Economic Development/Tourism

Micah Gubler: Public Safety, Recreation/City Festivals

Hirschi: Fire District, Ash Creek Special Service District, DTEC

Prince: Southwest Mosquito Abatement, Historical Preservation

Fay Reber: City updates

F. Citizen Comment & Request for Future Agenda Items: No action may be taken on a matter raised under this agenda item. This item is reserved for the citizens of La Verkin who have items not listed on this agenda. There is a time limit of 20 minutes with each individual taking no more than 3 minutes.

G. Adjourn:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nancy Cline, City Recorder, (435) 635-2581, at least 48 hours in advance.

Certificate of Posting

The undersigned City Recorder does hereby certify that the agenda was sent to each member of the governing body, sent to the posted on the State website at, posted on the La Verkin City website at www.laverkin.org and at the city office buildings

111 S. Main and 435 N. Main on February 27, 2025

Nancy Cline, City Recorder

City of La Verkin

435 North Main St., La Verkin, Utah, 84745

(435) 635-2581 Fax (435) 635-2104

www.laverkin.org

La Verkin City Council Meeting Minutes

Wednesday, February 19, 2025, 6:00 pm.

Council Chambers, 111 S. Main, La Verkin, Utah

Present: Mayor Kelly Wilson; Council Members: Patricia Wise, Blair Gubler, Richard Hirschi, Micah Gubler, and Darren Prince; Staff: Derek Imlay, Kyle Gubler, and Nancy Cline; Public: Nick Wright with HVFD.

A. Called to Order –Richard Hirschi gave the invocation/thought and Pledge of Allegiance at 6:00 pm.

B. Consent Agenda: (Items on the consent agenda may not require discussion. These items will be a single motion unless removed at the request of the Mayor or City Council.)

1. Declarations of conflict of interest
2. Agenda
3. Meeting Minutes: February 5, 2025, regular meeting, January 15, 2025, work meeting.
4. Checks & Invoices: \$141,168.66

The motion was made by Councilman Micah Gubler to approve the consent agenda as written, including the minutes of the January 15, 2025, work meeting and the February 5, 2025, regular meeting. Checks and invoices in the amount of \$141,168.66, second by Councilman Darrin Prince. Roll Call Vote: Prince-yes, Hirschi-yes, Wise-yes, Blair Gubler-yes, Micah Gubler. The motion carried unanimously.

Kyle Gubler explained the budget. Some of the information was incorrect because he used the old budget numbers, not the amended ones.

The revenue came from sales tax, streets, franchise tax, transit room tax, building permits, BNC road funds, state grants, interest in the bank, public safety impacts, street impacts, and the appropriation of fund balance. We amended the budget by various amounts in those funds, totaling \$318,188.

The expenditures that have changed are the youth council, outside attorney fees, auditor, UDOT for a study, 3 new computers for the city, 3 computers for the police, a new engine for the police vehicle,

Inspections had an added expense of part-time employees,

In highways, there is a pavement preservation project and a street sweeper, which are significant amounts. The street sweeper is \$160,000. We'll pay for that. \$50,000 will come from the general fund, \$50,000 from the water fund, and \$60,000 from the drainage fund. We have to take money out of savings to get it. The bid for the cement on the L is lower than expected at \$30,000.

Water fund revenue increased water revenue by \$55,000. We increased the expenses by \$75,000 when we took it. \$20,000 out of savings is the net from the position to the savings. And that is to pay for the street sweeper.

Sewer funds increase the revenue by \$50,000 and increase our payment to Ashcreek sewer district by \$50,000.

The drainage fund, we had \$75,000 worth of income. That would be the appropriation of net position, which was \$60,000 in income from operation expenses. \$15,000. We had to find \$50,000. \$60,000 was spent on the sweeper and \$5,000 on engineering for our phase two range project or phase one range project out here. The engineers left us a deficit of \$50,000. And that's where we took \$50,000 from the appropriation fund.

C. Public Hearing:

1. Fiscal Year 2024-2025 Budget Amendment.

The public hearing opened at 6:12 pm.

No comments were made.

The public hearing closed at 6:13 pm.

Kyle explained how to read the Budget amendment. The amendment only shows what numbers are changing, so the numbers won't always line up. In the future, he will create a different spreadsheet that is easier to read. The council discussed the date of the budget retreat. They decided on March 26th at 3:30 at the city office.

D. Business:

1. Discussion and possible action to approve Resolution R-2025-01; a resolution opening and amending the Fiscal Year 2024-2025 Budget.

The motion was made by Councilwoman Patricia Wise to approve the FY 2024-2025 Budget Amendment, second by Councilman Darren Prince. Roll Call Vote: Prince-yes, Hirschi-yes, Wise-yes, Micah Gubler-yes, Blair Gubler-no. The motion passed.

2. Discussion and possible action to approve Resolution No. R-2025-02, a resolution approving and adopting an Interlocal Cooperation Agreement for election services with Washington County, State of Utah.
Kyle explained that the county handles the election process. They do all the polling, and they have the staff to do it. There is a fee for it: about \$8,000-\$10,000.
Commissioner Micah Gubler thought it was a good idea with citizens challenging the voting process.

The motion was made by Councilman Micah Gubler to approve Resolution No. R-2025-02 a resolution approving and adopting an Interlocal Cooperation Agreement for election services with Washington County, State of Utah, second by Councilman Richard Hirschi. Roll Call Vote: Prince-yes, Hirschi-yes, Wise-yes, Micah Gubler-yes, Blair Gubler-no. The motion passed.

3. Consideration and possible approval of an Ordinance 2025-01 approving a Public Infrastructure Policy Statement for the City of LaVerkin.

Fay Reber explained with interest in the Topside that the investors would like an assurance that the city will entertain a PID. The city is not obligated to approve it. This is a statement of criteria they must submit, and even if they meet all the criteria, we can reject it. First, they have to submit a petition. That petition must meet some requirements stated in the Utah Code, which is set forth in this document. They must submit a letter of intent. That letter of intent must include certain information, which is spelled out in this document again. A PID committee is to be formed by the city to review the letter of intent and to review the petition, and if they feel like it's in order. They give a positive recommendation, it's just a recommendation, and then the city can elect to proceed with the third step, which is the drafting of the governing document.

Kyle informed the council that the financial consultant with Zions Bank looked over the PID and agreed it looked like a strong document. He asked Fay if the deposit was refundable if the city rejected the PID application.

Fay replied that there is an initial application fee of \$5000. They may need to return the part of the fee that was not used by the city. He commented that most cities charge \$5000, which may or may not be enough to cover the work the city will have to do; they may need to increase it.

Councilman Prince liked that it outlined the city's expectations.

Mayor Wilson clarified that the PID is the public infrastructure for the public infrastructure, not private infrastructure, such as water lines, sewer lines, roads, city parks, or anything that would benefit the public. It wouldn't be building buildings unless it would be a building for the city. It would just be to put public infrastructure, not anything that would benefit the developer. The ones that are taking the risk are the bondholders.

Councilwoman Wise wanted more details on the policy. She felt it could be a more substantial document and did not want to wait until a problem arose. She pointed out it would be hard to tell a developer no after they have invested a large amount of money. She didn't feel it would bring in a lot of business revenue. It would mostly be retail, cleaning, and restaurant jobs available. She had some recommendations for the wording of the

policy. She wanted the developers to disclose how much water they would be using and make a condition to limit the water use.

Fay commented that there is now some language in there that says the letter of intent has to include a summary of all the infrastructure services and facilities needed as part of the application process.

Councilwoman Wise wanted to add water usage to that list.

Mayor Wilson said that it would be up to the water district how much water they will allow them to use.

Councilwoman Wise asked about the criteria for a statement regarding the perceived public interest directly resulting from the creation of the PID and who creates the statement.

Fay responded that the developer would create a statement on how the PID would benefit the public, and then it is up to the city to accept the statement. We can always require that they submit additional information if we feel that's what we want them to do. That's the beauty of this document. Early on, it says this policy statement is not intended, nor shall it be construed as a complete list of all criteria that may be used by the city in evaluating applications for the formation of a PID. The approval of the formation of a PID is subject to the city's discretion, and compliance with the criteria set forth herein shall not constitute a guarantee or requirement for city approval of an application to form a PID.

Councilwoman Wise understood that but wanted to add more detail. Historical performance of the applicant, its principles, and affiliates within and outside the city. How do we receive this? Does the developer give us a list of projects that they've done so that we evaluate them?

Fay replied that whatever the PID committee determines, they must make that evaluation. And then, of course, when it comes to the city council, if we aren't satisfied, we can ask for additional information.

Councilwoman Wise's concern was having bargaining power once they are deep into the contract, and there is more to ask, and the city might feel obligated to agree.

Fay responded that we don't know what will go in on the top side, so they can't plan for every scenario.

Councilwoman Wise commented on their discussions about planned community developments (pcd). The city gets to decide if it's good for the city, but by the time they do all this work to bring it to us, they have invested a lot of money and time. She didn't want to be pressured into things they didn't want to accept.

Fay agreed that the further down the road you get when you're working with somebody, the harder it is not to approve. On the other hand, they might include everything we want. Don't forget that this is only for the PID. They still have to go through the building, PCD, and zoning requirements to submit all that and get approval.

Councilman Micah Gubler added it can be frustrating when the document is more general because we can come back and say, no, that's not what. The city's able to get what it wants; it could work in our favor.

Fay added they could add a timing mechanism that required them to get zoning requirements and PCD submitted before they consider a PID.

Mayor Wilson commented that's probably what they'd have to do before they can even get a PID because the investors will not buy those bonds until they know exactly what's going on. Then we have a better idea of what will be up there.

Councilwoman agreed they have to plan that out, but ultimately, La Verkin City lives with what the developer puts up there. Or if the developer fails, we are left with scared, dug-up land. She would like the language to be added that no petition will be entertained until they submit all the information of a PCD.

Councilman Micha Gubler added does that weaken our position? If it states, there are other things that this can be subject to. He has been on the other end of it, and the vaguer it is, you have to keep complying and applying multiple times. He wondered if it limits us more from being explicit.

Fay advised that when you're drafting a contract and you list every factor you want to consider, those are the factors you must consider by contract. This is a little bit different. No matter how detailed we get in this document, if there are other factors we need to consider, we can do that. He didn't think being more specific would hurt us, but he also didn't think that failing to put in those things would come back and hurt us.

Councilman Prince commented that we also don't want to be so egregious that we push people away. This is a template. We're willing to talk about it and do that in good faith.

Councilwoman Wise would like to add to the list on the PID that the PCD, the zoning, all of that has to be done before we're really going to move forward with the PID, with their petition and letter of intent, which would be in the application.

Fay counseled he could add concerning the time that we're willing to take this and just say the city shall determine the time at which it will be willing to entertain an application

Councilman Micah Gubler agreed he thought the contract covered all their concerns.

Mayor Wilson felt like the contract was strong and Fay had done a good job covering the city.

Councilman Hirschi commented that this is a statement, and until they understand what's going on with the Topside, they won't know what more to ask for.

Councilman Blair Gubler agreed that the document seems strong enough, but he would support it being stronger if Fay could make it stronger.

Fay suggested a motion that would include the changes they wanted. He would email the final draft for approval. If all the council replied that they agreed, then it could be signed.

The motion was made by Councilman Darren Prince to approve Ordinance 2025-01 a Public Infrastructure Policy Statement for the City of LaVerkin, with the condition Fay would add more language and email it for approval to the city council, second by Councilwoman Patricia Wise. Roll Call Vote: Blair Gubler-yes, Wise-yes, Hirschi-yes, Prince-yes, Micah Gubler-yes. The motion carried unanimously.

4. Discussion and Direction regarding a Critical Infrastructure Materials Protection area for the Interstate Rock gravel pit.

Derek explained that Interstate Rock needed this document to protect its right to mine the area. They were in business first and had the right to continue. They will do a PowerPoint presentation later. He wanted a conversation to happen and the city council to make suggestions about what they wanted changed.

Fay commented that this is a legislative function of every city, meaning it only has to be reasonably debatable. He wanted to set up a work meeting to discuss what needed to change with the document in more detail. The important thing is, if we approve a protection area for these critical materials, there are certain protections the landowners don't have, and the city can't pass laws that will hinder their operation of the gravel extraction business they're conforming use. It's permitted in that zone, so they can continue doing what they're doing just based on the zoning we can't change the zoning without their approval. We can't pass it to limit or restrict the critical infrastructure materials operation within that area. We would have to ensure that all definitions of or prohibitions of public nuisance would be defined so that they would not include this area. So, people can't come in and say it's a nuisance. And then there's some eminent domain protection

Mayor Wilson commented they offered a portion of land to give to the city for a road connecting La Verkin and Toquirville.

Councilwoman Wise said it wouldn't happen until the gravel pit was closed. She was concerned that they use Main Street for their trucks. As we get busier with tourism and business, the gravel trucks could slow down the traffic. They could take 740 Road to travel on and not go on to Main Street.

Derek commented that UDOT would not give them access to SR-17, which connects with 740. They couldn't use it until UDOT agreed.

Councilwoman Wise added that she would agree if there was more language stating that they would consider a secondary road for their trucks.

Mayor Wilson said they would be more than happy to do that. They're the ones doing the subdivision, right? They'll want to plan it around how they develop out there, too, because it's going right through their own subdivision. He advised setting a work meeting and meeting with them.

E. Mayor & Council Reports:

Mayor Wilson- Nick Wright from the fire district reported on their statistics.

Mayor reported Derek handed out this La Verkin City Culinary Water Master Plan update, user rate analysis, impact fee analysis, and impact fee facilities plan for 2025. We want all of you to be looking at that and going over it and the financial analysis. It shows that our current charge for a 5-inch meter is \$39, and the tiered increase is in the gallons. And one-inch and up to three-inch meters. That's what is current. And if you look a couple of pages over, you can see what they're proposing for five-eight meters, which is \$45.89 for the base rate. Then, the tiered rate has five different tiers in it, based on water usage and the rates that they would charge for those tiered rates. This is for a household that existed prior to 2023. Any new construction after that has the same base rate, but their tier rate is different. Anything over eight thousand gallons is different. \$10 a thousand over \$8,000 for those for new construction, but this is for the recent ones. I encourage you all to look through that and study it, and they'll be presenting this to us shortly for us to ask for our current water master plan updates. Anything that we want to change, we can discuss at that time. Unfortunately, everything cost a lot more than it did. But, if you don't keep up, anytime you go to the state to try to get money to do a project, they'll get you up to speed before you get the money.

Blair Gubler- reported Fay went to the meeting for solid waste. The purpose of that meeting was to approve a resolution, a parameters resolution, for a bond. For Phase 3 of improvement project, a 9 million dollar bond. However, the CIV declined to give that bond. After they try to get the money from other sources they will be able to apply again. Right now they are looking for other ways to finish Phase 3. They received the first two-thirds of the 9 million but not the last one-third.

Blair reported they are looking for a general manager. The current one gave his 2 weeks' notice

Wise-Reported on the planning commission meeting held on February 12th. DTAC has given out some money for some paved trail development of continuing sections. One is the SR-18 trail from Snow Canyon Parkway, the upper end, to Vayo. The Virgin River Trail in Washington City to Grandpa's Pond and Hurricane, making that connection. And then the last one, they funded \$50,000 for the Sheeps bridge Road Trail. This is a paved trail alongside Sheeps bridge Road. And the question did come up, is just the trail going to be paved and the road still going to be what it is? The road will be paved also. The State Outdoor Recreation Department, has a new grant available this year called ORCA and it's planning assistance. There's not a match to it. And it's high-level planning assistance. They don't do the engineering or anything like that. But it's meant for communities who have big projects that they just need to get the start on and determine if these are feasible, how quickly we can move, et cetera, and what are the hurdles we need to identify. I approached the state outdoor recreation manager because I knew she was going to be down here in the area for the Zion Regional Collaborative Meeting workshop. So long story short, we had a field trip. It involved Kyle and Darren, myself, Arthur from Hurricane, three people from the state, and Leslie Fonger from the county, and Trista from the county. The water district sent a representative who's very knowledgeable. We met up on the top side and drove, Kyle and Darren, thank you again, drove the ATVs down through the river, down the steep road across the river. And back it up on the

other side. It's a lot rougher up than I expected. We discussed the possibility of a trail from Confluence Park back out on the top side to the Zion Corridor Trail. And so it would, if this happened, it would mean that La Verkin is virtually surrounded by trails, which would be good for our economy.

Micah Gubler. Chief mentioned that his officers recently participated in emergency vehicle operations and CPR training. The recreation department they're working on their county fair display that's coming up here in April. Royalty's working on their fair float. And the Youth City Council is quite busy at Utah State, where they work with advisors from Utah State University, and they're meeting up with the Ivins Youth Council to collaborate with them on some other things.

Hirschi. Nothing to report.

Prince. He reported on the historical committee meeting and is going to introduce them to Utah Tech, who might be willing to help them with their plaques around town.

F. Citizen Comment & Request for Future Agenda Items:

No comments made.

I. Adjourn:

The mayor closed the meeting at 7:45 p.m.

Date Approved

Mayor Kelly B. Wilson

ATTEST:

Nancy Cline
City Recorder

Invoice Register: 2/14/2025 to 2/26/2025 - All Invoices

2/27/2025

Invoice No.	Vendor	Check No.	Ledger Date	Due Date	Amount	Account No.	Account Name	Description
PR022125-258	AFLAC	53461	2/26/2025	2/26/2025	\$27.90	102224	Health Savings Account	AFLAC EE
38890	ALPHA ENGINEERING CO	53462	2/20/2025	2/20/2025	\$600.00	104620.610	Comm COMMUNITY DEVELOP	Crestview Village Road Abando
PO# 5804					600.00			
LSTG1168429	ALSCO	53450	2/19/2025	2/19/2025	\$35.00			
					0.70	104160.270	Bldg B&G OPERATION AND M	Equipment repairs and Fuel
					0.70	104240.250	Inspect EQUIPMENT OPERATI	Equipment repairs and Fuel
					3.15	104410.250	Streets EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.20	104410.745	Streets STREET IMPROVEME	Equipment repairs and Fuel
					0.70	104510.250	Parks EQUIPMENT OPERATI	Equipment repairs and Fuel
					11.55	516340.250	O&M EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.20	516340.450	O&M SYSTEMS MAINTENANC	Equipment repairs and Fuel
					2.10	536310.250	Irrigation EQUIPMENT OPERA	Equipment repairs and Fuel
					2.10	536310.450	Irrigation WATER MAIN REPAIR	Equipment repairs and Fuel
					3.50	556350.250	Drainage EQUIPMENT OPERA	Equipment repairs and Fuel
					2.10	556350.440	Drainage NEW SERVICES	Equipment repairs and Fuel
LSTG1169556	ALSCO	53463	2/26/2025	2/26/2025	\$35.00			
					0.70	104160.270	Bldg B&G OPERATION AND M	Equipment repairs and Fuel
					0.70	104240.250	Inspect EQUIPMENT OPERATI	Equipment repairs and Fuel
					3.15	104410.250	Streets EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.20	104410.745	Streets STREET IMPROVEME	Equipment repairs and Fuel
					0.70	104510.250	Parks EQUIPMENT OPERATI	Equipment repairs and Fuel
					11.55	516340.250	O&M EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.20	516340.450	O&M SYSTEMS MAINTENANC	Equipment repairs and Fuel
					2.10	536310.250	Irrigation EQUIPMENT OPERA	Equipment repairs and Fuel
					2.10	536310.450	Irrigation WATER MAIN REPAIR	Equipment repairs and Fuel
					3.50	556350.250	Drainage EQUIPMENT OPERA	Equipment repairs and Fuel
					2.10	556350.440	Drainage NEW SERVICES	Equipment repairs and Fuel
Vendor Total:					\$70.00			
15966	CITY OF ST GEORGE	53465	2/14/2025	2/14/2025	\$11,584.52	104210.410	Police DAT/INVESTIGATION/DI	FY25 3rd Quarter Police Dispatc
65-351427	Davis Food & Drug #4/Farmers Market	53453	2/14/2025	2/14/2025	\$9.49		Admin OFFICE EXPENSE, SUP	Wall Hanger for Shovel
589436898	DeLage Landen Financial Services	53466	2/19/2025	2/19/2025	\$341.24	104140.240	Admin OFFICE EXPENSE, SUP	
					180.86	104140.240	Admin OFFICE EXPENSE, SUP	
					102.37	516660.240	Irrigation OFFICE EXPENSE, S	
					17.06	536310.240	Drainage OFFICE EXPENSE, S	
					40.95	556350.240	PEHP/AFLAC Insurance Clearin	Dental and Vision Insurance
COMM47412025	EMI Health	53467	2/21/2025	2/21/2025	\$2,442.90	101562	Streets EQUIP EXP/CAPITAL I	Multifhog CV 350 Street Sweeper
4683	HARDLINE EQUIPMENT	53468	2/26/2025	2/26/2025	\$159,690.00	104410.740	O&M EQUIP EXP / CAPITAL IM	Multifhog CV 350 Street Sweeper
PO# 5812					49,690.00	516340.740	Drainage EQUIP EXP / CAPITA	Multifhog CV 350 Street Sweeper
					50,000.00	556350.740	Health Savings Account	PEHP Health Equity
PR022125-6099	Health Equity		2/26/2025	2/26/2025	\$329.00	102224	Animal B&G OPERATIONS AN	Indie
					329.00		Bldg B&G OPERATION AND M	Logo on shirts
2183206a	HUMANE SOCIETY OF UTAH ST. GEO	53469	2/25/2025	2/25/2025	\$134.00	104253.270	Inspect EQUIPMENT OPERATI	Equipment repairs and Fuel
					134.00			
265	Imlay, Toni	53470	2/24/2025	2/24/2025	\$75.00			
					1.50	104160.270		
					1.50	104240.250		

La Verkin City
Invoice Register: 2/14/2025 to 2/26/2025 - All Invoices

2/27/2025

Invoice No.	Vendor	Check No.	Ledger Date	Due Date	Amount	Account No.	Account Name	Description
PR022125-147	LEGAL SHIELD	53471	2/26/2025	2/26/2025	\$50.87	104410.250	Streets EQUIPMENT OPERATI	Equipment repairs and Fuel
					50.87	104410.250	Streets STREET IMPROVEME	Equipment repairs and Fuel
908724	NAPA AUTO PARTS	53472	2/22/2025	2/22/2025	\$55.44	104510.250	Parks EQUIPMENT OPERATI	Equipment repairs and Fuel
909115	NAPA AUTO PARTS	53472	2/25/2025	2/25/2025	\$81.84	516340.250	O&M EQUIPMENT OPERATI	Equipment repairs and Fuel
					1.63	516340.450	O&M SYSTEMS MAINTENANC	Equipment repairs and Fuel
					1.84	536310.250	Irrigation EQUIPMENT OPERA	Equipment repairs and Fuel
					7.37	536310.450	Irrigation WATER MAIN REPAIR	Equipment repairs and Fuel
					9.82	556350.250	Drainage EQUIPMENT OPERA	Equipment repairs and Fuel
					1.64	556350.440	Drainage NEW SERVICES	Equipment repairs and Fuel
					27.01		Misc Payable	LegalShield
					9.82	104210.450	Police VEHICLE MAINTANCE	Oil and Brake Cleaner
					4.91		Bldg B&G OPERATION AND M	Equipment repairs and Fuel
					4.91	104160.270	Inspect EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.91	104240.250	Streets EQUIPMENT OPERATI	Equipment repairs and Fuel
					8.18	104410.745	Streets STREET IMPROVEME	Equipment repairs and Fuel
					4.91	104510.250	Parks EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.91	516340.250	O&M EQUIPMENT OPERATI	Equipment repairs and Fuel
					4.91	516340.450	O&M SYSTEMS MAINTENANC	Equipment repairs and Fuel
					8.18	536310.250	Irrigation EQUIPMENT OPERA	Equipment repairs and Fuel
					4.91	556350.250	Drainage EQUIPMENT OPERA	Equipment repairs and Fuel
					4.91	556350.440	Drainage NEW SERVICES	Equipment repairs and Fuel
					\$137.28			
022025	PEHP	53473	2/20/2025	2/20/2025	\$22,277.84	101562	PEHP/AFIAC Insurance Cleanin	Health Insurance
					21,332.86	101563	PEHP Life Insurance Clearing	Life Insurance
75188	ROADRUNNER AUTOMOTIVE AND DI	53474	2/24/2025	2/24/2025	\$31.82	104210.250	Police EQUIPMENT OPERATI	Flat Repair for 19 Dodge Ram
0016-0225	ROCKY MOUNTAIN POWER	53475	2/14/2025	2/14/2025	\$255.21	104253.280	Animal UTILITIES	Animal shelter
0017-0225	ROCKY MOUNTAIN POWER	53475	2/14/2025	2/14/2025	\$4,282.88	104140.280	Admin UTILITIES	435 N Main & 1/2 111 S Main
					773.18	104210.280	Police UTILITIES	1/2 111 S Main
					187.68	104410.280	Streets UTILITIES	Street lights
					2,651.28	104510.280	Parks UTILITIES	Parks
					186.39	516660.280	Admin UTILITIES	pump station
					463.97	536310.250	Irrigation EQUIPMENT OPERA	Filter station
					20.38		Parks UTILITIES	Trailhead park
					\$48.76	104510.280		
					\$4,586.85			
0024-0225	ROCKY MOUNTAIN POWER	53475	2/14/2025	2/14/2025	\$9.60	104160.270	Bldg B&G OPERATION AND M	Cylinder Rental
					0.19	104240.250	Inspect EQUIPMENT OPERATI	Equipment repairs and Fuel
					0.86	104410.250	Streets EQUIPMENT OPERATI	Equipment repairs and Fuel
					1.15	104410.745	Streets STREET IMPROVEME	Equipment repairs and Fuel
					0.19	104510.250	Parks EQUIPMENT OPERATI	Equipment repairs and Fuel
					3.17	516340.250	O&M EQUIPMENT OPERATI	Equipment repairs and Fuel
					1.15	516340.450	O&M SYSTEMS MAINTENANC	Equipment repairs and Fuel
3051038	SCHOLZEN PRODUCTS CO INC	53456	2/18/2025	2/18/2025	\$9.60	104160.270	Bldg B&G OPERATION AND M	Cylinder Rental
					0.19	104240.250	Inspect EQUIPMENT OPERATI	Equipment repairs and Fuel
					0.86	104410.250	Streets EQUIPMENT OPERATI	Equipment repairs and Fuel
					1.15	104410.745	Streets STREET IMPROVEME	Equipment repairs and Fuel
					0.19	104510.250	Parks EQUIPMENT OPERATI	Equipment repairs and Fuel
					3.17	516340.250	O&M EQUIPMENT OPERATI	Equipment repairs and Fuel
					1.15	516340.450	O&M SYSTEMS MAINTENANC	Equipment repairs and Fuel

La Verkin City

Invoice Register: 2/14/2025 to 2/26/2025 - All Invoices

2/27/2025

Invoice No.	Vendor	Check No.	Ledger Date	Due Date	Amount	Account No.	Account Name	Description
6889735	SCHOLZEN PRODUCTS CO INC	53476	2/18/2025	2/18/2025	0.58	536310.250	Irrigation EQUIPMENT OPERA	Equipment repairs and Fuel
6889896	SCHOLZEN PRODUCTS CO INC	53476	2/18/2025	2/18/2025	0.58	536310.450	Irrigation WATER MAIN REPAIR	Equipment repairs and Fuel
6890590	SCHOLZEN PRODUCTS CO INC	53476	2/20/2025	2/20/2025	0.96	556350.250	Drainage EQUIPMENT OPERA	Equipment repairs and Fuel
					0.58	556350.440	Drainage NEW SERVICES	Equipment repairs and Fuel
	Vendor Total:				\$47.52			
53584022425	Shred St. George	53477	2/24/2025	2/24/2025	47.52	536310.450	Irrigation WATER MAIN REPAIR	Scre for Butterfly Kit and Ring G
					\$37.29	536310.450	Irrigation WATER MAIN REPAIR	Marking Stick
					\$37.29	536310.450	Irrigation WATER MAIN REPAIR	14"Combo Blade
					\$176.85	536310.450		
					\$271.26			
					\$39.95		Admin UTILITIES	
					28.76	104140.280	Admin UTILITIES	
					9.99	516660.280	Drainage EQUIPMENT OPERA	
					1.20	556350.250		
021325	STEPHEN WADE CHRYSLER	53478	2/24/2025	2/24/2025	\$9,352.40	104210.450	Police VEHICLE MAINTANCE	Engine Replacement for 2019 Do
PO# 5810					9,352.40			
2801-0225	TDS BAJA Broadband	53479	2/17/2025	2/17/2025	\$37.17	104140.280	Admin UTILITIES	435 N Main
ZVP-0225	TDS BAJA Broadband	53479	2/17/2025	2/17/2025	\$109.95	104510.280	Parks UTILITIES	Zion View Park
	Vendor Total:				\$147.12			
021325	THE DESERT VET ANIMAL HOSPITAL	53480	2/24/2025	2/24/2025	\$174.66	104253.270	Animal B&G OPERATIONS AN	Diamond and Loki
PR022125-501	UTAH RETIREMENT SYSTEMS		2/26/2025	2/26/2025	\$13,337.06		Retirement Payable	401k
					780.87	102223	Retirement Payable	Retirement
					11,013.29	102223	Retirement Payable	457
					928.90	102223	Retirement Payable	Roth IRA
					614.00	102223		
PR022125-449	Utah State Tax Commission		2/26/2025	2/26/2025	\$2,551.61	102222	State Withholding	State Income Tax
Feb25	Wallis, Cassidi	53482	2/24/2025	2/24/2025	\$500.00	104160.270	Bldg B&G OPERATION AND M	Cleaning Feb 10 & 23
Child FIS 137	WASHINGTON COUNTY TREASURER	53483	2/18/2025	2/18/2025	\$119.00	104210.410	Police DAT/INVESTIGATION/DI	Oct-Dec 2024 Child Forensic Int
022425	ZIONS FIRST NATIONAL BANK CC		2/24/2025	2/24/2025	\$195.00	104140.210	Admin BOOKS, SUBSCRIPTION	IIMC Membership annual fee
0235431	ZIONS FIRST NATIONAL BANK CC		2/18/2025	2/18/2025	\$21.34	104540.610	Rec EVENTS, FAIRS, & FESTI	Fair Display
1650609	ZIONS FIRST NATIONAL BANK CC		2/19/2025	2/19/2025	\$39.18	104540.610	Rec EVENTS, FAIRS, & FESTI	Curtains for office door
3000186110777.	ZIONS FIRST NATIONAL BANK CC		2/26/2025	2/26/2025	\$4,312.98	104210.315	Police COMPUTER EQUIPMEN	Three (3) Rugged Computers - L
PO# 5806					4,312.98			
33436291723968	ZIONS FIRST NATIONAL BANK CC		2/25/2025	2/25/2025	\$84.92	104210.230	Police TRAVEL & TRAINING	Jimmy Johns
3647439	ZIONS FIRST NATIONAL BANK CC		2/18/2025	2/18/2025	\$395.07	104540.610	Rec EVENTS, FAIRS, & FESTI	Clothing
					395.07			
510	ZIONS FIRST NATIONAL BANK CC		2/24/2025	2/24/2025	\$125.00	104140.210	Admin BOOKS, SUBSCRIPTION	UMCA Membership annual fee
					125.00			

La Verkin City
Invoice Register: 2/14/2025 to 2/26/2025 - All Invoices

2/27/2025

Invoice No.	Vendor	Check No.	Ledger Date	Due Date	Amount	Account No.	Account Name	Description
5745009	ZIONS FIRST NATIONAL BANK CC		2/14/2025	2/14/2025	\$188.45	104140.240	Admin OFFICE EXPENSE, SUP	Safe
					188.45			
8994609	ZIONS FIRST NATIONAL BANK CC		2/18/2025	2/18/2025	\$39.38	104540.610	Rec EVENTS, FAIRS, & FESTI	Fair Display
					39.38			
NXQOFW PO# 5799	ZIONS FIRST NATIONAL BANK CC		2/14/2025	2/14/2025	\$45.86	104111.230	Council TRAVEL & TRAINING	Travel to Phoenix with Mayor Wll
					45.86			
	Vendor Total:				\$5,427.18			
PR022125-234	ZIONS FIRST NATIONAL BANK.		2/26/2025	2/26/2025	\$15,106.89	102221	FICA & FWT Withholding	Social Security Tax
					7,682.60	102221	FICA & FWT Withholding	Medicare Tax
					1,796.74	102221	FICA & FWT Withholding	Federal Income Tax
					5,627.55	102221		
	Total:				\$249,415.84			
							GL Account Summary	
					23,775.76	101562	PEHP/AFLAC Insurance Clean	
					944.98	101563	PEHP Life Insurance Clearing	
					15,106.89	102221	FICA & FWT Withholding	
					2,551.61	102222	State Withholding	
					13,337.06	102223	Retirement Payable	
					356.90	102224	Health Savings Account	
					50.87	102225	Misc Payable	
					45.86	104111.230	Council TRAVEL & TRAINING	
					320.00	104140.210	Admin BOOKS, SUBSCRIPTION	
					378.80	104140.240	Admin OFFICE EXPENSE, SUP	
					839.11	104140.280	Admin UTILITIES	
					504.72	104160.270	Bldg B&G OPERATION AND M	
					64.92	104210.230	Police TRAVEL & TRAINING	
					31.82	104210.250	Police EQUIPMENT OPERATIN	
					187.68	104210.280	Police UTILITIES	
					4,312.98	104210.315	Police COMPUTER EQUIPMEN	
					11,703.52	104210.410	Police DAT/INVESTIGATION/DI	
					9,407.84	104210.450	Police VEHICLE MAINTANCE	
					4.73	104240.250	Inspect EQUIPMENT OPERATI	
					308.66	104253.270	Animal B&G OPERATIONS AN	
					255.21	104253.280	Animal UTILITIES	
					21.28	104410.250	Streets EQUIPMENT OPERATI	
					2,651.28	104410.280	Streets UTILITIES	
					49,690.00	104410.740	Streets EQUIP EXP/CAPITAL I	
					28.37	104410.745	Streets STREET IMPROVEME	
					4.73	104510.250	Parks EQUIPMENT OPERATIN	
					345.10	104510.280	Parks UTILITIES	
					494.97	104540.610	Rec EVENTS, FAIRS, & FESTI	
					600.00	104620.610	Comm COMMUNITY DEVELOP	
					138,325.65		Total	
					78.03	516340.250	O&M EQUIPMENT OPERATIN	
					28.37	516340.450	O&M SYSTEMS MAINTENANC	
					50,000.00	516340.740	O&M EQUIP EXP / CAPITAL IM	
					102.37	516660.240	Admin OFFICE EXPENSE, SUP	
					473.96	516660.280	Admin UTILITIES	
					50,682.73		Total	
					17.06	536310.240	Irrigation OFFICE EXPENSE, S	
					34.57	536310.250	Irrigation EQUIPMENT OPERA	
					275.85	536310.450	Irrigation WATER MAIN REPAIR	

La Verkin City
 Invoice Register: 2/14/2025 to 2/26/2025 - All Invoices

2/27/2025

Invoice No.	Vendor	Check No.	Ledger Date	Due Date	Amount	Account No.	Account Name	Description
					327.48		Total	
					40.95	558350.240	Drainage OFFICE EXPENSE, S	
					24.84	558350.250	Drainage EQUIPMENT OPERA	
					14.19	558350.440	Drainage NEW SERVICES	
					60,000.00	558350.740	Drainage EQUIP EXP / CAPITA	
					60,079.98		Total	
					\$249,415.84		GL Account Summary Total	



INTERSTATE **ROCK PRODUCTS**

LaVerkin Critical Infrastructure
Materials Protection Area

07/06/2022

Purpose

- Interstate Rock is seeking the protections provided under Utah Code 17-41 for a Critical Infrastructure Materials Protection Area.

Utah Code 17-41 - Criteria

- (1) whether or not the land is currently being used for agriculture production, industrial use, or critical infrastructure materials operations, as the case may be;
- (2) whether or not the land is zoned for agriculture use, industrial use, or critical infrastructure materials operations, as the case may be;
- (3) whether or not the land is viable for agriculture production, industrial use, or critical infrastructure materials operations, as the case may be;
- (4) the extent and nature of existing or proposed farm improvements, the extent and nature of existing or proposed improvements to or expansion of the industrial use, or the extent and nature of existing or proposed improvements to or expansion of critical infrastructure materials operations, as the case may be; and

Utah Code 17-41 - Protections From

- Future city ordinances that adversely affect our aggregate materials operations except directly related to public health or safety.
- Zoning designation changes without the consent of the property owner.
- Future land use ordinances or regulations.
- Public nuisance complaints and future ordinances, including noise.
- Provides notification requirement to new developments (withing 1,000 feet).
- Exercising eminent domain.

PROPOSAL TO CREATE CRITICAL INFRASTRUCTURE MATERIALS PROTECTION AREA

Proposal Sponsor, Interstate Rock Products, Inc., a Utah corporation (hereinafter "Sponsor"), by and through its undersigned attorneys and pursuant to the provisions of the Utah Protection Areas Act, Title 17, Chapter 41, Utah Code Ann. ("Act"), hereby proposes that the LaVerkin City ("City") create a Critical Infrastructure Materials Protection Area ("Protected Area") as set forth below and, in support of the Proposal, Sponsor states as follows:

1. Sand, gravel, and rock aggregate are critical infrastructure materials, as defined at §17-41-101(6) of the Act.
2. Sponsor currently operates and has for a period in excess of twenty (20) years on Parcels No. LV-160-A-N-SA, LV-3-1-13-4200, LV-174-A-5, LV-174-A-4 a gravel pit wherein Sponsor extracts, excavates, processes, and reprocesses sand, gravel, rock aggregate, and landscape rock in commercial quantities ("Property") consisting of 116.13 acres. See Exhibit A hereto. The Property was used as a gravel pit for more than ten (10) years prior to Sponsor purchasing it.
3. Sponsor is a Critical Infrastructure Materials Operator, as defined at §17-41-101(8) of the Act, in that Sponsor is an organization which owns, controls, and manages a critical infrastructure materials operation.
4. LaVerkin City is a municipality, as that term is defined at §17-41-101(17)(b) of the Act, the Proposal is properly before the City pursuant to §17-41-301(1)(a)(ii) of the Act, and the City has authority to create the Protected Area pursuant to §17-41-301(1)(b) of the Act.
5. Sponsor is the sole owner of the Property and thus has the authority to sponsor the Proposal pursuant to §17-41-301(1)(c)(i) of the Act.
6. The boundaries of the Property, which is the land proposed to become part of the Protected Area, are identified in the map attached hereto as Exhibit A.
7. The critical infrastructure materials operations on the Property have been conducted in conformance with the City's zoning requirements and there are no limits on the type of critical infrastructure materials operations located on the Property.
8. There remain critical infrastructure materials on the Property to support the critical infrastructure materials operations of Sponsor for a considerable period into the future, given the trends in technological conditions applicable to the critical infrastructure materials operations on the Property.

9. Located on the Property are an aggregate wash plant, office building, multiple crushers and aggregate processing equipment which Sponsor maintains those production and accounting functions associated with the critical infrastructure materials operations and a scale house used to weigh critical infrastructure materials produced on the Property.

10. Sponsor requests that the City give notice of the Proposal to the Public and that it submits the Proposal to the Washington County Critical Infrastructure Materials Protection Areas Advisory Board for review and recommendations pursuant to §17- 41-303 of the Act.

Respectfully Submitted this 2nd day of August 2022.

Aaron D Randall

Aaron D. Randall
Thompson, Randall & Mellen
Attorneys for Sponsor



WGS_1984_Web_Mercator_Auxiliary_Sphere



- Legend**
-  Parcels
- Ownership**
-  U.S. Forest Service
 -  U.S. Forest Service Wilderness
 -  Bureau of Land Management
 -  Bureau of Land Management Wildlife
 -  National Park Service
 -  Shiwits Reservation
 -  Utah Division of Wildlife Resources
 -  Utah Division of Transportation
 -  State Park
 -  State of Utah
 -  Washington County
 -  Municipally Owned
 -  School District
 -  Privately Owned
 -  Water
 -  Water Conservancy District
 -  State Assessed Oil and Gas
 -  Mining Claim

Notes



City of Hurricane

Planning Commission

Mayor
John Bramall

City Manager
Kaden DeMille

September 20, 2021

TO THE CITY COUNCIL OF THE CITY OF HURRICANE

The Planning Commission has reviewed application 2021-CIMP-02, a request for a Critical Infrastructure Materials Protection Area for parcels H-3-1-30-31021, H-3-1-31-431, H-4-1-25-2202, and H-4-1-36-100, with the following finds.

1. *The land is currently being used for mining and extraction, and has been established well before January 1, 2019.*
2. *The land is currently zoned for heavy industrial use.*
3. *The land is viable for a critical infrastructure materials operation, and has been for many year.*
4. *The applicant has not asked for an expansion beyond their property boundaries. The applicant has provided a buffer around the property with light industrial zoning, and the City has upheld M-1 zoning buffer to the east.*
5. *The applicant has not asked for an expansion beyond their property boundaries. Most of the adjacent property owners are seeking to develop single family homes.*
6. *There is no future master plan roadways or other vital infrastructure proposed to traverse the parcel. There is a Master Plan Trail that transverses the property, that the City and the applicant have been in discussion about future alignment.*

Based on these findings, the Planning Commission has recommended approval for the proposed protection area.

Planning Commission Chair
Dayton Hall

Chair Alternate
Mark Sampson



STAFF COMMENTS

Agenda Date:	10/21/2021
Application Number:	2021-CIMP-02
Type of Application:	Critical Infrastructure Materials Protection Area
Action Type:	Legislative
Applicant:	Interstate Rock LLC
Agent:	Chase Stratton
Request:	Creation of a Critical Infrastructure Materials Protection Area.
Location:	600 N and 3400 W
Zoning:	RM-2
General Plan Map:	Industrial/Heavy Manufacturing

Planning Commission Recommendation

The Planning Commission has issued a positive recommendation on the proposed Critical Infrastructure Materials Protection Area within the attached report.

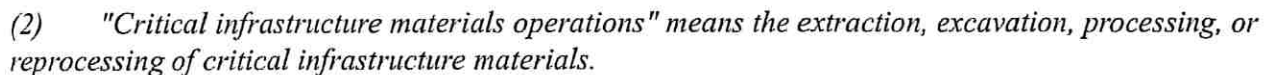
Discussion:

The applicant is seeking approval of a critical infrastructure materials protection area for their mining operation happening on property H-3-1-30-31021, H-3-1-31-431, H-4-1-25-2202, and H-4-1-36-100. The state has recently adopted two sections of code that establish protection of “critical infrastructure materials operations”: [Utah Code 10-9a-9 Vested Critical Infrastructure Materials Operations \(Effective 5/14/2019\)](#) and [Utah Code 17-41 Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas \(Effective 5/14/2019\)](#). These sections are short and staff would recommend that you review the key sections, most of which are referenced within this report.

What is Critical Infrastructure Materials and Operation?

10-9a-901. Definitions.

(1) *"Critical infrastructure materials" means sand, gravel, or rock aggregate.*



(3) *"Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:*

(a) *owns, controls, or manages a critical infrastructure materials operations; and*

(b) *has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.*

(4) *"Vested critical infrastructure materials operations" means critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the municipality that existed or was conducted or otherwise engaged in before:*

(a) *a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and*

(b) *January 1, 2019.*

And:

17-41-101. Definitions.

(6) *"Critical infrastructure materials" means sand, gravel, or rock aggregate.*

(7) *"Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.*

(8) *"Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:*

(a) *owns, controls, or manages a critical infrastructure materials operation; and*

(b) *has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.*

(9) *"Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.*

The current operation extracts sand, gravel, and rock aggregate from the property, which matches the definitions listed above.

Vested Rights

The following two state statutes provide special legal protections for critical infrastructure material operations and provide vested rights:

10-9a-902. Vested critical infrastructure materials operations -- Conclusive presumption.

(1)

(a) *Critical infrastructure materials operations operating in accordance with a legal nonconforming use or a permit issued by the municipality are conclusively presumed to be vested critical infrastructure materials operations if the critical infrastructure materials operations permitted by the municipality,*

existed or was conducted or otherwise engaged in before January 1, 2019 and before when a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

(b) A person claiming that a vested critical infrastructure materials operations has been established has the burden of proof to show by the preponderance of the evidence that the vested critical infrastructure materials operations has been established.

(2) A vested critical infrastructure materials operations:

(a) runs with the land; and

(b) may be changed to another critical infrastructure materials operations conducted within the scope of a legal nonconforming use or the permit for the vested critical infrastructure materials operations without losing its status as a vested critical infrastructure materials operations.

And

17-41-402.5. Limits on political subdivisions with respect to a vested mining use -- Exception.

(1) A political subdivision may not:

(a) terminate a vested mining use, whether by amortization, the exercise of police power; or otherwise;

(b) prohibit, restrict, or otherwise limit a mine operator with a vested mining use from exercising the rights permitted under this chapter;

(c) require, for a vested mining use:

(i) a variance;

(ii) a conditional use permit;

(iii) a special exception;

(iv) the establishment or determination of a nonconforming use right; or

(v) any other type of zoning or land use permit; or

(d) prohibit, restrict, limit, or otherwise regulate a vested mining use under a variance, conditional use permit, special exception, or other zoning or land use permit issued before May 12, 2009.

(2) Subsection (1) does not prohibit a political subdivision from requiring a vested mining use to comply with the generally applicable, reasonable health and safety regulations and building code adopted by the political subdivision including a drinking water protection zone as defined and limited to Subsection 19-4-113(4)(a) and (b).

With the approval of the zone change, the applicant agreed to a development agreement that states:

3. Additional Specific Property Owner Obligations. As an integral part of the consideration for this Agreement, the Property Owner hereby specifically agrees as follows:

a. The Property Owner hereby releases, waives and disclaims any grandfathered non-conforming use claim rights for all property described in Exhibit A.

b. All uses that take place within the area described in Exhibit A shall comply with the assigned underlying zone regardless of historic uses.

c. Property Owner retains the rights of M-2 zoning use, as defined by city code as of January 21, 2021, until such time that a zone change has been requested by Property Owner and approved by City.

Critical Infrastructure Materials Protection Area

The applicant has requested that the City created an official protection area for their use, which in effect would provide some additional protection from nuisance complaints and emanate domain requests.

17-41-101. Definitions.

(9) *"Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.*

The following are the criteria that the property should be evaluated with as found in 17-41-305 Criteria to be applied in evaluating a proposal for the creation of a protection area. Staff's responses will be in red below each question.

- 1) *whether or not the land is currently being used for agriculture production, industrial use, or critical infrastructure materials operations, as the case may be;*
 - a) *The land is currently being used for mining and extraction, and has been established well before January 1, 2019.*
- 2) *whether or not the land is zoned for agriculture use, industrial use, or critical infrastructure materials operations, as the case may be;*
 - a) *The land is currently zoned for heavy industrial use.*
- 3) *whether or not the land is viable for agriculture production, industrial use, or critical infrastructure materials operations, as the case may be;*
 - a) *The land is viable for a critical infrastructure materials operation, and has been for many years.*
- 4) *the extent and nature of existing or proposed farm improvements, the extent and nature of existing or proposed improvements to or expansion of the industrial use, or the extent and nature of existing or proposed improvements to or expansion of critical infrastructure materials operations, as the case may be;*
 - a) *The applicant has not asked for an expansion beyond their property boundaries. The applicant has provided a buffer around the property with light industrial zoning, and the City has upheld M-1 zoning buffer to the east.*

If the protection area is approved, it provides protection from nuisance, additional protection from eminent domain, and from the City removing protected status without consent from the property owner:

Effective 5/14/2019

17-41-403. Nuisances.

(1) *A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:...*

(c) *for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.*

(3)

(a) *A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.*

(b) *A vested mining use that is consistent with sound mining practices:*

(i) *is presumed to be reasonable; and*

(ii) *may not constitute a private or public nuisance under Section 76-10-803.*

(c) *A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.*

(4)

(c) *For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:*

"Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations."

(d) *For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:*

"This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities."

Planning Commission's Responsibility:

State law contains the following for the Planning Commission:

17-41-303. Review of proposal for creation of protection area.

(2)

(a) *Within 45 days after receipt of the proposal, the planning commission shall submit a written report to the applicable legislative body that:*

(i) *analyzes and evaluates the effect of the creation of the proposed area on the planning policies and objectives of the county or municipality, as the case may be;*

(ii) *analyzes and evaluates the proposal by applying the criteria contained in Section 17-41-305;*

- (iii) recommends any modifications to the land to be included in the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;
- (iv) analyzes and evaluates any objections to the proposal; and
- (v) includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.

Attached to this report is a written report to the City Council from the Planning Commission.

Surrounding Uses:

	Zoning	Adjacent Land Use
North	Public Land and RA-1	Natural Open Space and Virgin River
East	M-1, R1-8 PDO, PF	Land adjacent is undeveloped M-1, but there are neighborhoods further east. There is also a power substation.
South	R1-6, NC, R1-8 PDO	Subdivisions
West	RA-1	Natural Open Space

Future Infrastructure

There is currently no master plan roadway or other infrastructure within the project boundaries, other than the future 600 N Trail.

600 N TRAIL / THREE RIVERS TRAIL ALIGNMENT (2020)

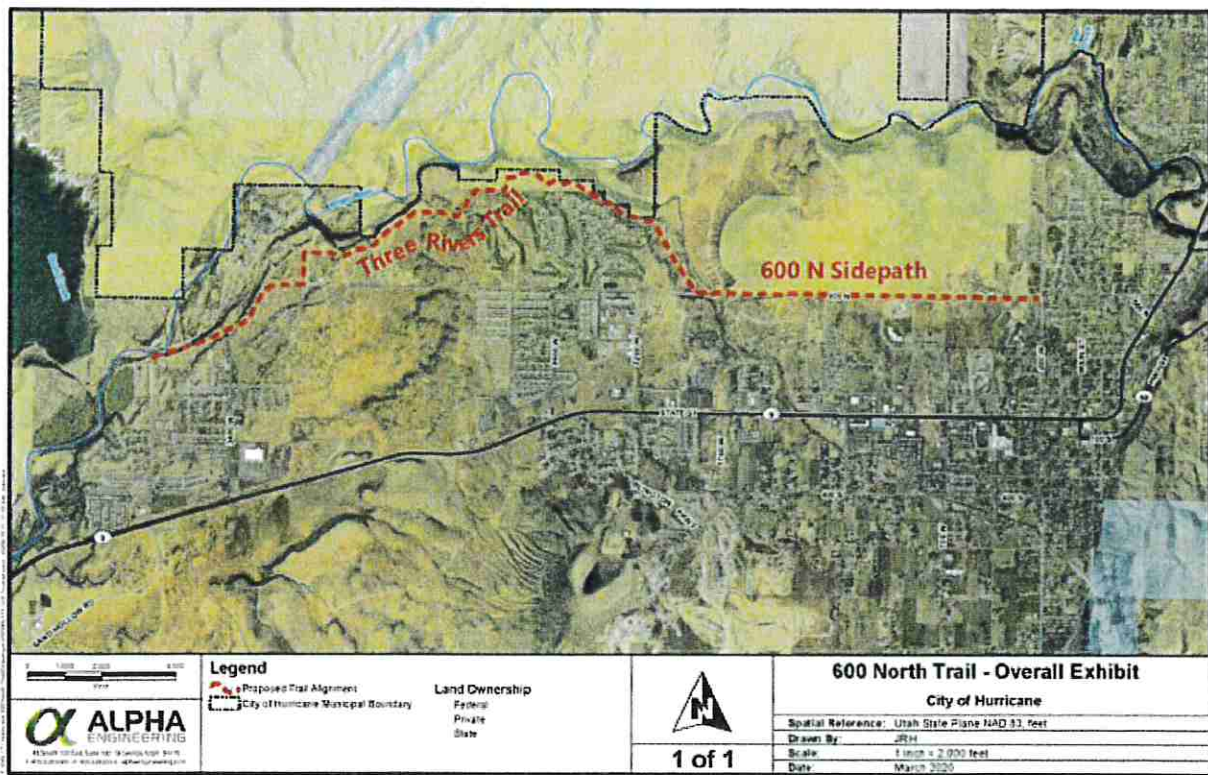
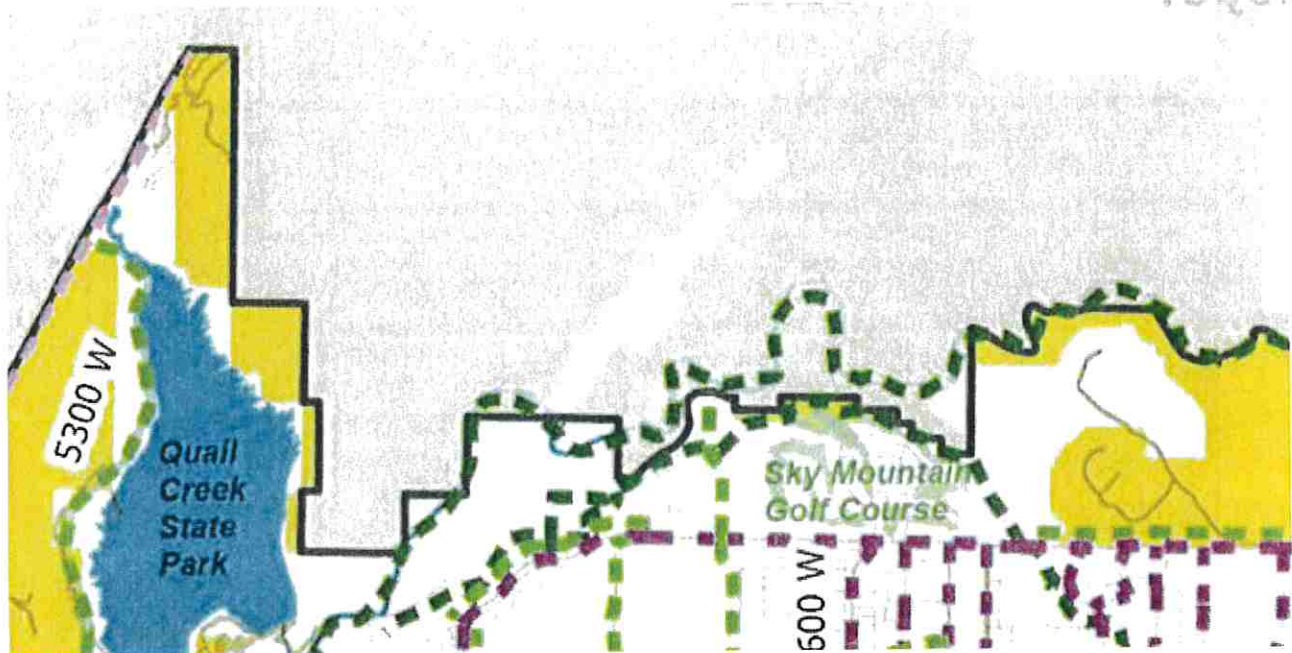


Figure 2.7 Proposed alignment of the future Three Rivers Trail and 600 N Sidepath.

By State law, the City can not use eminent domain to secure trail right-of-way unless it is attached to a public right-of-way. The City has negotiated with the applicant that the section of the trail that goes through the mine would be routed out to 600 N until the mining operation has been completed as shown below with the dark green line.



Advisory Committee

The county administrative body may create an advisory board to review and advise on these types of applications. Washington County has not established an advisory board for Critical Infrastructure Materials Protection Areas. No board has been established or has an opportunity to review that application, the City should consider it as a positive recommendation.

17-41-303. Review of proposal for creation of protection area.

(2)(c) The applicable legislative body shall consider a failure of the planning commission or advisory committee to submit a written report within the 45 days under Subsection (2)(a) or (b) as a recommendation of that committee to approve the proposal as submitted.

Recommendation: Staff recommends the City Council review this application based on the standards listed within the state code, the Planning Commission report, and any public comment.

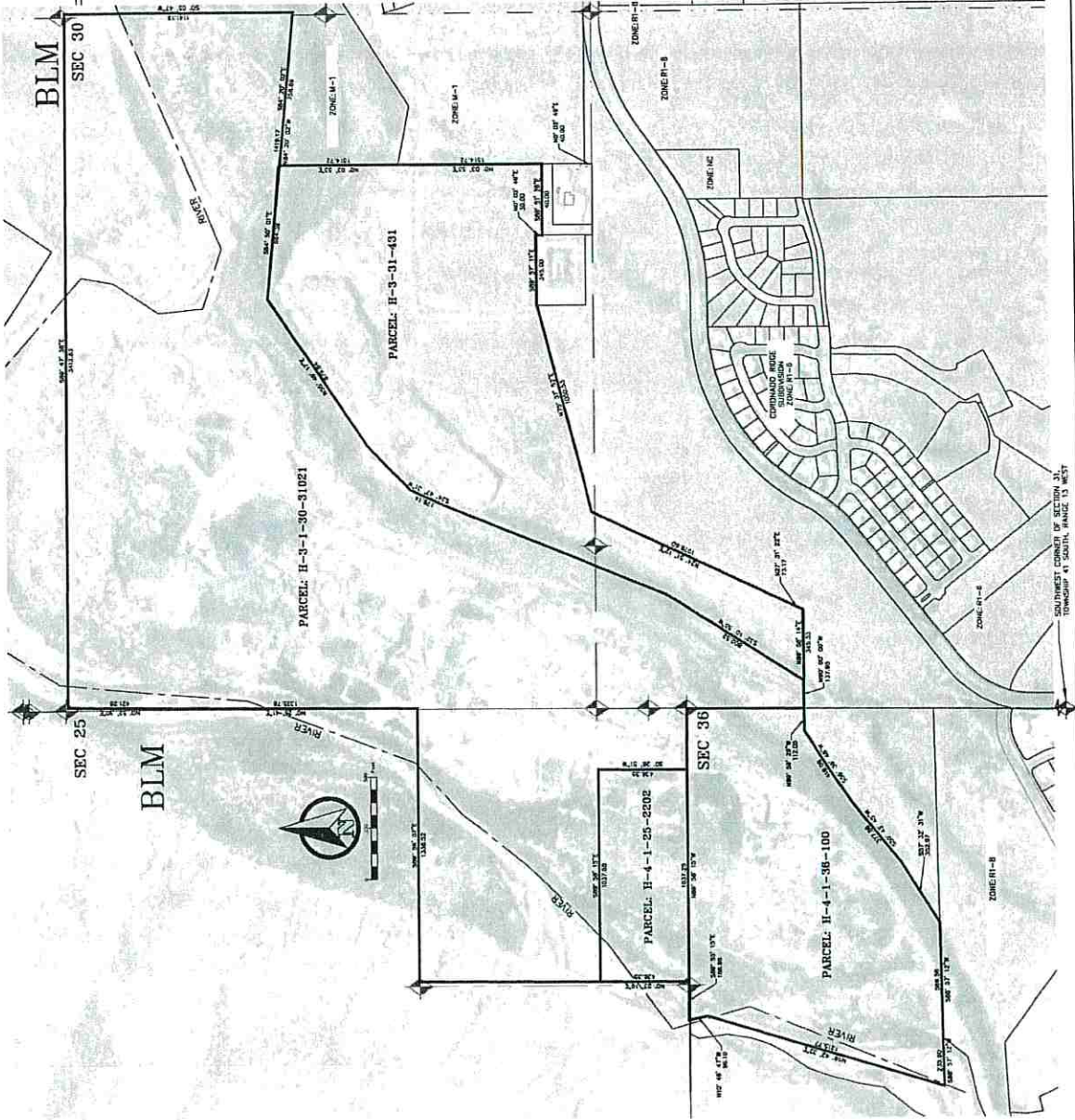
**SECTION 30, TOWNSHIP 41 SOUTH, RANGE 13 WEST
HURRICANE, UTAH**

[illegible][illegible][illegible]

BEGINNING AT A POINT 300 FEET WEST OF THE SECTION CORNER OF SECTION 23 TOWNSHIP 41 SOUTH, RANGE 14 WEST; THENCE NORTH 89°30'15" WEST 1037.25 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25 THENCE NORTH 02°32'18" EAST 438.35 FEET; THENCE SOUTH 89°30'15" EAST 1037.88 FEET TO A POINT 300 FEET WEST OF THE NORTHWEST CORNER OF SECTION 31 TOWNSHIP 41 SOUTH, RANGE 13 WEST; THENCE SOUTH 02°26'51" WEST 436.35 FEET TO THE POINT OF BEGINNING.

BEGINNING AT THE NORTHEAST CORNER OF SECTION 36 TOWNSHIP 41 SOUTH, RANGE 14 WEST; THENCE SOUTH 03°33'43" WEST 1224.30 FEET TO THE SECTION LINE; THENCE SOUTH 83°37'12" WEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 36; THENCE SOUTH 83°37'12" WEST 1849.63 FEET ALONG THE SOUTHWEST CORNER OF SECTION 36; THENCE NORTH 1/2 OF THE SECTION 36 1849.63 FEET ALONG THE SOUTHWEST CORNER OF THE VIGOR RIVER; THENCE ALONG THE SAND CENTER LINE TO A POINT ON THE SAND CENTER LINE; THENCE NORTH 07°46'47" WEST 86.10 FEET TO A POINT ON NORTH 18°42'32" EAST 1213.37 FEET; THENCE NORTH 07°46'47" WEST 86.10 FEET TO A POINT ON THE NORTH 18°42'32" EAST 1213.37 FEET; THENCE SOUTH 83°35'15" EAST 1238.20 FEET ALONG SAID NORTH 18°42'32" EAST 1213.37 FEET TO THE POINT OF BEGINNING.

BEGINNING AT THE NORTHEAST CORNER OF SECTION 38, TOWNSHIP 41 SOUTH, RANGE 14 WEST; THENCE SOUTH 00°23.40' EAST 353.74 FEET; THENCE SOUTH 00°23.42' EAST 0.19-2.13 FEET; THENCE SOUTH 88°37.12' WEST 1047.40 FEET; THENCE NORTH 37°32.31' EAST 352.87 FEET; THENCE NORTH 30°43.55' EAST 377.88 FEET; THENCE NORTH 56°30.48' EAST 418.08 FEET; THENCE SOUTH 00°39.29' EAST 112.05 FEET TO THE POINT OF BEGINNING.



INTERSTATE ROCK PRODUCTS, INC.
CRITICAL PROTECTION MAP FOR:
INTERSTATE ROCK PRODUCTS



PROPOSAL TO CREATE CRITICAL INFRASTRUCTURE MATERIALS
PROTECTION AREA

Proposal Sponsor, Interstate Rock Products, Inc., a Utah corporation and Stratton Brothers, LLC., a Utah limited liability company (hereinafter "Sponsor"), by and through its undersigned attorneys and pursuant to the provisions of the Utah Protection Areas Act, Title 17, Chapter 41, Utah Code Ann. ("Act"), hereby proposes that the City of Hurricane ("City") create a Critical Infrastructure Materials Protection Area ("Protected Area") as set forth below and, in support of the Proposal, Sponsor states as follows:

1. Sand, gravel, and rock aggregate are critical infrastructure materials, as defined at §17-41-101(6) of the Act.
2. Sponsor currently operates and has for a period in excess of twenty (20) years on Parcel No. H-3-1-31-431 and thirty (30) years on the remaining parcels a gravel pit, cement batch plant and in connection therewith extracts, excavates, processes, and reprocesses sand, gravel, rock aggregate, asphalt, rip rap and landscape rock in commercial quantities from and on that certain area of land designated in the records of the Washington County Recorder as Parcel Nos. H-3-1-30-31021, H-3-1-31-431, H-4-1-25-2202, and H-4-1-36-100 ("Property") consisting of 320.88 acres. See Exhibit A hereto.
3. Sponsor is a Critical Infrastructure Materials Operator, as defined at §17-41-101(8) of the Act, in that Sponsor is an organization which owns, controls, and manages a critical infrastructure materials operation.
4. The City of Hurricane is a municipality, as that term is defined at §17-41-101(17)(b) of the Act, the Proposal is properly before the City pursuant to §17-41-301(1)(a)(ii) of the Act, and the City has authority to create the Protected Area pursuant to §17-41-301(1)(b) of the Act.
5. Sponsor is the sole owner of the Property and thus has the authority to sponsor the Proposal pursuant to §17-41-301(1)(c)(i) of the Act.
6. The boundaries of the Property, which is the land proposed to become part of the Protected Area, are identified in the map attached hereto as Exhibit B.
7. The critical infrastructure materials operations on the Property have been conducted in conformance with the City's zoning requirements and there are no limits on the type of critical infrastructure materials operations located on the Property.

8. There remain critical infrastructure materials on the Property to support the critical infrastructure materials operations of Sponsor for a considerable period into the future, given the trends in technological conditions applicable to the critical infrastructure materials operations on the Property.

9. Located on the Property are an aggregate wash plant, office building, concrete precast building, asphalt plant, multiple crushers and aggregate processing equipment which Sponsor maintains those production and accounting functions associated with the critical infrastructure materials operations, a mechanic's shop for the repair and maintenance of Sponsor's mechanical equipment used in the critical infrastructure materials operations, a scale house used to weigh critical infrastructure materials in transport, and a batch plant for the production of cement which uses the critical infrastructure materials produced on the Property.

10. Sponsor requests that the City give notice of the Proposal to the Public and that it submit the Proposal to the Washington County Critical Infrastructure Materials Protection Areas Advisory Board for review and recommendations pursuant to §17- 41-303 of the Act.

Respectfully Submitted this ____ day of August 2021.

Aaron D. Randall
Thompson, Randall & Mellen
Attorneys for Sponsor

When Recorded Return to:
Hurricane City
147 N 870 West
Hurricane, UT 84737

DOC # 20210045576

Agreement Page 1 of 3
Gary Christensen Washington County Recorder
07/02/2021 04:12:43 PM Fee \$ 9.00
By HURRICANE CITY

ZONE CHANGE AGREEMENT

THIS ZONE CHANGE AGREEMENT ("Agreement") is made and entered into as of the 25 day of June, 2021 (the "Effective Date"), by and between the CITY OF HURRICANE, a Utah municipal corporation, hereinafter referred to as "City," and Interstate Rock Products, Inc. hereinafter referred to as "Property Owner." The City and Property Owner are hereinafter collectively referred to as "Parties."

RECITALS

A. Property Owner is the owner of approximately 3.24 acres of land located within the City of Hurricane, as is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Property Owner requested a zone change for the property as shown in Exhibit A and is willing to use the property in accordance with zoning designations under the terms of this Agreement as more fully set forth below.

C. On January 21, 2021, the City Council approved the zone change subject to the terms and conditions of the zone and the terms of this Agreement.

D. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

E. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Property Owner for the purpose of guiding the use of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

F. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Property Owner to use the property as expressed in this Agreement and the underlying zoning and the rights and responsibilities of the City to allow and regulate such uses pursuant to the requirements of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Property Owner hereby agree as follows:

1. Incorporation of Recitals. Recitals A through F are hereby incorporated into this Agreement as if fully set forth herein.

2. Zoning. The City hereby approves the zone change as shown in Exhibit A and grants to Property Owner all rights attendant to the zone subject to the terms and conditions of this agreement.

3. Additional Specific Property Owner Obligations. As an integral part of the consideration for this Agreement, the Property Owner hereby specifically agrees as follows:

- a. The Property Owner hereby releases, waives and disclaims any grandfathered non-conforming use claim rights for all property described in Exhibit A.
- b. All uses that take place within the area described in Exhibit A shall comply with the assigned underlying zone regardless of historic uses.
- c. Property Owner retains the rights of M-2 zoning use, as defined by city code as of January 21, 2021, until such time that a zone change has been requested by Property Owner and approved by City.

4. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Property Owner: Interstate Rock Products, Inc.
42 S. 850 W.
Hurricane, UT 84737
Phone: 435-635-2628

To the City: City of Hurricane
Attention: Fay Reber, City Attorney
68 S. 700 W.
Hurricane, UT 84737

5. Sale or Conveyance. If Property Owner sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Property Owner and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

6. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

7. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

8. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

9. Recording of Agreement. This Agreement shall be recorded at the office of the Washington County Recorder in St. George, Utah, shall be deemed to run with the land, and shall be binding upon the Parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first hereinabove written.



ATTEST:

By: [Signature]
City Recorder

CITY:

CITY OF HURRICANE

By: [Signature]
Mayor

PROPERTY OWNER:

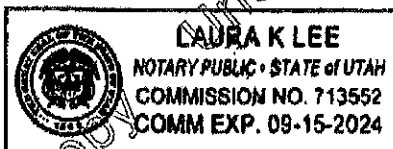
INTERSTATE ROCK PRODUCTS, INC.

By: [Signature]
Name: Donald N. Stratton
Title: President

STATE OF UTAH

COUNTY OF UTAH

On the 21st day of June, 2021, personally appeared before me Donald N. Stratton who being by me duly sworn, did say that he is the President of Interstate Rock Products, Inc., a Utah Corporation and that the within and foregoing instrument was signed on behalf of said corporation with proper authority and duly acknowledged to me that he executed the same.



[Signature]
Notary Public
Residing at: Virgin, UT

EXHIBIT A

Legal Description Parcel and Rezone Map:



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

FRANCINE A. GIANI
Executive Director

BRENT N. BATEMAN
Lead Attorney, Office of the Property Rights Ombudsman

ADVISORY OPINION

Advisory Opinion Requested By:	Jay Harwood
Local Government Entity:	Tooele County
Applicant for Land Use Approval:	Jay Harwood
Type of Property:	Gravel Pit
Date of this Advisory Opinion:	May 24, 2017
Opinion Authored By:	Brent N. Bateman Office of the Property Rights Ombudsman

ISSUE

May Mr. Harwood expand the boundaries of his legal nonconforming gravel pit?

SUMMARY OF ADVISORY OPINION

Utah law recognizes the doctrine of diminishing assets. This doctrine permits legal nonconforming gravel pits to expand beyond their physical boundaries in order to continue operations. Unlike other legal nonconforming uses, expansion of a gravel pit does not jeopardize the pit's legal status. However, expansion is limited to the boundaries of the parcel(s) upon which gravel operations existed at the time the use became nonconforming.

REVIEW

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE § 13-43-205. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is

hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts. A Request for an Advisory Opinion was received from Mr. Jay Harwood on January 11, 2017. A copy of that request was sent via certified mail to Marilyn K. Gillette, County Clerk, Tooele County, 47 South Main, #318, Tooele, UT 84074.

EVIDENCE

The Ombudsman's Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for an Advisory Opinion submitted by Mr. Jay Harwood on January 11, 2017, with attachments.
2. Letter submitted by Mr. Gary K. Searle, Chief Deputy Tooele County Attorney, received February 13, 2017, with attachments.
3. Response submitted by Mr. Harwood, received on February 17, 2017, with attachments.
4. Letter submitted by Mr. Scott Hunter, received on March 20, 2017, with attachments.
5. Response submitted by Mr. Harwood, received on April 7, 2017, with attachments.
6. Response submitted by Mr. Hunter, received on April 12, 2017, with attachments.

BACKGROUND

Advisory Opinion #176, released by this Office on November 29, 2016, concerns a ten-acre gravel operation in Tooele County. This Advisory Opinion is the second concerning the same gravel pit. Jay Harwood, requestor of this opinion, owns the pit and approximately 160 acres of the surrounding land, and would like to extract gravel. Some residents near the pit would prefer the gravel operation cease. Tooele County, we believe, simply wants to follow the law.

Advisory Opinion #176 addressed whether a previous conditional use permit for the pit remained in effect or had expired. This Office found therein that the CUP was no longer in effect since the zoning on the property changed to prohibit gravel extraction. Nevertheless, we opined that the existing ten-acre gravel pit was a legal nonconforming use that could continue unless abandoned. We further expressed the opinion that "the Pit can continue to operate in the size and manner to which it has been continuously maintained as a legal nonconforming use." It appears that after the release of that Advisory Opinion, Tooele County determined that Mr. Harwood's pit could continue gravel extraction operations, but could not expand its boundaries. In other words, the County ordered that extraction could continue vertically, but not horizontally.

In the current Advisory Opinion request, Mr. Harwood raises for the first time the *doctrine of diminishing assets*. He argues that this doctrine allows the nonconforming use to expand horizontally, widening the boundaries of the extraction area in order to continue operations. Tooele County counter-argues that Mr. Harwood does not have the legal right to expand his gravel operations beyond the existing 10 acre pit to the adjacent 160 acres he owns, because the

zoning did not allow gravel operations in any location on the property at the time Mr. Harwood purchased the property. Scott Hunter, requestor of the previous Advisory Opinion, also submitted arguments for this opinion, and argues that despite Advisory Opinion #176, no legal nonconforming use exists because the mine had been abandoned, and therefore the doctrine of diminishing assets does not apply.

ANALYSIS

Normally, legal nonconforming uses cannot expand beyond the historical boundaries of the use. The Utah Code states that an owner may not expand a legal nonconforming use by structural alteration of its building. UTAH CODE § 17-27a-510. In other words, the use must normally remain within the confines existing when the use became nonconforming.

A 50 year-old Utah case, *Gibbons & Reed Co. v. North Salt Lake City*, 431 P.2d 559 (Utah 1967), provides Utah's solitary exception to this prohibition on expansion. This case concerns a gravel extraction pit in North Salt Lake City, to which, as here, the neighbors objected. After accepting as a given that the gravel operation was legally nonconforming, the Utah Supreme Court noted that a gravel operation differs from other uses in that the very use consumes the asset:

The case here is not the usual case of a business conducted within buildings, nor is the land held merely as a site or location whereon the enterprise can be conducted indefinitely with existing facilities. In a gravel operation the land itself is a material or resource. It constitutes a diminishing asset and is consumed in the very process of use.

Id. at 562-563. The court expressly adopted a rule that we now call the doctrine of diminishing assets, which allows an extraction business to expand its boundaries onto the entire parcel. The Utah Supreme Court held that

The very nature and use of an extractive business contemplates the continuance of such use of the entire parcel of land without limitation or restriction to the immediate area excavated at the time the ordinance was passed.

Id. at 564. *Gibbons & Reed* remains the sole Utah case we can discover on the subject, and thus remains the effective and unoverturned law in Utah. And because of the close similarity of *Gibbons & Reed* to the present case, there can be no question that this doctrine applies here. Thus, in accordance with *Gibbons & Reed*, the non-conforming gravel pit in this case may continue to extract its diminishing assets. The pit may expand beyond its boundaries as they existed at the time the use became nonconforming. In other words, the doctrine of diminishing assets represents the law in Utah and Mr. Harwood may extract gravel horizontally. The pit may increase in size.

Nevertheless, the expansion of the nonconforming gravel pit is not indefinite. There must be a limit to which the horizontal boundaries of the gravel pit can expand. Otherwise, the pit could expand forever, rendering the nonconforming use rule meaningless. In *Gibbons & Reed*, the

court limited the expansion of the gravel pit to the boundaries of Parcel D, specifically finding that Parcel D was in use as a gravel pit at the time the use became nonconforming. The *Gibbons & Reed* Court held that since a part of Parcel D was in use, then all of Parcel D could be used for extraction as a legal nonconforming use. *Gibbons & Reed*, 431 P.2d at 564. The Court stated that "plaintiffs' use of parcel D was a valid nonconforming use and not an extension thereof." *Id.* at 565.

The unmistakable conclusion from the Court's analysis is that only a parcel actually in use at the time of nonconformity is eligible for expanded use under the doctrine of diminishing assets. Parcels *not in use* at the time are not eligible for gravel extraction under the diminishing assets doctrine. Expansion of the pit is limited by the boundary of the parcel upon which the owner conducted the use.

Accordingly, under *Gibbons & Reed*, the doctrine of diminishing assets allows the expansion of a gravel pit beyond the pit's physical boundaries, but only within and not beyond the boundaries of the parcel upon which the pit existed at the time that the extraction became legally nonconforming. Subsequent purchases of adjoining property, and even subsequent adjustment of boundaries, cannot indefinitely expand the nonconforming use. *Gibbons & Reed* supports only expansion of the pit to the boundaries of the parcel as it existed at the time the pit became nonconforming.

This result comports with existing Tooele County ordinance, which currently accepts the diminishing assets doctrine but prohibits adding property and changing boundaries in order to expand a nonconforming use area. Tooele County Ordinances 5-12. Moreover, the diminishing assets doctrine as adopted in other states yields the same result. For example, the Washington Supreme Court specifically limits expansion under the doctrine of diminishing assets to the boundaries of the parcel:

The proper scope of a lawful nonconforming use in an exhaustible resource is the whole parcel of land owned and intended to be use by the owner at the time the zoning ordinance was promulgated.

City of Univ. Place v. McGuire, 30 P.3d 453 (Wash, 2001) (also citing "the overwhelming number of jurisdictions" that have also held that expansion under this doctrine is limited by the boundaries of the parcel that existed at the time). Also, note 83 *Am. Jur. 2d* ZONING AND PLANNING § 569:

Such diminishing asset enterprises 'use' all of the land contained in a particular asset, and as a practical matter, such use must begin at one spot and continue from there to the boundary of the land.

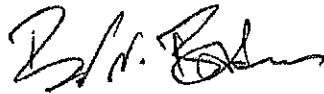
Accordingly, Mr. Harwood's existing ten-acre legally nonconforming gravel pit can continue extraction and operation. In the process the extraction can expand beyond its current horizontal boundaries without losing its legal nonconforming status. However, Mr. Harwood cannot continue that extraction onto properties that were not used for extraction at the time the use became nonconforming, even if he now owns those properties.

Moreover, the fact that the properties did not allow gravel extraction at the time that Mr. Harwood purchased them does not terminate or alter the legally nonconforming use status of the property. A legal nonconforming use runs with the land: "[A] nonconforming use or noncomplying structure may be continued by the present or a future property owner." UTAH CODE § 17-27a-510(1)(a). Also, "lawful existing nonconforming uses are not eradicated by a mere change in ownership." *Gibbons & Reed*, 431 P.2d at 564.

Finally, a party wishing to prove abandonment must show actual abandonment and not just evidence of intent to abandon. No authority can be found to support Mr. Hunter's argument that subsequent changes of intent alone effectuate abandonment. Abandonment arises from actual changes in actual physical use, *see generally* UTAH CODE § 17-27a-510(4), and not only intent to change use. No evidence of physical abandonment has been shown.

CONCLUSION

Gibbons & Reed established the doctrine of diminishing assets in Utah. This doctrine permits legal nonconforming gravel pits to expand beyond their physical boundaries and still retain their legal use status. Mr. Harwood can therefore continue to extract gravel at the site, and can expand his gravel pit horizontally. However, that horizontal expansion is limited to the boundaries of the parcel(s) upon which the pit existed at the time the ordinance changed and the use became legally nonconforming. Even if Mr. Harwood owns the adjacent land and/or boundaries have subsequently changed, the gravel pit cannot expand beyond the parcels as they existed at that time.



Brent N. Bateman, Lead Attorney
Office of the Property Rights Ombudsman

NOTE:

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees provisions, found in UTAH CODE § 13-43-206, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.

MAILING CERTIFICATE

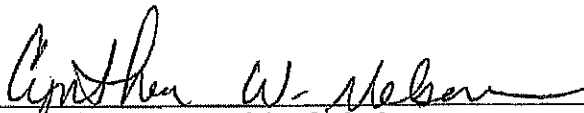
Section 13-43-206(10)(b) of the Utah Code requires delivery of the attached advisory opinion to the government entity involved in this matter in a manner that complies with UTAH CODE § 63-30d-401 (Notices Filed Under the Governmental Immunity Act).

These provisions of state code require that the advisory opinion be delivered to the agent designated by the governmental entity to receive notices on behalf of the governmental entity in the Governmental Immunity Act database maintained by the Utah State Department of Commerce, Division of Corporations and Commercial Code, and to the address shown is as designated in that database.

The person and address designated in the Governmental Immunity Act database is as follows:

Marilyn K. Gillette, County Clerk
Tooele County
47 South Main, #318
Tooele, Utah 84074

On this 25th Day of May, 2017, I caused the attached Advisory Opinion to be delivered to the governmental office by delivering the same to the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the person shown above.



Office of the Property Rights Ombudsman



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah Department of Commerce

OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

CHRIS PARKER
Interim Executive Director

JORDAN S. CULLIMORE
Division Director, Office of the Property Rights Ombudsman

ADVISORY OPINION

Advisory Opinion Requested By: Thomas Karjola, Mayor of Stockton Town
Local Government Entity: Stockton Town
Property Owner: Kilgore Companies
Applicant for Land Use Approval: Kilgore Companies
Type of Property: A2 Agricultural
Date of this Advisory Opinion: February 24, 2020
Opinion Authored By: Marcie M. Jones, Attorney
Office of the Property Rights Ombudsman

ISSUE

Does Stockton Town have the legal authority to prohibit the commencement of mining operations on property owned by Kilgore Companies within Stockton Town?

SUMMARY OF ADVISORY OPINION

The property owned by Kilgore Companies within Stockton Town is zoned A2 within the Town's agricultural zoning district. Mining is not a permitted use within this zone. Kilgore has not provided evidence which establishes that gravel mining is nonetheless legal. Based on information presented in the record, mining is not a legal non-conforming use based on either historic use or the Settlement Agreement between Tooele County and Kilgore's predecessor in interest. Therefore, Stockton City has the legal authority to prohibit mining operations on Kilgore's property within Stockton Town limits.

REVIEW

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE § 13-43-205. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use

application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Thomas Karjola, Mayor of Stockton Town, on June 17, 2019. A copy of that request was sent via certified mail to Kilgore Companies, 15 West South Temple, Suite 1701, Salt Lake City, Utah 84101 on July 1, 2019.

EVIDENCE

The Ombudsman's Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for an Advisory Opinion, submitted by Thomas Karjola, Mayor of Stockton Town, on June 17, 2019.
2. Letter, with attachments, submitted by Bruce R. Baird, as counsel for Kilgore Companies, received on August 7, 2019.
3. Letter submitted by Thomas Karjola, Mayor of Stockton Town, received on August 15, 2019.
4. Email, with attachments, submitted by Bruce R. Baird, as counsel for Kilgore Companies, received on November 19, 2019.
5. Email submitted by Thomas Karjola, Mayor of Stockton Town, received on November 20, 2019.

BACKGROUND

The record includes only the following abbreviated timeline of relevant events. Note that key information is missing and some facts are in dispute.

- **Kilgore owns 128.15 acres in Tooele County**
Kilgore Companies owns approximately 128.15 acres of property in Tooele County which it purchased in 2007 from Diamond B-Y Ranches, Inc. A portion of this property is located in unincorporated Tooele County (the "County Property") and a portion is located within the boundaries of Stockton Town (the "Stockton Property", and together with the County Property, the "Property").
- **Property was historically used to operate a gravel pit**
According to the court opinion for *Diamond B-Y Ranches v. Tooele County* mentioned below, portions of the property then owned by Diamond were historically used to operate a gravel pit.¹ The opinion does not distinguish which portion of the Property was mined, when the gravel mining began, when operations ceased, or whether such operation was

¹ See *Diamond B-Y Ranches v. Tooele County*, 91 P.3d 841, 2004 ¶ 2 which states "Diamond owns over 190 acres of land in Tooele County, approximately one third of which is within the northern boundary of the town of Stockton. The property has historically been used to operate a gravel pit . . ."

legal at the time.² Further, as the property described in the court opinion was 190 acres and the property now owned by Kilgore is 128.15 acres, it is not clear whether Kilgore now owns that portion of property where the historic gravel pit was located.

Kilgore has submitted historic aerial photos which purportedly depict mining activities on portions of the Property. Photos for the following years have been provided: 1959, 1966, 1978, 1985, 1987, 2004, 2006, 2009, 2011, 2013, 2014, 2016, 2017, and 2018. However, the photos do not include parcel boundaries or other identifying information so it is not clear which property is depicted. Further, it is not obvious which ground disturbances may be related to mining activity.

No additional evidence that mining legally occurred on either the Town Property, or the County Property prior to annexation into Stockton, has been provided.

Stockton has asserted that "no such Mining use has ever legally existed or been conducted on the [Stockton Property]."

- **Stockton Property annexed into Stockton Town**

Neither party has presented any direct evidence establishing when the Stockton Property was annexed. Based on the court opinion for *Diamond B-Y Ranches*, annexation had apparently occurred by 2004.³

- **Parcel originally not split along jurisdictional boundaries**

Assessor's parcel boundaries typically do not cross jurisdictional boundaries but in this case, for reasons not explored in the record, the Property remained as a single assessor's parcel after the annexation.

In or about 2019, the Tooele County Assessor's office apparently split the Property along the jurisdictional boundary between the Town and the County. In the record, Kilgore represents that this split was done "without notice or approval of Kilgore" and "in violation of subdivision provisions of state law." Both parties state that they did not instigate or participate in actions resulting in the lot split.

No further information on the parcel split is available.

- **Application for Conditional Use Permit to mine County Property**

In 2000, the County Property "was zoned such that mining and related activities, including the operation of a gravel pit, were among the activities designated as conditional uses for the property."⁴ Accordingly, Diamond submitted an application to Tooele County for a Conditional Use Permit ("CUP") to operate a gravel pit on the Property. After several public hearings, a six-month moratorium to re-evaluate extraction operations policy, a failed rezoning attempt, and options for an exhaustive Environmental

² *Id.*

³ *Id.*

⁴ *Id.*

Impact Study requested by the Planning Commission were explored, the County Commission denied the Conditional Use Permit application.

Note that there is nothing in the record to suggest that gravel mining operations were active when the CUP was applied for.

- **Lawsuit following Conditional Use Permit denial**

Diamond then filed a lawsuit in district court, *Diamond B-Y Ranches v. Tooele County*, alleging the CUP denial constitutes a taking of all economically viable use of the Property.⁵ The trial court granted summary judgment in favor of the County based on its determination that Diamond had no protectable property interest in the permit and did not provide sufficient evidence to allow approval of the permit. In 2004, the Court of Appeals reversed and remanded, finding that the County failed to cite noncompliance with application procedures in denying the permit and that Diamond's claim that all economically viable uses of the Property were denied the owner was ripe for determination.

- **Settlement Agreement allows mining on County Property only**

In 2006, Tooele County and Diamond entered in to a Settlement Agreement to "resolve and settle amicably" whether Diamond is entitled to a Conditional Use Permit for gravel operations. The Settlement Agreement resolves the dispute "between the County and Diamond regarding the applicability and enforcement of various of the County's land use ordinances, regulations and requirements and whether Diamond is entitled to a conditional use permit for Gravel Operations on the Diamond Property." Through the Settlement Agreement, the parties agree that Diamond shall have the right to conduct gravel operations on the Diamond Property subject to certain specified conditions. The wording of the Settlement Agreement does not suggest that gravel pit operations were then active on the Property.

Note that Stockton Town is not a party to this Settlement Agreement and the Stockton Property had apparently already been annexed into Stockton when the Settlement Agreement was entered in to.

- **Stockton issued cease and desist letter to Kilgore**

In 2019, in response to Kilgore's "conducting or intending to conduct" mining activities on the Stockton Property, Stockton issued a cease and desist letter to Kilgore giving notice that mining operations are not a permitted use on the Stockton Property and is therefore unlawful and will not be allowed.

- **Stockton requests Advisory Opinion**

Stockton then submitted an Advisory Opinion Request to this office to determine whether Stockton Town has the legal authority to prohibit the commencement of a mining operation on the Stockton Property.

⁵ *Diamond B-Y Ranches v. Tooele County*, 91 P.3d 841, 2004.

A quick summary of background information may be useful at this point. The record provides that historically, a gravel pit was operated on property which Diamond then owned. We do not know if the gravel pit was operated in compliance with zoning laws then in effect. Similarly, we do not know when mining activities began and when they apparently ended, or, whether the mining occurred before or after part of the property was annexed into Stockton Town. It is not clear whether Kilgore now owns the site of any historic gravel pit.

We do not know when property was annexed into Stockton Town, but it had apparently occurred by the early 2000's. For unexplained reasons, the Property remained as a single parcel after the annexation and was not split along jurisdictional boundaries until 2019. While we do not know when the historic mine was in operation, it appears that that mining activities had stopped by the early 2000's.

Diamond applied for a Conditional Use Permit to allow mining operations on the County Property (2000), filed a lawsuit when it was denied (2004), and then entered in to a Settlement Agreement with Tooele County (2006) which established that gravel mining operations can be conducted on the County Property. Kilgore then purchased the Property (2007).

In or about 2019, Stockton understood that Kilgore was operating, or intended to operate, gravel mining operations on the Stockton Property. This prompted Stockton to issue a cease and desist letter to Kilgore requiring them to halt any ongoing or proposed mining activity on the Stockton Property.

The Town has now requested this Advisory Opinion to determine whether, given the history, the Town has the legal authority to prohibit the commencement of mining operations on that portion of the Property owned by Kilgore Companies within the Stockton Town limits.

ANALYSIS

Municipal governments are given broad discretion to govern uses within their boundaries.⁶ According to state law, "[t]he legislative body may divide the territory over which it has jurisdiction into zoning districts of a number, shape, and area that it considers appropriate to carry out the purposes of this chapter," and further, "[w]ithin those zoning districts, the legislative body may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, and the use of land."⁷

According to the record, the Stockton Property is currently zoned A2 which is an agricultural use zone with a minimum lot size of two acres.⁸ Mining is neither a permitted nor a conditional use within this zone.⁹ The Stockton Town Code provides that uses not specifically permitted are expressly prohibited.¹⁰ Therefore, Stockton maintains that mining is not an allowed use on the

⁶ See generally UTAH CODE § 10-9a.

⁷ UTAH CODE § 10-9a-505(1).

⁸ STOCKTON TOWN CODE § 10-6B-2 and 3.

⁹ *Id.*

¹⁰ STOCKTON TOWN CODE § 10-4-10.

Stockton Property, and the Town may legally prohibit Kilgore from “conducting or intending to conduct” mining activities.

Kilgore argues that despite the current zoning designation, mining is permitted as a legal non-conforming use due to (1) its historic use as a gravel mine, and/or (2) as a result of the Settlement Agreement signed by Kilgore’s predecessor in interest and Tooele County, and/or (3) due to protections provided by recently passed Critical Infrastructure Materials Operations legislation.

According to Utah law, if a property owner can establish that a particular use was legally established and the zoning was later changed, rendering that use impermissible, the use may legally be continued under certain circumstances.¹¹ This is known as a legal non-conforming use.¹²

A property owner's use of its property falls within the definition of a legal non-conforming use if three conditions are met: (1) the use legally existed before its current land use designation; (2) the use has been maintained continuously since the time the land use ordinance governing the land changed; and (3) because of one or more subsequent land use ordinance changes, the use does not conform to the regulations that now govern use of the land.¹³

For mining operations, the “entire tract is generally regarded as within the exemption of an existing nonconforming use . . .”¹⁴ In this case, because the Property historically existed as a single parcel, if Kilgore can establish that gravel mining was conducted as a legal non-conforming use prior to annexation into Stockton Town, and the other prongs of the test are met, Kilgore has the legal right to continue gravel mining operations on the entire tract, specifically including the Stockton Property.

Note that the burden of establishing a legal non-conforming use falls to Kilgore. State law provides that “[u]nless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.”¹⁵ Neither party has provided any evidence that the Town has, by ordinance, modified this burden of proof. Therefore Kilgore has the burden to prove that the three prongs of the legal non-conforming use test have been met.

1. No legal non-conforming use based on historic use

Kilgore argues that mining is a legal non-conforming use on the Stockton Property based on past mining activities. To establish a legal non-conforming use based on the facts at hand, Kilgore must establish that (1) a gravel pit was legally established on either the Stockton Property, or the County Property prior to the Town of Stockton annexation, and (2) the gravel pit has been continuously operated since the time that the land use ordinance changed, and (3) because of one

¹¹ UTAH CODE § 10-9a-511(1)(a).

¹² UTAH CODE § 10-9a-103(37).

¹³ UTAH CODE § 17-27a-103(38).

¹⁴ *Gibbons & Reed Co. v. North Salt Lake City*, 19 Utah 2d 329.

¹⁵ UTAH STATE CODE § 10-9a-511(4)(a).

or more subsequent land use ordinance changes, the use does not conform to the regulations that now govern use of the land.¹⁶

To satisfy the first prong of the legal non-conforming use test, Kilgore must establish that mining legally existed on the Property before the current land use designation was established. Kilgore has stated that mining existed on the Property since 1959. To support this claim, Kilgore has submitted a series of historic aerial photographs which, Kilgore states, demonstrate that mining has occurred on the Property from 1959 through 2018. In contradiction, Stockton states that the historical photographs demonstrate that "no mining or extractive activities have taken place on the property in question."

Boundaries and other identifying information have not been included on the photos so it is not clear which property is depicted. Further, it is not obvious which ground disturbances are related to mining activity. As such, the photos do not establish that mining has occurred, or is occurring, on the Property.

However, the record includes a second source of evidence that mining was historically conducted on a portion of the Property. The opinion for *Diamond B-Y Ranches*, whereby the prior owner of the Property sought a Conditional Use Permit to operate a gravel mine on the County Property, notes that "the property has historically been used to operate a gravel pit . . ."¹⁷ The court does not specify whether the mining occurred on the County Property, the Stockton Property, or both. Also, the subject property in the lawsuit was 190 acres, and Kilgore now owns only 128 acres. The historic gravel pit may lie on portions of the property Kilgore does not own. Therefore, this establishes only that mining existed historically on property Diamond owned.

Kilgore has the burden of showing the use *legally existed* before its current land use designation to satisfy the first prong of the test. The record does not include any evidence that the historic mining which occurred was legal. Kilgore has not provided copies of historic ordinances or other any other documentation to support its assertion that mining was at some point an allowable use on the property. Furthermore, the record does not provide evidence that the historic mine was located on either the Stockton Property or the County Property prior to annexation of the Stockton Property. As such, Kilgore has failed to establish that mining on the Property is a legal non-conforming use based on historic mining activity.

Note that even were Kilgore to establish the first prong of the legal non-conforming use test, there is no evidence in the record to indicate that the second prong could be met. The first prong of the non-conforming use test requires that mining operations be legally operated, the second prong requires that such mining activity be maintained continuously since the time the land use ordinance governing the land changed. Evidence in the record on this issue is scant, but what indirect evidence is provided indicates mining activity was not a continuously on-going operation. For instance, the 2004 opinion speaks only of "historic mining activity" and an offer to purchase the Property which was "conditioned on [the property owner] obtaining a permit to operate a gravel pit, concrete batch plant, and asphalt hot plant on the property." No mention of on-going mining activity is made. Similarly, the Settlement Agreement states that "[the property

¹⁶ UTAH CODE § 17-27a-103(38).

¹⁷ *Gibbons & Reed Co. v. North Salt Lake City*, 19 Utah 2d 329, ¶2.

owner] shall have the right to conduct gravel operations on the [County Property],” and notably lacks any language indicating permission to continue any existing, on-going use. The historic photos similarly do not establish that mining activities have continuously occurred on the Property.

It is noteworthy that the court opinion includes a statement that the property was historically used to operate a gravel pit, yet the property owners sought a Conditional Use Permit rather than status as a legal non-conforming use. Presumably, had the facts to support a legal non-conforming use claim then been present, the owners would have pursued that option at that time. Establishing status as a legal non-conforming use would have been much faster and much cheaper than requesting a Conditional Use Permit and engaging in a costly legal battle when the CUP was denied. It is noteworthy that neither the *Diamond B-Y* opinion nor the Settlement Agreement that follows make any mention of a legal non-conforming use or the legal continuation of any existing mining operation.

To summarize, the record does not include evidence that historic gravel mining operations were legally established on the Property, nor does the record establish that any such gravel operations have been maintained continuously to this day, as required by the first and second prongs of the legal non-conforming use tests. As a consequence, Kilgore has failed to establish that mining on the Property is a legal non-conforming use based on historic mining activity.

2. No legal non-conforming use based on the Settlement Agreement

Kilgore has also argued that the Settlement Agreement between Tooele County and Kilgore’s predecessor in interest conveys the right to mine the Stockton Property. In 2006, the owner of the Property and Tooele County entered in to a Settlement Agreement resolving then on-going litigation regarding the owner’s right to operate a gravel mine. Kilgore argues that the Settlement Agreement authorized gravel operations on the entire Property. However, Stockton was not a party to the Agreement. Furthermore, the Agreement states several times that it applies only to that portion of the Property located in unincorporated Tooele County.

Regardless, Kilgore argues that according to the relevant common law established in *Gibbons & Reed Co v. North Salt Lake City*¹⁸, once mining activity is legally established on a parcel, it can continue without limitation through “the entire tract.” *Gibbons* establishes that:

[t]he very nature and use of an extractive business contemplates the continuance of such use of the entire parcel of land without limitation or restriction to the immediate area excavated at the time the ordinance was passed. . . Thus, the entire tract is generally regarded as within the exemption of an existing nonconforming use, although the entire tract is not so used at the time of the passage or effective date of the zoning ordinance.

Kilgore argues that the Settlement Agreement similarly confers the right to mine the “entire tract” of Property, including the Stockton Property, because the right conferred by the legal non-

¹⁸ *Gibbons & Reed Co. v. North Salt Lake City*, 19 Utah 2d 329.

conforming use "extends to the edge of the parcel" and despite the prior annexation, the entire Property was identified by a single tax parcel number and thus, was part of one tract.

However, the facts of the case before us are substantially different. In *Gibbons*, the entire subject property had first been zoned to allow mining activities; the zoning was later changed to a residential use which did not permit mining. Mining was found to be a legal non-conforming use because the three prongs of the legal non-conforming use test were met: (1) mining legally existed before the parcel was rezoned residential; (2) the use has been maintained continuously since the rezoning occurred; and (3) because of the rezoning, mining no longer conformed to the regulations now governing the property.¹⁹ The Court held that mining could therefore extend throughout the entirety of the parcel.

In contrast, based upon the information the parties have submitted, and as indicated above, this situation at hand does not involve a legal non-conforming use. In the present situation, the Settlement Agreement conveys the right to operate gravel mining on the County Property only. Principles applicable to legal nonconforming use do not come into play. Moreover, Stockton was not a party to the Agreement. The Stockton Property had been annexed prior to 2004, before the Settlement Agreement was signed in 2006.

Accordingly, the rights conveyed in the Settlement Agreement do not apply to the Stockton Property portion of the Property. Therefore, the Settlement Agreement between the property owner and Tooele County does not create a legal non-conforming use on the Stockton Property.

3. No protection by Critical Infrastructure Materials Operations legislation

Kilgore has also alleged that mining on the Stockton Property is protected by recently passed Critical Infrastructure Materials Operations legislation.²⁰ However, this statute provides protection only to mines "operating in accordance with a legal nonconforming use or a permit that existed or was conducted or otherwise engaged in before: (a) a political subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials operations; and (b) January 1, 2019."²¹ As Kilgore has not established that mining is a legal non-conforming use nor do they have a permit to mine the Stockton Property, this legislation does not apply.

In summary, mining is not a permitted use on the Stockton Property. Based on the limited information in the record, Kilgore has not provided evidence to establish that mining is a legal non-conforming use based on either historic mining activity or the Settlement Agreement. Further, Kilgore has not established that recent Critical Infrastructure Materials Operations legislation protects mining on the Stockton Property. Therefore, Stockton has the legal authority to prohibit mining operations on property within the Stockton Town limits and owned by Kilgore Companies

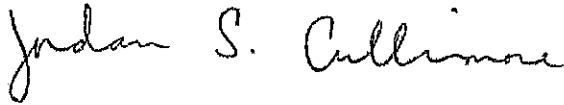
¹⁹ UTAH CODE § 17-27a-103(38).

²⁰ UTAH STATE CODE § 10-9a-901 et. seq.

²¹ *Id.*

CONCLUSION

The property owned by Kilgore Companies within Stockton Town is zoned A2 within the Town's agricultural zoning district. Mining is not a permitted within this zone. The Stockton Town Code provides that uses not specifically permitted are expressly prohibited. Furthermore, Kilgore has not provided sufficient evidence to establish that gravel mining is a legal non-conforming use based on historic legal use. Similarly, the Settlement Agreement between Tooele County and Kilgore's predecessor in interest and the Critical Infrastructure Materials Operations legislation to not convey the right to mine the Stockton Property. Therefore, Stockton City has the legal authority to prohibit the commencement of mining operations on Kilgore's property within the Stockton Town limits.



Jordan Cullimore, Lead Attorney
Office of the Property Rights Ombudsman

NOTE:

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees provisions, found in UTAH CODE § 13-43-206, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.

MAILING CERTIFICATE

On this 25th Day of February, 2020, I caused the attached Advisory Opinion to be delivered via the United States Postal Service, postage prepaid, and certified mail, return receipt requested and addressed to the person shown below.

Kilgore Companies
15 West South Temple, Suite 1701
Salt Lake City, Utah 84101



Office of the Property Rights Ombudsman



Gibbons & Reed Co. v. North Salt Lake City

Supreme Court of Utah

September 7, 1967

No. 10662

Reporter

19 Utah 2d 329 *; 431 P.2d 559 **; 1967 Utah LEXIS 628 ***

GIBBONS & REED COMPANY, a corporation,
and Gibbons & Reed Concrete Products Company,
a corporation, Plaintiffs and Respondents, v.
NORTH SALT LAKE CITY, a municipal
corporation, Defendant and Appellant

Disposition: [***1] Judgment affirmed with
modifications.

Case Summary

Procedural Posture

Appellant, a municipal corporation, sought review of a judgment from the lower court (Utah), which entered a judgment prohibiting the enforcement of two zoning ordinances and one excavation ordinance, to compel the discontinuance of the use of plaintiff company's property for sand and gravel operations.

Overview

The primary question presented concerned the validity of the provisions of the ordinances as applied to the company's operations on the relevant parcel of property. Despite the language of the

certain ordinances, the company continued sand and gravel operations until the municipal corporation served them with a stop order. The company then brought suit asking that the zoning and building ordinances relied upon by the municipal corporation in issuance of the stop order be declared invalid as they applied to their operations. On appeal, the court held that, after considering all the factors involved, including the existing use of the property, the availability of a natural resource, the severe loss to both the fee owners and the public as compared to the relatively small inconvenience to owners in that neighborhood, there was evidence in the record to support the trial court's decision that the zoning ordinance as enforced against the company's property was an invalid exercise of the police power. Accordingly, the court affirmed the trial court's decision with modifications.

Outcome

The court affirmed the decision of the lower court, with modifications. The court held that there was evidence in the record to support the trial court's decision that the zoning ordinance as enforced against the company's property was an invalid exercise of the police power.

Counsel: Thomas, Armstrong, Rawlings & West,

Salt Lake City, for appellant.

Bryce E. Roe, Salt Lake City, for respondents.

Judges: Callister, Justice. Crockett, C. J., Henriod, Tuckett and Ellett, JJ., concur.

Opinion by: CALLISTER

Opinion

[*330] [**560] North Salt Lake City, a municipal corporation, appeals from a judgment prohibiting the enforcement of two of its zoning ordinances and one excavation ordinance, to compel the discontinuance of the use of plaintiffs' property for sand and gravel operations. The primary question presented concerns the validity of the provisions of the ordinances as applied to plaintiffs' operations on the property herein referred to as parcel D.

[*331] The property involved in this dispute consists of real property situated within the municipal boundaries of North Salt Lake City. It is divided into four parcels, and identified here by the letters A, B, C, D. Parcel D borders a subdivision known as Hillside Gardens which consists of 140 lots. Prior to 1957 no zoning ordinances were in effect which related to the use of the above parcels. On August 5, 1957, after proper notice and a public hearing, North [***2] Salt Lake City enacted the "original Zoning Ordinance." Under its provisions parcels [**561] A, B and C were located in a zone designated for forestry and natural resource use, called "F-1." Excavation of sand, gravel, and other related materials are permitted in F-1 zones. Parcel D was located in an area designated for residential use, called "R-1." Excavation of sand, gravel, and

other related materials are not permitted in R-1 zones.

At the time of the enactment of that original zoning ordinance, plaintiffs were the owners of parcel A. Parcels B and D were owned by the Gibbs family. Plaintiffs acquired parcels B and D in 1959 from the Gibbs family, parcel D by purchase and parcel B by lease. At the time of the transfer plaintiffs were aware of the provisions of the 1957 zoning ordinance, but apparently bought the land relying on the state statute which provides that the zoning authority shall not deprive the owner of property of its use to which it was lawfully devoted prior to the enactment of the ordinance.¹

[***3] On April 3, 1961, North Salt Lake amended its zoning ordinance and enacted North Salt Lake City Ordinance No. 52, which changed the zoning classifications of parcels B and C from F-1 to R-1 thus placing them in a zone prohibiting the excavation of gravel materials. Then on January 15, 1962, North Salt Lake passed Ordinance No. 60 which contains restrictive provisions and regulations allowing the city council and building inspector to approve or disapprove rehabilitation plans and fix amounts of bonds.

Despite the language of the above three ordinances, the plaintiffs continued their sand and gravel operations until August 18, 1964, when the defendant city served them with a "Stop Order" causing plaintiffs to discontinue excavation and crushing operations. Plaintiffs then brought suit asking that the zoning and building ordinances relied upon by the defendant in issuance of the "Stop Order" be declared invalid as they applied to their operations. After an extended trial, the lower court found that: both the zoning ordinances of North Salt Lake City were invalid as to parcels B, C, and D and unenforceable insofar as they prohibited excavation of sand, gravel and [*332] other [***4] related materials and prevented the maintenance of haul roads. The court observed

¹ 10-9-6, U.C.A., 1953. See also North Salt Lake Code, § 10-1-2.

that, by virtue of the usage to which the property had been put both prior and after the enactment of the zoning ordinances, any prohibition of use would be unreasonable and confiscatory and would result in the taking of private property without due process, which would be violative of both the state and federal constitutions and also Utah Code Ann. § 10-9-3 (1953). The court also concluded that with respect to the properties of plaintiffs (B and D) that North Salt Lake Excavation Ordinance No. 60 was invalid and violative of the equal protection and due process clauses of both the state and federal constitutions since it placed upon the property owners the unreasonable burden of furnishing detailed rehabilitation plans prior to the time at which the character of the ground minerals could be known and because it permitted the city council and building inspector to approve or disapprove rehabilitation plans and fix amounts of bonds without adequate standards having been established.

From that judgment the defendant seeks a reversal. This appeal only involves two parcels, B and D. Plaintiffs stipulated [***5] that they no longer had any interest or claim in parcel C and defendant concedes in its brief that the only property which the zoning ordinances are in issue with here is parcel D. Defendant, however, still contends the excavation ordinance is applicable to both B and D.

We first address ourselves to the validity of the 1957 zoning ordinance as it applies to parcel D. The lower court found that parcel D was used for excavation of sand and gravel and other related materials at the time the 1957 zoning ordinance was enacted, and has continued at all times since. Plaintiffs' interest is more appropriately called a nonconforming use since it existed on [**562] the effective dates of the 1957 zoning restrictions and has continued since that time in nonconformance to the ordinance.

The defendant contends the 1957 zoning ordinance is not unconstitutional under either federal or state constitutional prohibitions against taking of

property without due process of the law. However, since we find this case is determinative under the state statute it is unnecessary for us to consider whether due process forbids a forced discontinuance of the plaintiffs' use.

The power of North Salt Lake [***6] to zone is derived from the state.² The right to regulate the use of property within municipal limits is limited for the purpose of promoting the health, safety, morals, and the general welfare of the community. The statutes provide that the regulations shall be made in accordance with a comprehensive plan to promote health and the general [**333] welfare of the community. They also provide that such regulations "shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city."

The defendant city contends that the 1957 zoning ordinance which prohibits gravel operations in parcel D was a valid exercise of this police power since the ordinance was substantially related to public health, safety, morals and general welfare. Defendant city contends that a gravel pit would [***7] lower the value of the homes in the subdivision located just north of parcel D. It also contends that the dust problem was a motivating factor in enacting the ordinance and that the reclassification of parcel D was not arbitrary since that property was the logical choice based on natural boundaries. Defendant stated in the brief that the parcel was never intended to be used for gravel operations and that the owners of homes in the subdivision had relied on such lack of intent. Defendant also cites several cases which contain words to the effect that courts should defer to the zoning authority since zoning is a legislative function in which the authority has a wide latitude of discretion, and that if it is reasonably debatable that the zoning ordinances promote the general

² 10-9-1 to 10-9-18, U.C.A.1953.

19 Utah 2d 329, *333; 431 P.2d 559, **562; 1967 Utah LEXIS 628, ***7

welfare the court should not substitute its judgment for that of the zoning authority. Marshall v. Salt Lake City, 105 Utah 111, 141 P.2d 704, 149 A.L.R. 282; Phi Kappa Iota Fraternity v. Salt Lake City, 116 Utah 536, 212 P.2d 177; Gayland v. Salt Lake County, 11 Utah 2d 307, 358 P.2d 633; Dowse v. Salt Lake City Corporation, 123 Utah 107, 255 P.2d 723; Walton v. Tracy Loan & Trust Co., 97 Utah 249, 92 P.2d 724; [***8] Navlor v. Salt Lake City Corporation, 17 Utah 2d 300, 410 P.2d 764.

Although the wisdom and the nature of zoning power has been left in the discretion of the city authorities, the courts may still intervene and set aside their action if such ordinances are confiscatory, discriminatory, or unreasonable. See Marshall v. Salt Lake City, *supra*; Dowse v. Salt Lake City Corp., *supra*. While the precise question presented here has not heretofore been considered by this court, the rules applicable to nonconforming uses are well established. In applying the rules of zoning law, the facts in each particular case must be taken into consideration. Herman v. Village of Hillside, 15 Ill.2d 396, 155 N.E.2d 47 (1959); County of Du Page v. Elmhurst-Chicago Stone Co., 18 Ill.2d 479, 165 N.E.2d 310 (1960). The cases cited by the defendant do not involve diminishing asset property like we have here. They do not involve zoning action which makes almost useless otherwise valuable land. The case here is not the usual case of a business conducted within buildings, nor is [***34] the land held merely as a site or location whereon the enterprise can be conducted indefinitely with existing facilities. [***9] In a gravel operation the land itself is a material or resource. It constitutes a diminishing asset and is consumed in the very process [**563] of use. Under these facts the ordinary concept of "use" must yield to the realities of the business.

We find sufficient evidence in the record to support the trial court's findings that the ordinance of 1957 which prohibits quarrying operations on parcel D is of no real gain to the public in general. The record shows no foreseeable future need for residential property in that area. The lower court evidently did

not find any substantial evidence to show any apparent dust problem specifically attributed to the quarrying operations. Unless the dust becomes a nuisance, a zoning ordinance which required the discontinuance forthwith of a nonconforming use would be a deprivation of property without due process of law. McCaslin v. City of Monterey Park, 163 Cal.App.2d 339, 329 P.2d 522, 526 (1958); Dobbins v. City of Los Angeles, 195 U.S. 223, 25 S.Ct. 18, 49 L.Ed. 169 (1904). The lower court was not of the opinion that the gravel operations would have any substantial adverse effect upon the value of other property in North Salt Lake. In [***10] fact there was testimony at trial that because of the influence of industrial activity in other gravel pits surrounding the subdivision on the south and east, and the highway, commercial areas, and industrial activities on the north and west, the excavation on parcel D would not adversely affect the value of the subdivision. Conversely, if such an ordinance were allowed, the record indicates that the fair market value of plaintiffs' property would be reduced from almost \$ 86,000 to approximately \$ 39,000. In addition to that, the plaintiff would be unable to utilize sand and gravel deposits of a value approximating \$ 1,000,000. The defendant both in its brief and in oral argument contended that it is error to consider value as a factor in determining the reasonableness of the ordinance. It cites Dowse v. North Salt Lake City Corporation, 123 Utah 107, 255 P.2d 723 (1953), a case in which action was brought by a landowner against a city to rezone his property for the more profitable use as commercial property and not residential property. There we held that "the fact that it has become unsuited for residential purposes does not show discrimination or reveal arbitrary action. The [***11] character of the district as a whole must be kept in mind in determining whether the health, safety, morals or general welfare of the district and hence of the community would be promoted by permitting encroachment into the residential area of commercial or industrial establishments." The language in Dowse only indicates that value "alone" would not be enough to classify an action

arbitrary. Other factors must also [*335] be taken into consideration. The present case is much different than Dowse since it is not an action brought to change a use, it is an action to preserve a nonconforming use. The type of use here is a diminishing asset where as in Dowse it was merely surface property.

In addition to the possible loss to the owners, we must also consider the loss to the public in general. This gravel pit furnishes large quantities of sand and gravel used in construction of roads and buildings. The gravel pit is also being utilized for the most beneficial use. There was evidence that the plaintiffs have conducted their operations in such a way as to create a future beneficial use since the materials will be removed so as to bring the grade down to a certain level on the [***12] south side to about the level of U. S. 91 where the property will then be leveled off and thus be used for other permissible uses. There was evidence to the effect that if the whole of parcel D were stripped there would be no more effect upon the value of the subdivision property than exists already. Thus, after considering all the factors involved, including the existing use of the property, the availability of a natural resource, the severe loss to both the fee owners and the public as compared to the relatively small inconvenience to owners in that neighborhood, we conclude that there is evidence in the record to support the trial court's decision that the zoning ordinance as enforced against the plaintiffs' property is an invalid [**564] exercise of the police power. Utah Code Ann. § 10-9-1 (1953).

Defendant next contends that although under the zoning law of this state it may not deprive plaintiff of any nonconforming use, it can prevent plaintiff from extending that nonconforming use into parcel D. It is defendant's contention that plaintiffs have no pre-existing rights to extend their nonconforming use into parcel D for the following reasons: (1) Prior to the 1957 [***13] zoning ordinance, parcel D was never part of any gravel operation, nor was there any indication the land

would be used for gravel operations; (2) Even if there had been some gravel activities on parcel D, the use was abandoned prior to the passage of the 1957 zoning ordinance and became void as provided under the North Salt Lake Code § 10-8-6 which provides that "nonconforming use of land * * * which has been abandoned shall not thereafter be returned to such nonconforming use"; (3) Parcel D was acquired by the plaintiffs almost two years after the enactment of the zoning ordinance with full knowledge that the land was restricted for use and should therefore take subject to such use; (4) The basic principle of zoning is the gradual elimination of nonconforming uses. Defendant contends those reasons are sufficient to restrict the plaintiffs to only that property actually being excavated prior to the 1957 ordinance.

[*336] The defendant's statement as to the prior use of Parcel D is incorrect. The record supports the trial court's finding that it was an integral part of the gravel operation prior to and after 1957. It was not disputed that the area contained many haul roads [***14] connecting it with the other property. Parcel D was also used for stockpiling sand and gravel removed from other parcels. Mr. Gibbs, the prior owner of parcel D, testified that there had been sand and gravel removed from that area prior to 1957. He testified that just prior to the enactment of the 1957 zoning ordinance, he negotiated both with the State Road Commission and the Tiago Construction Company for the removal of large amounts of fill from parcel D. Contrary to defendant's contention, Gibbs testified that it was his intent to continue the gravel operations over onto parcel D. It was stated that the Tiago project resulted in removal of almost two million yards of gravel on parcel D. It was just after the termination of that operation that plaintiffs bought the property. Defendant seems disturbed over the fact that plaintiffs acquired the parcel after the 1957 ordinance went into effect. We are not sympathetic to that position since use, not ownership, of the land is the concern of the zoning authorities. Lawful existing nonconforming uses are not eradicated by a mere change in ownership.

The very nature and use of an extractive business contemplates the continuance [***15] of such use of the entire parcel of land without limitation or restriction to the immediate area excavated at the time the ordinance was passed. A gravel operation has value only in the place where the resources are found. The rock must be quarried at the site where it exists, or not at all. Thus the entire tract is generally regarded as within the exemption of an existing nonconforming use, although the entire tract is not so used at the time of the passage or effective date of the zoning ordinance. *McCaslin v. City of Monterey Park, supra*; *County of DuPage v. Gary-Wheaton Bank*, 42 Ill.App.2d 299, 192 N.E.2d 311 (1963); 58 Am.Jur. p. 1023, § 151; 8A McQuillin Municipal Corporations, 3d Edition 791, Zoning 25.208.

In *Hawkins v. Talbot*, 248 Minn. 549, 80 N.W.2d 863 (1957), the defendant had been removing sand and gravel from his property when the city adopted an ordinance zoning the property as residential. The ordinance permitted the continuance of nonconforming uses, but provided that no such nonconforming use could be enlarged, increased, or extended to occupy a greater area than occupied by such use at the time of the adoption of the ordinance. The trial court refused to [***16] enjoin the operation of the gravel [**565] pit and the Supreme Court on appeal affirmed, observing that:

"* * * in the case of a diminishing asset, to mean all of that part of the owner's land which contains the particular asset, and not merely that area in [*337] which operations were actually being conducted at the time of the adoption of the ordinance."

In applying the above principles to the facts in the present case we conclude the trial court correctly found that plaintiffs' use of parcel D was a valid nonconforming use and not an extension thereof.

The trial court ruled that the 1961 amended ordinance was invalid and unconstitutional. Since the defendant in its brief stated that the 1961 ordinance was not involved in this appeal we

express no opinion in that regard.

The defendant next contends the trial court erred by not enforcing Excavation Ordinance No. 60 and declaring the following provisions of that ordinance unconstitutional, with respect to the properties of the plaintiffs, under the equal protection and due process clauses of the state and federal constitutions: (1) The requirement that the applicant restrict his excavation to areas at least [***17] 200 feet from the boundaries (without regard to ownership of the adjoining land); (2) the requirement that the applicant furnish maps with 5-foot contours; (3) the requirement that the applicant furnish a detailed rehabilitation plan prior to the time at which the character of the ground underlying the mineral is known; (4) the permission given to the city council and building inspector to approve or disapprove rehabilitation plans and fix amounts of bonds without adequate standards having been established.

The defendant claims it enacted the ordinance to protect its citizens from unsightly pits, floods, and other dangers arising from a possible failure to excavate properly. Defendant argues that since it was in the public interest neither this court nor the trial court has the right to question the validity of the police power.

We disagree with the defendant's contention. The police power conferred upon this municipality must be exercised to provide for the safety, promote the general welfare, or to preserve the health of that community. *Utah Code Ann. § 10-8-84* (1953). Under that power the City of North Salt Lake enacted this excavation ordinance. This excavation ordinance [***18] must be examined differently than the zoning ordinance since it is a safety ordinance and nonconforming uses giving owners more freedom from such regulation cannot be established. In a similar situation the Supreme Court of the United States set down the standards to follow when examining an excavation ordinance. In *Goldblatt v. Town of Hempstead*, 369 U.S. 590, 82 S.Ct. 987, 8 L.Ed.2d 130 (1962), the town went

through a series of steps in an effort to regulate mining excavation within its limits. The town first sought an injunction against [*338] further excavation on the ground it was violative of a zoning ordinance. This failed because the appellants were found to be conducting a prior nonconforming use on the premises. The town then amended its excavation ordinance so as to prohibit the appellant from any excavation below a certain water table. The Supreme Court affirmed the holdings of the state courts upholding the validity of the police power. The Court stated that the fact the ordinance deprived the property of its most beneficial use did not render it unconstitutional provided it was a valid exercise of the town's police power. In analyzing the ordinance the court [***19] stated:

"The ordinance in question was passed as a safety measure, and the town is attempting to uphold it on that basis. To evaluate its reasonableness we therefore need to know such things as the nature of the menace against which it will protect, the availability and effectiveness of other less drastic protective steps, and the loss which appellants will suffer from the imposition of the ordinance."

The court upheld the exercise of the police power on the ground that the appellant had [**566] the burden of showing the ordinance was not reasonable and "the evidence produced" by him was "clearly indecisive on the reasonableness of prohibiting further excavation."

In applying the above approach to the facts in this case we agree with the trial court's decision denying enforcement to the previously referred to provisions of the excavation ordinance. The respondents have clearly sustained their burden in overcoming the presumption of reasonableness which is with the State in the exercise of the police power. The record is vacant of any reasonable evidence to show the possible menace against which these specific provisions will protect. The defendant concedes in its [***20] brief that the requirement restricting excavation to areas 200 feet

from the boundaries without regard to ownership of the adjoining land is unreasonable. The record shows that requiring plaintiff to furnish maps with 5-foot contours, would be too costly and would be more prohibitory than regulatory. The record shows that it would be an unreasonable burden on the applicant here to submit detailed rehabilitation plans because prior to excavation it is almost impossible to determine where the gravel deposits lie. The record also shows that certain provisions of the ordinance leave much discretion in the building inspector and the city council to approve or disapprove permits and to set the amount of bond or other financial guarantees sufficient to insure compliance with the rehabilitation requirements. There is evidence in the record showing that these provisions have not been enforced equally. The record shows that no other operators have been required to obtain permits for excavation operations. In fact, prior to this suit the [*339] plaintiffs were the only operators to apply for a permit.

The plaintiffs here contend and the trial court held that such provisions leaving [***21] broad discretion in the city council and building inspector are without adequate guidelines and should therefore be struck down as an unconstitutional delegation of the town's police power. We agree that those provisions as they apply to the facts in this case are unreasonable and should not be enforced, but not upon the ground that they are an unconstitutional delegation of power. We hesitate to hold the provisions of the ordinance completely invalid as they might apply to other fact situations since this excavation ordinance illustrates an example where it is impossible or impractical to lay down standards without destroying flexibility necessary to enable the town to carry out the legislative intent. In this case adequate standards must be considered in light of the inherent uncertainties of the subject matter. We find less need to invoke the delegation doctrine in this case where the state has conferred upon this city the power to make ordinances necessary to protect the health, morals and safety of the community, since

19 Utah 2d 329, *339; 431 P.2d 559, **566; 1967 Utah LEXIS 628, ***21

our concept of representative government is satisfied where the city council who has received the delegation is an elected body. That is the nature of home[***22] rule.

We affirm the trial court's decision with modifications consistent with this opinion. Costs to respondents.

End of Document



**LAVERKIN CITY
CULINARY WATER MASTER PLAN UPDATE,
USER RATE ANALYSIS, IMPACT FEE
ANALYSIS, AND IMPACT FEE FACILITIES
PLAN 2025**

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Appendix A – Growth Analysis

Appendix B – Water Use Analysis

Appendix C – Engineers Opinion of Probable Cost

Appendix D – System Maps

Appendix E – Cash Flow

Appendix F – Impact Fee Certification

I. EXECUTIVE SUMMARY

Sunrise Engineering, Inc. has completed a Culinary Water System Master Plan for LaVerkin City in Washington County, Utah. This plan uses a 20-year planning period to project approximate city growth and water usage trends and provide recommended improvements to address existing and projected needs of the City's culinary water system.

Usage data, census data, residential water connection data, and water population data were used to analyze population growth and usage trends. This plan uses a projected 3.0% population growth rate per year for the first five years and a 2.5% growth rate for the rest of the planning window.

A Five Point Analysis was used to analyze the existing water infrastructure. This analysis includes reviewing and analyzing the system's water rights, water sources, water storage facilities, water treatment, and distribution system to understand the system's existing and projected capacity and to determine the current level of service. This analysis shows that the system has sufficient water rights, source, treatment, storage, and distribution facilities to provide the existing water usage demand. The analysis also shows that the system is projected to have insufficient water rights or source capacity for the projected usage demand. It is understood that the City will purchase water from Washington County Water Conservancy District to mitigate the additional required water right and source.

This plan identifies the following 7 recommended improvement projects:

- Stowells improvements
- Storage tank solenoid valves
- SR-17 12" line replacement
- 500 W Improvements
- West water improvements
- SR17 and 500 N improvements
- East water improvements

These projects were identified primarily to aid City staff in the operation and maintenance of the system and to help with the longevity of the system. Further details for each project can be found in section XI "Summary of Recommended improvements", with their corresponding estimated cost breakdowns in Appendix C.

This plan also includes a financial analysis for the water fund and water impact fee fund. The results of this analysis provide a recommended average monthly user rate and a max allowable impact fee.

- Average monthly user rate: \$67.17
- Max allowable impact fee: \$1684.22 per ERU

II. INTRODUCTION

A. Preface

The City of LaVerkin has entered into an agreement with Sunrise Engineering, LLC. To prepare this Culinary Water Master Plan, Impact Facilities Plan, and Impact Fee Analysis. The plan will provide community leaders with the information they need to make important decision relating to the water infrastructure as the City continues to grow and develop over the next 20 years. The plan will provide information regarding the existing culinary water infrastructure, analyze these facilities for adequacy, and make recommendations in order to meet projected demands.

B. Introduction

LaVerkin City is located in Washington County about 20 miles northeast of St. George. The City sits up on the LaVerkin bench and overlooks the valley below where the Virgin River, Ash Creek, and LaVerkin Creek converge. The City functions as the gateway leading to Zion National Park as it sits at the intersection of Utah SR-9 and SR-17.

The City has seen considerable growth and increases in tourism visitation and economic development over the last several decades. This growth is anticipated to continue in the future. This plan is intended to help the City evaluate their ability to meet the increasing demands placed on the system by development and to identify and correct existing deficiencies in the culinary water system.

The water system has been analyzed according to the Utah Division of Drinking Water regulations and the Utah Administrative Code. This includes a review of the systems' water rights, source capacity, water storage capacity, water treatment, and water distribution.

This plan includes recommendations for improvements to the culinary water system and has developed a possible financing plan as a potential means to fund the recommended improvements.

This plan also analyzed the existing water rates and impact fees as a possible means of supporting the recommended system improvements. The recommended water rates and impact fees are fair and reasonable and will allow the City of LaVerkin to maintain the level of service that is required of a public water system for the present time and over the planning period.

This plan serves as the City's Impact Facilities Plan and includes an Impact Fee Analysis.

III. SYSTEM USERS' ANALYSIS

C. LENGTH OF PLANNING PERIOD

It is typical for a Master Plan to use a 10 or 20-year planning period. For example, the first year of a 10-year planning period would be the year 2025 with the 10th and final year being 2034. This plan will use fiscal years and will assume a 20-year (2025-2044) planning period for recommended improvements. This period will allow an adequate evaluation of the system for potential infrastructure improvements or other needs. Revenue sources should be carefully evaluated each year as budgets are set by the city council.

D. PROJECTED GROWTH RATE

An important element in the development of the water system and capacity analysis is the projection of the City's population growth rate on an annual basis. This projection gives the planner an idea of the potential future demands on the culinary water system for the length of the planning period. All planning for the future should be based on the expected population growth.

Projecting the number of future culinary water connections can be a subjective process. The most effective method of estimating the number of future connections is by analyzing available historical population records and using them to find trends. This study considered census data, water connection data, and water population data. Figure III-1 and Figure III-2 below show the historic population and growth rate considering all three of the stated factors.

Figure III-1

POPULATION ESTIMATE - PAST				
YEAR	CENSUS DATA	RESIDENTIAL WATER	WATER POPULATION	AVERAGE
2016	4182	4,170	4,800	4384
2017	4225	4,256	4,870	4450
2018	4268	4,327	4,700	4432
2019	4329	4,420	4,485	4411
2020	4383	4,485	4,520	4463
2021	4286	4,587	4,575	4483
2022	4360	4,284	4,605	4416
2023	4400	4,453	4,650	4501

Figure III-2

YEAR	PERCENT GROWTH			AVERAGE
	CENSUS DATA	RESIDENTIAL WATER	WATER POPULATION	
2016	0.63%	1.27%	0.00%	0.63%
2017	1.03%	2.53%	2.05%	1.87%
2018	1.02%	2.07%	1.66%	1.58%
2019	1.43%	3.17%	2.16%	2.25%
2020	1.25%	1.13%	1.47%	1.28%
2021	-0.99%	3.12%	2.26%	1.46%
2022	1.73%	0.32%	-6.60%	-1.52%
2023	0.92%	1.72%	3.94%	2.19%
AVERAGE	1.61%			

In recent years, the community has grown steadily. At the time of the previous culinary water master plan, the city anticipated growth between 2.5% and 2.75% between the years of 2016 and 2023. The previous prediction has been reasonably accurate and it is fair to assume that LaVerkin will continue to experience a similar growth rate.

In working with City staff to review past growth rates and upcoming developments, it was determined that a higher growth rate is expected over the next several years. This plan will use two growth rates; one for the first five years and a second for the remaining planning period. Figure III-3 below shows the growth rates used in this plan.

Figure III-3

Predicted Growth Rate
3.00% 5 Year Growth Rate (2025-2029)
2.50% Extended Growth Rate (2030-2044)

E. PROJECTED POPULATION & NUMBER OF CONNECTIONS

Based on the forecasted growth rates referenced above, the number of connections the City will need to plan for can be calculated with the compound interest formula shown below:

Equation 1

$$F = P(1 + i)^N$$

Where

F = Future Population

P = Present Population

i = Projected Growth Rate

N = Years

Equation 1 was used to project the community population and number of connections for each year in the planning period.

It is important to understand that projected growth rates are not the cornerstone of this plan. If the maximum number of system connections projected is reached earlier or later than anticipated, future improvements to support growth may come either earlier or later.

F. PROJECTED EQUIVALENT RESIDENTIAL UNITS (ERU)

The water system is made up of multiple connection types. LaVerkin City reports their different connections as Residential, Commercial, Institutional, and Construction/Other. Figure III-4 shows a summary of the number of connections by type. It is noteworthy that vacation homes have been reclassified from residential to commercial, resulting in the spike of commercial connections in 2022.

Figure III-4

Year	Number of Connections				Total
	Residential	Commercial	Institutional	Construction / Other	
2016	1,390	36	9	10	1,445
2017	1,419	47	5	11	1,482
2018	1,442	53	6	11	1,512
2019	1,473	58	11	18	1,560
2020	1,495	68	11	4	1,578
2021	1,529	79	11	8	1,627
2022	1,428	185	11	8	1,632
2023	1,484	160	9	8	1,660

Each connection type uses different amounts of water at different rates. In order to properly analyze the system usage, the number of connections are converted to equivalent residential units (ERU). This is done by taking the average usage per connection of each connection type and dividing by the usage per connection of residential connections. Figure III-5 shows the equivalent ERUs per average connection type and Figure III-6 shows the total number of ERUs of that connection type per year. This plan will use the number of ERUs instead of the number of connections to evaluate existing and future needs.

Figure III-5

Calendar Year	Residential	Commercial	Institutional	Construction/Other
2023	1.0	2.6	5.8	1.7

Figure III-6

Calendar Year	ERUS				Total
	Residential	Commercial	Institutional	Construction/Other	
2016	1392	101	52	8	1553
2017	1422	129	29	8	1588
2018	1445	144	35	17	1641
2019	1476	149	64	20	1709
2020	1563	160	65	6	1794
2021	1608	165	64	13	1850
2022	1428	478	64	13	1983
2023	1484	412	50	13	1958

Using the growth rates from Figure III-3 the future ERUs were projected for each year of the planning period. The projected ERUs are shown in Figure III-7.

Figure III-7

Year	Est. Residential Growth Rate	Estimated Residential ERU's	Estimated Commercial ERU's	Institutional / Construction / Other ERU's	Total Estimated ERU's
2023	3.0%	1,484	412	63	1,958
2024	3.0%	1,529	424	64	2,017
2025	3.0%	1,575	437	66	2,078
2026	3.0%	1,622	450	68	2,140
2027	3.0%	1,671	463	70	2,204
2028	3.0%	1,721	477	73	2,271
2029	3.0%	1,772	491	75	2,338
2030	2.5%	1,817	506	77	2,400
2031	2.5%	1,862	521	79	2,462
2032	2.5%	1,909	537	82	2,528
2033	2.5%	1,956	553	84	2,593
2034	2.5%	2,005	570	87	2,662
2035	2.5%	2,055	587	89	2,731
2036	2.5%	2,107	604	92	2,803
2037	2.5%	2,159	623	95	2,877
2038	2.5%	2,213	641	98	2,952
2039	2.5%	2,269	660	100	3,029
2040	2.5%	2,326	680	103	3,109
2041	2.5%	2,384	701	107	3,192
2042	2.5%	2,443	722	110	3,275
2043	2.5%	2,504	743	113	3,360
2044	2.5%	2,567	762	116	3,445

G. AVERAGE DAY DEMAND

The State of Utah Public Drinking Water regulations require public water systems to meet requirements based upon usage. These requirements are found in Rule R309 of the State Administrative Code and provide a minimum standard usage based upon the types of connections serviced in a system. The minimum average day usage is 400 gallons per day (gpd) per ERU for indoor use and an additional 13.6 gpd per irrigated acre in the system area. However, if available, systems can use actual usage data to calculate and project usage demands. This study looked at both the state's minimum flow standard and the historical usage to determine the appropriate usage for this study.

The historical usage from the city was based on meter data over the past 5 years (2019 – 2023). The average usage per ERU was calculated from the historical usage. The total average usage over the past 5 years was divided by the average number of ERUs and then converted to gpd/ERU as shown in the calculations below.

$$\begin{aligned} 194,647,000 / 1,842 \text{ ERU} &= 105,693 \text{ gallon/ERU/year} \\ 105,693 \text{ gallon/ERU/year} / 365 \text{ days/year} &= 290 \text{ gpd/ERU} \end{aligned}$$

Figure III-8 shows a summary of the average usage and historical data gathered by the City through water metering.

Figure III-8

Calendar Year	Total Usage (Thousand Gallons)	Number of ERUs	Usage per ERU (gpd/ERU)
2019	199,191	1,716	318
2020	197,224	1,741	310
2021	201,045	1,810	304
2022	188,389	1,983	260
2023	187,388	1,958	262
4-year average	194,647	1,842	290

The 290 gpd/ERU average usage calculated from the City's historical usage does not include the majority of the City's outdoor watering. The demand is lower than the states indoor ADD. This plan will determine usage demand from historical usage instead of the numbers from the State Code. This method will result in a more realistic analysis.

The calculations in this report will be based on the historical average usage of 290 gpd/ERU. It is recommended that future improvements be sized based on this average usage.

H. PEAK DAY DEMAND

Peak day Demand (PDD) is defined by the Utah Administrative Code as the “anticipated water demand on the day of the highest water consumption”. The state code uses 800 gpd/ERU for a peak day demand of a standard residential unit which is twice the average day demand. Therefore, it can be assumed that the PDD is double the average day demand. Doubling the average usage of 290gpd/ERU results in a PDD of 580 gpd/ERU. All further calculations with PDD will use this number.

I. PEAK INSTANTANEOUS DEMAND CULINARY WATER USAGE

Peak Instantaneous Demand (PID) can be described as the highest demand at any one instance. This can be determined based on peak instantaneous water flow data if such data is available. Where water flow data does not exist, the State Code uses the following method to calculate the PID for Indoor Usage:

Equation 2

$$Q_{peak} = 10.8(N)^{0.64}$$

Where

N = number of connections

Q = flow (gallons per minute)

Instantaneous flow data is not currently available. Using the equation above from the State Code results in a PID of 1,328 gpm, using 1,842 ERUs. All further calculations with PID will use this number.

J. USAGE REDUCTION - CONSERVATION

This plan assumes a conservation rate of 0.25% per year over the planning period (5% by the end of the planning window). This conservation factor is used to represent conservation efforts from the City, existing customers, and new connections. The assumed conservation result in the following demands at the end of the planning window.

- ADD (2044) = 277gpd/ERU
- PDD (2044) = 552 gpd/ERU

The conservation factor is not used for the PID. As mentioned above, the PID is the highest demand on the system at any given moment. Conservation efforts do not have a major impact on the amount of water that could be used at any given moment.

IV. BUILDOUT ANALYSIS

A. Buildout Analysis

In addition to the 20-year planning window this plan projected the water use in the scenario in which all currently existing zoning in the lower bench is filled. This scenario is referred to as "buildout" and represents the maximum extents for which the LaVerkin Culinary Water System could potentially be expected to provide in the lower bench based on existing zoning.

An analysis was performed to determine the maximum number of ERUs that could be built based on the existing City zoning. The analysis used GIS data and the existing zoning layout to determine the maximum number of ERUs. The analysis looked at residential ERUs and other ERUs (zones COMM, COMM-R, COMM-T, and PFZ). The analysis determined that the total build out ERUs for the lower bench based on existing zoning is 5419. Using the same growth rate as Section III.D the system would hit 5419 ERUs in 2075. Figure IV-1 shows a summary of the analysis

Figure IV-1

Lower Bench Build Out Analysis	
Residential ERU	4,222
Other ERU	1,197
Total ERU	5,419
Projected Build Out Year	2075

V. UPPER BENCH ANALYSIS

There is currently significant interest by developers to begin to develop the upper bench section of the City. The Upper Bench area consists of around 870 acres on the east side of LaVerkin. The area is zoned as a planned community development and therefore varies widely on the possibilities of how the area is developed.

B. Estimated Growth

The uncertain nature of upper bench community planning results in difficulty in forecasting water use in the area. Several years ago a planned community was proposed in this area that never got constructed. In order to have a basis to estimate growth this plan uses the same density as that proposed plan. That planned community had a mix of residential densities and parks/open space. Using the same density results in a total build out ERU of 2616.

It is recommended that water use in the upper bench be evaluated further once more is known about the actual planned land use and zoning.

C. Elevation Challenges

The Upper Bench, as the name implies, sits several hundred feet above State Street and most of the area sits a hundred feet above the existing upper tank. In order for the upper bench to be developed a new tank will need to be constructed to serve the area. Figure V-1 shows the approximate elevation of the existing tanks compared to the upper bench system and upper bench tank elevations.

Figure V-1

System Elevations	
Lower Tank	3240'
Upper Tank	3560'
Upper Bench	3790'
Upper Bench Tank (as Planned)	3990'

Developing the upper bench will require improvements to the existing water system and detailed pressure zone management. This plan does not provide details for the needed improvements. However, it is anticipated that 16" trunk line will be required to distribute water from the Upper Bench tank to the rest of the development.

VI. WATER RIGHTS ANALYSIS

A. Water Rights Portfolio

The City has multiple water rights from springs located north of the City. The City's water rights are identified in Figure VI-1. Error! Reference source not found.

Figure VI-1

La Verkin City Culinary Water Rights		Flow		Duty
W.R. #	Source	gpm	cfs	ac-ft
81-1073	Upper Ash Creek Springs	134.6	0.300	72.0
81-2287	Toquerville Springs	149.5	0.333	241.1
81-687	Upper Ash Creek Springs	220.4	0.491	71.4
81-1602	Ash Creek Spring & Upper Ash Creek Spring	448.8	1.000	330.0
Total La Verkin City Water Rights		953.3	2.124	714.5

B. Existing Required Water Right

The existing water right demand was calculated by multiplying the ADD of 290 gpd/ERU by the total number of ERUs in the system. The results of the analysis are presented in acre-feet annually and gallons per minute. When compared with the City's total available water rights, the city maintains a small surplus in water rights. The results of the calculations are shown in Figure VI-2.

Figure VI-2

Existing Required Water Rights		
Total Required Water Right	655	Ac-Ft
Total Existing Water Rights	714	Ac-Ft
Surplus	59	Ac-Ft
Surplus Capacity can Serve	182	ERUs

C. Projected Required Water Right

Projecting growth to the 10- and 20-year planning periods and using the same method of calculating water right demand reveals that the City will have a deficit in water rights beginning within 10 years, and that deficit will grow into the 20 year horizon. The projected water right demand for the 10-year and 20-year planning periods are shown in Figure VI-3 and Figure VI-4.

Figure VI-3

Project 10 Year Required Water Right		
Total Required Water Right	843	Ac-Ft
Total Existing Water Right	714	Ac-Ft
Deficit	(129)	Ac-Ft
Service Deficit	(397)	ERUs

Figure VI-4

Project 20 Year Required Water Right		
Total Required Water Right	1,064	Ac-Ft
Total Existing Water Right	714	Ac-Ft
Deficit	(350)	Ac-Ft
Service Deficit	(1,077)	ERUs

D. RECOMMENDED WATER RIGHTS IMPROVEMENTS

The projections in this analysis show that LaVerkin City currently has sufficient water rights to meet the needs of customers for a few years but that eventually other water rights will need to be accessed. It is understood that there is an agreement in place with the Washington County Water Conservancy District (WCWCD) to provide additional water to the City. The amount promised in this agreement is sufficient for the 20-year planning window. Due to this agreement this plan does not provide any recommended water right improvements.

VII. WATER SOURCE CAPACITY ANALYSIS

A. EXISTING WATER SOURCE

To analyze source capacity, all owned and otherwise available culinary water sources must first be identified. These sources are listed in Figure VII-1. The flow capacity numbers were acquired from City staff and verified through the Utah division of water rights.

Figure VII-1

La Verkin City Culinary Sources		Total Flow
Source	cfs	gpm
Upper Ash Creek Springs	0.301	135
Toquerville Springs	0.332	149
Ash Creek Springs Area	0.490	220
Ash Creek Springs & Upper Ash Creek Springs	1.000	449
Source Total =	2.123	953

B. EXISTING REQUIRED WATER SOURCE CAPACITY

State of Utah Public Drinking Water Regulations R309-510-7 states that a water system's source needs to meet "the anticipated water demands on the day of the highest water consumption, which is the peak day demand." The PDD was determined in section II-F to be 580 gpd/ERU. The source capacity demand for the water system was calculated by multiplying the PDD from Section II-F by the total number of existing ERUs in the system. The results of the analysis are presented in gallons per minute and are shown on Figure VII-2.

Figure VII-2

Current	
Total Required Source Capacity	812 gpm
Total Existing Source Capacity (With Cottam Well)	1753 gpm
Existing Culinary System Capacity Surplus	941 gpm
Surplus Capacity can Serve	2107 ERUs

C. PROJECTED REQUIRED SOURCE CAPACITY

Projected required source capacity for the 10-year and 20-year planning periods uses the same calculations as above. These calculations reveal that the water system will have a deficit of source

capacity. The projected required source capacity for the 10-year and 20-year planning periods are shown in Figure VII-3 and Figure VII-4.

Figure VII-3

10 Year		
Total Required Source Capacity	1072	gpm
Total Existing Source Capacity	953	gpm
Existing Culinary System Capacity deficit	-119	gpm

Figure VII-4

20 Year		
Total Required Source Capacity	1322	gpm
Total Existing Source Capacity	953	gpm
Existing Culinary System Capacity deficit	-369	gpm

D. WCWCD COTTAM WELL AVAILABILITY AGREEMENT

Based on an agreement with WCWD, LaVerkin is able to purchase water produced by the Cottam Well. The potential flow provided by the Cottam Well is shown in Figure VII-5. The total combined source including LaVerkin's available sources and Cottam Well is shown in Figure VII-6

Figure VII-5

WCWCD Culinary Water Available per Agreement		Total Flow	
Source		cfs	gpm
Cottam Well		1.783	800
Source Total =		1.783	800

Figure VII-6

Total Combined Source
1,753

Taking the Cottam Well into consideration, LaVerkin has access to sufficient source capacity through the planning window. Figure VII-7 shows the surplus available currently as well as over the 10 and 20 year planning periods.

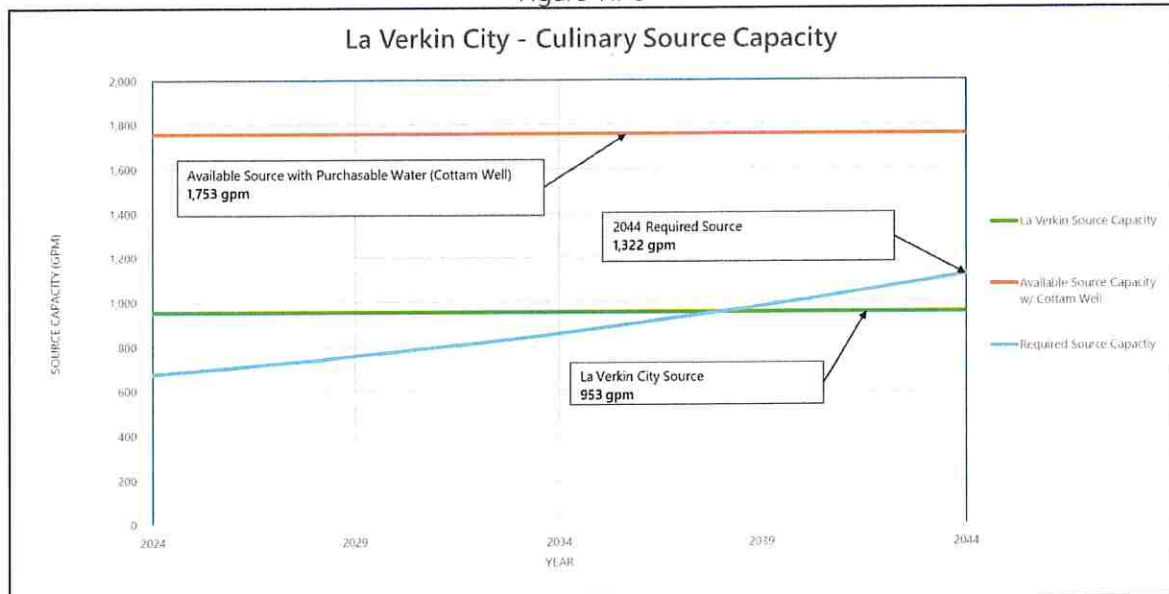
Figure VII-7

Current	
Total Required Source Capacity	812 gpm
Total Existing Source Capacity (With Cottam Well)	1753 gpm
Existing Culinary System Capacity Surplus	941 gpm
Surplus Capacity can Serve	2107 ERUs
10 Year	
Total Required Source Capacity	1070 gpm
Total Existing Source Capacity (With Cottam Well)	1753 gpm
Existing Culinary System Capacity Surplus	683 gpm
20 Year	
Total Required Source Capacity	1320 gpm
Total Existing Source Capacity (With Cottam Well)	1753 gpm
Existing Culinary System Capacity Surplus	433 gpm

E. SOURCE CAPACITY SUMMARY

Figure VII-8 shows the comparison between the available source capacity and the projected required source capacity.

Figure VII-8



F. RECOMMENDED WATER SOURCE CAPACITY IMPROVEMENTS

The source capacity analysis shows that the existing available source is sufficient to accommodate an existing peak day demand for the next several years but will become insufficient during the planning window. However utilizing the Cottam Well from WCWCD the City has access to sufficient source through the planning window. This plan does not include any recommended source improvements.

VIII. WATER STORAGE CAPACITY ANALYSIS

Water storage capacity requirements are found in the State of Utah Public Drinking Water Regulations, R309-510. These regulations require storage for the community's culinary water system to meet:

- A. A full day's average use requirement for all connections
- B. fire flows, for a minimum of two hours
- C. Emergency storage as deemed necessary.

A. EXISTING REQUIRED WATER STORAGE CAPACITY

The City currently has two water storage tanks. These tanks are identified in Figure VIII-1below:

Figure VIII-1

Existing Storage Capacity:		
Lower Tank	1,500,000	gallons
Upper Tank	1,000,000	Gallons
Total	2,500,000	gallons

G. EXISTING REQUIRED WATER STORAGE CAPACITY

As shown in Section III.G, average water usage per ERU, also known as the Average Day Demand (ADD), in the water system is 290 gpd/ERU. In general, fire flow requirements are set by the local Fire Authority or are based on building size and type of construction. The statewide minimum fire flow is 1,000 gpm for 60 minutes. This plan also uses 1,000 gpm, the same minimum fire flow as the previous plans.

The required storage capacity was calculated by multiplying the ADD by the total number of ERUs currently existing in the system. When compared with the system's total storage capacity summarized above, the calculation shows that the City has a surplus of total storage capacity under current conditions. The results of this analysis are shown in Figure VIII-2.

Figure VIII-2

Current		
Total Required Storage Capacity	791,163	gal
Total Existing Storage Capacity	2,500,000	gal
Existing Culinary System Storage Capacity Surplus	1,708,838	gal
Surplus Capacity can Serve	5,893	ERUs

H. PROJECTED REQUIRED WATER STORAGE CAPACITY

The projected culinary water storage capacity required at the end of the planning period is determined from the same factors explained in Section B above, but the projected number of ERUs are inserted in the calculations instead of the number of existing ERUs. The results of the analysis are shown below in Figure VIII-3.

Figure VIII-3

10-year		
Total Required Storage Capacity	1,023,101	gal
Total Existing Storage Capacity	2,500,000	gal
Existing Culinary System Storage Capacity Surplus	1,476,899	gal
20-year		
Total Required Storage Capacity	1,247,833	gal
Total Existing Storage Capacity	2,500,000	gal
Existing Culinary System Storage Capacity Surplus	1,252,167	gal

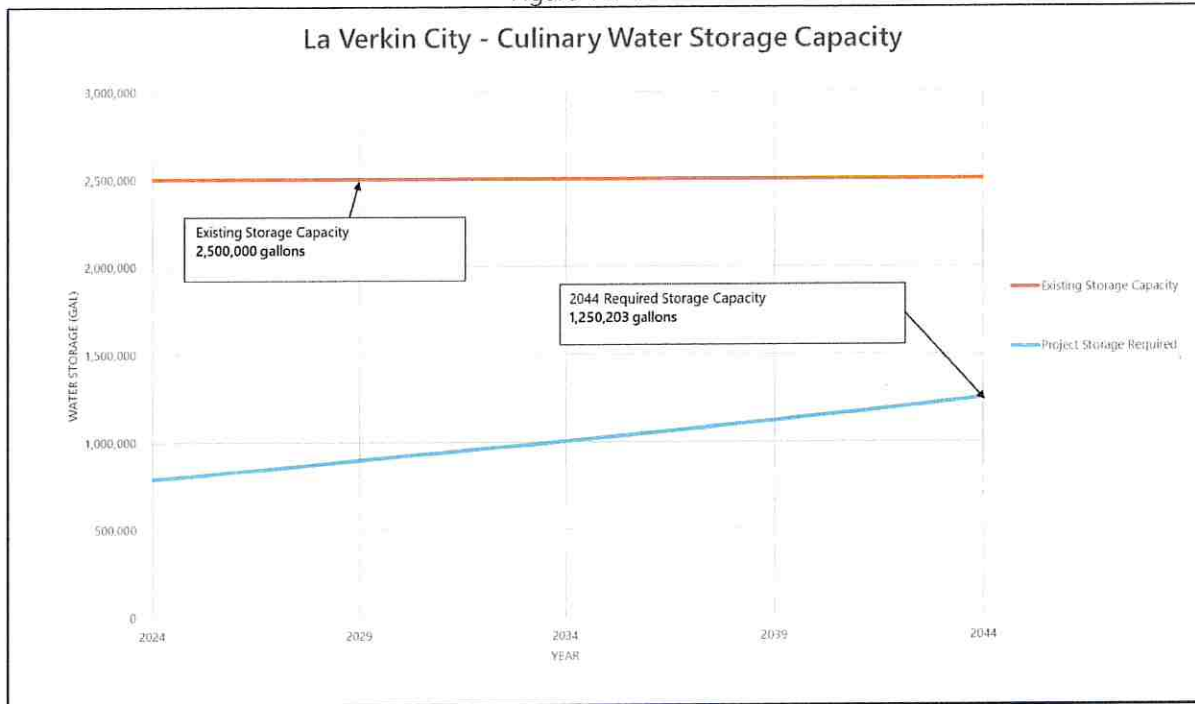
I. RECOMMENDED WATER STORAGE CAPACITY IMPROVEMENTS

Due to difficulty with existing control systems, It is recommended that the valves on each of the existing storage tanks be replaced with solenoid control valves to improve maintenance and operations of the tanks. It is also recommended that both tanks are inspected, on a routine basis to verify that the coatings are performing as intended and to reduce the likelihood of costly repairs.

J. STORAGE CAPACITY SUMMARY

Figure VIII-4 shows the comparison between available storage capacity and the projected required storage capacity.

Figure VIII-4



IX. WATER TREATMENT REQUIREMENTS

A. GENERAL REQUIREMENTS

The State of Utah Public Drinking Water Regulations (R309), in accordance with the National Safe Drinking Water Act, have adopted "Primary" regulations for the protection of public health and "secondary" regulations related to taste and aesthetics. Applicable "primary" standards and treatment techniques must be met by all public drinking water systems. "Secondary" standards are optional and are meant to help water suppliers avoid consumer complaints.

The LaVerkin City sources have been considered high quality groundwater, indicating that no treatment would be required. However, the State regulations recommend that all culinary water sources have provisions for continuous disinfection.

Water provided by WCWCD meets the required standards upon delivery and is placed directly into the LaVerkin Distribution system.

B. Existing Treatment Facilities.

LaVerkin and Hurricane currently share a treatment facility used to treat water from Toquerville Springs. Since the springs have been considered a high-quality groundwater source, the treatment system consists only of a gas chlorine metering and injection system. There is also a second gas chlorine treatment system (located in Toquerville) used to treat water from Ash Creek Springs.

The existing treatment facilities are adequate to provide for the existing customers serviced by the City owned sources. As LaVerkin continues to grow, it is planned that new connections will be supplied water through the agreement with the WCWCD, and that this type of wholesale water does not need treatment.

C. RECOMMENDED WATER TREATMENT FACILITY IMPROVEMENTS

Existing treatment facilities are sufficient through the planning window. This plan does not provide any recommended water treatment facility improvements.

X. WATER DISTRIBUTION SYSTEM ANALYSIS

The State of Utah Public Drinking Water Regulations, R309-105-9, states three minimum pressure conditions which must be met at the point of connection to demonstrate adequate service capacity of a system. These conditions are:

- A. At least 20 psi must be retained as residual pressure in the distribution system under Peak Day Demand (PDD) plus fire flow conditions.
- B. At least 30 psi must be retained as residual pressure in the distribution system under Peak Instantaneous Demand (PID)
- C. At Least 40 psi must be retained as residual pressure in the distribution system under a PDD.

As a general guideline, It is recommended that the system be able to provide a minimum static pressure of 50 psi at every point in the distribution system.

The existing City culinary water distribution system has been modeled using the computer program Water Gem by Bently. The distribution system was modeled in a static scenario to analyze the ADD, PDD, PID scenarios.

A. EXISTING DISTRIBUTION SYSTEM ANALYSIS

The existing Average Day Demand, Peak Day Demand, and Peak Instantaneous Demand were calculated in Section II. These flows were converted to a gpm for the full system and are shown on Figure X-1 below:

Figure X-1

Average Day Demand	
gpd/ERU	gpm/system
290	406
Peak Day Demand	
gpd/ERU	gpm/system
580	812
Peak Instantaneous Indoor Demand	
gpm/system	
1,407	

As mentioned in Section VIII, this report uses a fire flow of 1,000 gpm.

The existing model scenarios for PDD, PID, and PDD with fire flow, show that the existing system is adequate to meet these demands.

K. PROJECTED DISTRIBUTION SYSTEM ANALYSIS

The projected system analysis is performed using the same assumptions in the existing system analysis, except that the projected number of ERUS are inserted into the ADD, PDD, and PID Calculations. This results in the following projected demands:

- PDD – 1,320 gpm
- PID – 1,983 gpm
- Fire flow of 1,000 gpm

These projected demands were modeled in the distribution system. The new demands on the system are not anticipated to have enough of an impact on the existing distribution system to cause areas to fall below the State's minimum pressure requirements or for pipe velocities to be above 5 feet per second.

L. FIRE HYDRANT ANALYSIS

As part of this plan an analysis of the existing fire hydrants was conducted. This analysis included checking the fire hydrant spacing throughout the system. Hydrants should be placed such that no structures are located more than 250 feet from a hydrant which results in the general rule of thumb that hydrants should be placed every 500 feet. This analysis identified areas that lack adequate hydrant spacing. A map of the hydrant spacing is in Appendix D.

M. RECOMMENDED DISTRIBUTION SYSTEM IMPROVEMENTS

The projected distribution analysis indicated that the existing system has adequate capacity through the planning window. However, the distribution is aged and is prone to leaks and breaks. It is recommended that the City look into replacing the older pipes in the system and create a renewal & replacement plan.

Below is a list of recommended system improvement projects. These recommended improvements include projects to help with operation and maintenance of the system and include renewal and replacement projects. The list includes descriptions of the recommended distribution improvements.

- Stowells Improvements - Replace the existing 4" water line running behind houses between 330 North and 380 North (just to the west of State Street, in the Stowells area) with 8" water lines running in front of the houses.
- SR-17 12" Line Replacement - Replace 2,500 ft of 12" Waterline between 630 North State Street and the Hwy 17 Bridge over LaVerkin Creek. The City has experienced several breaks along this section of the line, which have resulted in significant costs for the City to repair due to the excessive depth of the line. It is anticipated that replacing this section of waterline will prevent future expenses.

- 500 W Improvements - Replace existing 6" line in 500 West with new 8" line. This improvement should be completed in conjunction with developer improvements connecting the line along the 500 West extension.
- West Water Improvements – This project is a renewal and replacement project to replace existing 6" waterlines found running along 300W and adjacent streets with new 8" waterline. This project also includes replacing valves and fire hydrants. This is a larger project that could be constructed in phases.
- SR 17 and 500 N Improvements - Replace the existing 6" water line running from the intersection of Main Street and 500 North going west to State Street, then turning north and connecting into the line located in the cemetery access road, with an 8" water line.
- East Water Improvements - This project is a renewal and replacement project to replace existing 6" waterlines found running along Main St. and adjacent streets with new 8" waterline. This project also includes replacing valves and fire hydrants. This is a larger project that could be constructed in phases.

XI. SUMMARY OF RECOMMENDED IMPROVEMENTS

A. RECOMMENDED SYSTEM IMPROVEMENTS

Figure XI-1 Below shows a summary of each recommended improvement, along with its expected year of construction, estimated cost (In today's dollars), and inflated costs.

Figure XI-1

Project	Cost Estimate Current	Est. Year of Installation	Inflated Costs
0 to 5 Year Improvements			
Stowells Improvements	\$ 1,369,300.00	2026	\$ 1,410,400.00
Storage Tank Solenoid Valves	\$ 80,000.00	2026	\$ 82,400.00
SR-17 12" Line Replacement	\$ 1,597,837.50	2027	\$ 1,695,100.00
Subtotal	\$ 3,047,137.50		\$ 3,187,900.00
6 to 10 Year Improvements			
Impact Fee Analysis Update (2029)	\$ 65,000.00	2029	\$ 73,200.00
500 W Improvements	\$ 357,350.00	2031	\$ 426,700.00
West Water Improvements	\$ 3,236,200.00	2033	\$ 4,099,500.00
Subtotal	\$ 3,658,550.00		\$ 4,599,400.00
11 to 20 Year Improvements			
Impact Fee Analysis Update (2034)	\$ 65,000.00	2034	\$ 84,800.00
SR 17 and 500 N Improvements	\$ 1,357,060.00	2036	\$ 1,878,500.00
East Water Improvements	\$ 3,254,400.00	2043	\$ 5,540,400.00
Subtotal	\$ 4,676,460.00		\$ 7,503,700.00
Total	\$ 11,382,147.50		\$ 15,291,000.00

B. Engineer's Opinion of Probable Cost

An Engineer's Opinion of Probable Cost (EOPC) for each recommended improvement has been included in the appendix. Opinions of probable cost of each of the recommended improvements are based on experience with similar projects, bid tabulations from past projects, and from information provided by the City through prior experience.

It is important to note that cost estimates from this master plan are significantly higher than the previous master plan. It is common for project costs to increase over time with inflation. Typically, it is expected to see an annual increase of approximately 3%. Due to the material and construction market changes that have happened from 2020 to now the market has experienced project cost increases between 50 to 100% from 2019 costs. This increase in project costs is reflected in the opinions of cost for the recommended projects. These increases in costs are also a factor in the increases in fees in later sections.

The opinions of probable project costs included in this report are planning-level cost only. As the City seeks to undertake specific projects, more detailed and updated costs should be prepared to guide project development through the preliminary engineering and budgeting acquisition phases.

C. POSSIBLE FINANCING PLAN

Figure XI-2 shows a possible financing plan to predict estimated bond amounts for the two most prioritized recommended projects, The Stowells Improvements and the SR-17 12" Line Replacement. The plan details percentages to be paid for via self-participation, grants, and loans. This plan uses a 3% interest rate and a 30-year term for both projects.

Figure XI-2

POSSIBLE FINANCING PLAN 2025				
Stowells Improvements				
Total Project Cost				\$ 1,410,400.00
Proposed Funding	Percentage Rate	Term in Years	Principal	
Self Participation	10%		\$	141,040.00
Grant	50%		\$	705,200.00
Loan	40%	3.0%	30	\$ 564,160.00
Total Bond			\$	863,490.76
Total Cost			\$	1,709,730.76
Annual Payment				\$28,783.03
SR-17 12" Line Replacement				
Total Project Cost				\$ 1,695,100.00
Proposed Funding	Percentage Rate	Term in Years	Principal	
Self Participation	10%		\$	169,510.00
Grant	10%		\$	169,510.00
Loan	80%	3.0%	30	\$ 1,356,080.00
Total Bond			\$	2,075,585.92
Total Cost			\$	2,414,605.92
Annual Payment			\$	69,186.20



For culinary water project typical sources of funding include Utah's Division of Drinking Water (DDW), the Utah Community Impact Board (CIB), or the open market. This plan assumes that some grant money will be available for the Stowells project as part of the Lead Line Replacement Program. To be conservative that plans assumes that minimal grant funds will be available for the SR-17 12" Line Replacement project. The annual payments for each project will be used for the financial analyses in later sections.

XII. FINANCIAL ANALYSIS

A. EXISTING USER RATE

Water rates are a combination of base rates and overage rates. The base rate is charged to all connections in the system regardless of water usage and is designed to cover all fixed costs of the system. Overage rates are often set to encourage water conservation and should cover all variable costs of the system. Figure XII-1 shows LaVerkin City's existing culinary user rate structure.

Figure XII-1

La Verkin - Culinary Water Rates - Current			
Meter Size	Base rate	Tiered Increase above Base per 1,000 gallons	Gallon Range for Increase
5/8"	\$39.00	\$1.38	0 - 20,000 gallons
		\$1.67	21,000 - 35,000 gallons
		\$1.96	36,000 gallons & Over
3/4"	\$55.60	\$1.38	0 - 20,000 gallons
		\$1.67	21,000 - 35,000 gallons
		\$1.96	36,000 gallons & Over
1"	\$97.84	\$1.38	0 - 26,000 gallons
		\$1.67	27,000 - 52,000 gallons
		\$1.96	53,000 gallons & Over
1 1/2"	\$218.56	\$1.38	0 - 58,000 gallons
		\$1.67	59,000 - 116,000 gallons
		\$1.96	117,000 gallons & Over
2"	\$387.57	\$1.38	0 - 102,000 gallons
		\$1.67	103,000 - 204,000 gallons
		\$1.96	205,000 gallons & Over
3"	\$870.45	\$1.38	0 - 230,000 gallons
		\$1.67	231,000 - 460,000 gallons
		\$1.96	461,000 gallons & Over

Increases in the base rate are correlated to connection size. The base rates are proportional to the surface area of the respective meter.

B. AVERAGE RATE DETERMINATION

This plan provides an average rate analysis to determine the average water rate per ERU needed to cover the expenses of the water system. The analysis uses recent fiscal year expenses and annual budgets to project the following year's expenses, and also uses new expenses associated with proposed improvements such as new debt services. This analysis considers projected

expenses and income sources to determine the amount of revenue needed to be generated by user rates.

The target revenue needed from user rates is divided by the estimated number of ERUs serviced by the system and converted to an average monthly rate. This gives the average user rate needed per ERU to cover the expenses of the water system. The analysis results in an average user rate per ERU of \$67.09 per month. Figure XII-2 shows the user rate analysis.

Figure XII-2

USER RATE ANALYSIS						
FY 2025	%	Fixed	%	Variable	Total	
O&M EXPENSES						
TOTAL O&M EXPENSES		\$ 600,467.45		\$ 602,850.05	\$ 1,203,317.50	
TRANSFERS						
LOAN PAYMENT TRANSFER	100%	\$ 35,000.00	0%	\$ -	\$ 35,000.00	
EXISTING DEBT SERVICE						
2010 Water Revenue	100%	\$ 48,409.00	0%	\$ -	\$ 48,409.00	
2014 Silver Acres	100%	\$ 15,995.00	0%	\$ -	\$ 15,995.00	
2022 Water Revenue	100%	\$ 42,678.20	0%	\$ -	\$ 42,678.20	
SUBTOTAL EXISTING DEBT SERVICE		\$ 107,082.20		\$ -	\$ 107,082.20	
NEW DEBT SERVICE						
Stowells Improvements	100%	\$ 28,783.03	0%	\$ -	\$ 28,783.03	
SR-17 12" Line Replacement	100%	\$ 69,186.20	0%	\$ -	\$ 69,186.20	
SUBTOTAL NEW DEBT SERVICE		\$ 97,969.22		\$ -	\$ 97,969.22	
TOTAL DEBT SERVICE/FINANCIAL EXPENSE		\$ 240,051.42		\$ -	\$ 240,051.42	
CAPITAL IMPROVEMENT PROJECTS						
West Water Improvements	100%	\$ 409,950.00	0%	\$ -	\$ 409,950.00	
SUBTOTAL SYSTEM REPLACEMENT		\$ 409,950.00			\$ 409,950.00	
TOTAL EXPENSES		\$ 1,250,468.87		\$ 602,850.05	\$ 1,853,318.92	
OTHER INCOME (BESIDES WATER SALES)						
Impact Fees	100%	\$ 106,209.96	0%	\$ -	\$ 106,209.96	
Connection Fees	0%	\$ -	100%	\$ 31,930.00	\$ 31,930.00	
Penalties and Fines	0%	\$ -	100%	\$ 25,750.00	\$ 25,750.00	
DCWCD Excess water use surcharge	0%	\$ -	100%	\$ 16,480.00	\$ 16,480.00	
TOTAL OTHER INCOME		\$ 106,209.96		\$ 74,160.00	\$ 180,369.96	
EXPENSES - INCOME		\$ 1,144,258.91		\$ 528,690.05	\$ 1,672,948.96	
MONTHLY COSTS PER ERU						
ERUS (FY 2025)					2078	
Monthly Cost/ERUS in FY2025		\$ 45.89		\$ 21.20	\$ 67.09	
BASE AND OVERAGE RATE DETERMINATION						
Base Cost (0 Gallons)		\$ 45.89				
Variable Cost (Avg Usage)				\$ 21.20		
Average Use/Billed ERU (Gal)				8,808		
Cost/1000 Gallons				\$ 2.41		
TOTAL AVERAGE MONTHLY USER RATE					\$ 67.09	

C. BASE AND OVERAGE RATE DETERMINATION

All expenses and other income are separated into fixed and variable costs to calculate the base and overage rates. This splits the total average rate into an average base rate and an average overage rate. The following shows what the average base rate and overage rate would be for an average residential connection.

- Base rate - \$45.89
- Overage rate - \$21.20

The calculated average rates are higher than what the City is currently collecting from users. This indicates that the City will not be able to cover the required projected and ongoing expenses with the current user rate structure. It is recommended that the City establish a new rate structure so that the water system is collecting enough revenue to cover expenses.

This plan provides a possible user rate structure that would provide the user rates calculated in the user rate analysis. Sunrise worked with City staff and elected officials to create the user rate structure. The user rate structure expands the existing tier structure to five total tiers, with an 8,000-gallon window for each tier.

Data was collected to differentiate average users from high water consumers, and a formula was proposed to determine water rate increases for each tier. The cost increase between each tier was calculated as follows:

$$Y = \frac{X^2}{30}$$

Where:

Y = Cost Increase percentage

X = Tier Level

This formula was selected help keep usage rates lower for average monthly usage, while discouraging heavy use.

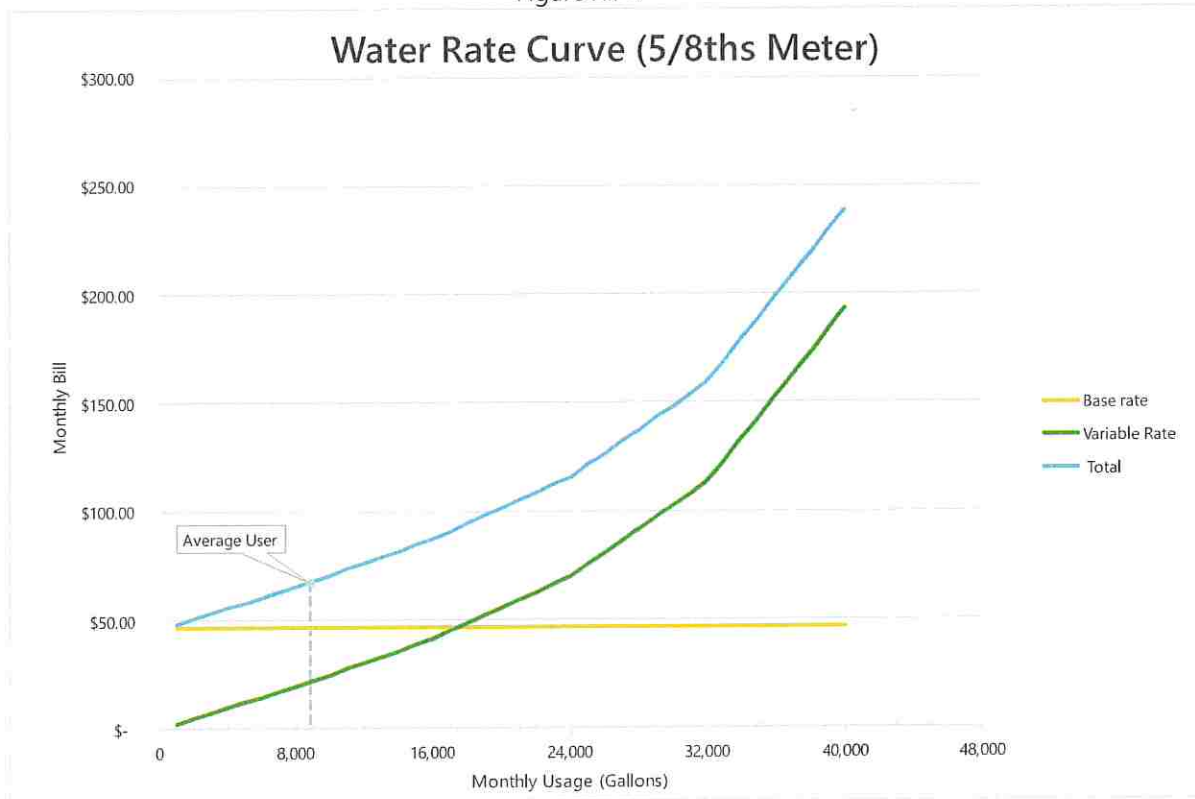
Each tier level along with its rate per 1,000 gallons and its range is shown in Figure XII-3. Note that this is tier is for a 5/8" meter. Base rates and tier ranges will increase proportionally with larger meter sizes.

Figure XII-3

La Verkin - Proposed Culinary Water Rates - Based on Usage Patterns					
Meter Size	Base rate		Tiered Increase above Base per	Gallon Range for Increase	
				Begin	End
5/8"	\$ 45.89	1	\$2.41	0	8,000
		2	\$2.73	8,001	16,000
		3	\$3.55	16,001	24,000
		4	\$5.44	24,001	32,000
		5	\$9.97	32,001	-

Figure XII-4 illustrates a user's water bill based on their monthly water usage. This illustration is only for 5/8" meters.

Figure XII-4



XIII. IMPACT FEES

This report constitutes a Capital Facilities plan to determine the public facilities requirement to serve development resulting from a new developmental activity. A community may charge an impact fee to provide funding for projects required by this growth. The total cost that is eligible for the impact fee assessment is equal to the portion of any planned improvements projects that will be constructed in the planning window. The combined costs for these projects are divided by the projected number of new ERUs that will be added to the system to determine the impact fee.

A. EXISTING IMPACT FEES

Figure XIII-1Error! Reference source not found. Below shows the existing impact fees charged by the City. The existing impact fees are associated with meter size and ERU's per meter size.

Figure XIII-1

Existing Impact Fee		
Meter Size	ERUs	Impact Fee
5/8" & 3/4"	1	\$1,572.00
1"	1.78	\$2,794.67
1 1/2"	4.00	\$6,288.00
2"	7.11	\$11,178.67
3"	16.00	\$25,152.00
4"	28.44	\$44,714.67
6"	64.00	\$100,608.00

B. PROPOSED IMPACT FEES

This plan includes and Impact Fee Analysis to determine the updated fee that the City can assess for its culinary water impact fee. As stated above an impact fee covers the cost for a project falling within the planning window, which for this analysis is 10 years. The impact fee can also cover debt services for past projects that can be attributed to growth.

According to state impact fee laws, impact fees must be used within six (6) years of their receipt. This plan accounts for incoming fees to be used for eligible projects and debts in the continuous six-year window.

The max allowable impact fee is calculated to be \$1,713.06 per ERU. This is a \$141.06 difference from the previous impact fee. Figure XIII-2 Shows the results of the impact fee analysis.

Figure XIII-2

IMPACT FEE ANALYSIS						
Existing Debt Service	Debt to be paid 2025-2034		% Impact Fee Eligible		Eligible Costs	
2010 Water Revenue	\$	240,575.00	0%	\$	-	
2014 Silver Acres	\$	143,170.00	0%	\$	-	
2022 Water Revenue	\$	430,114.70	38%	\$	163,492.30	
Subtotal					\$	163,492.30

Project	Total Current Estimated Cost	Year of Improvement	Inflated Costs	Financed Costs	% Impact Fee Eligible	Eligible Costs
Stowells Improvements	\$ 1,369,300.00	2026	\$ 1,410,400.00	\$ 1,709,730.76	15.32%	\$ 261,916.20
Storage Tank Solenoid Valves	\$ 80,000.00	2026	\$ 82,400.00	\$ 82,400.00	0.00%	\$ -
SR-17 12" Line Replacement	\$ 1,597,837.50	2027	\$ 1,695,100.00	\$ 2,414,605.92	0.00%	\$ -
West Water Improvements	\$ 3,236,200.00	2033	\$ 4,099,500.00	\$ 6,274,603.61	4.23%	\$ 265,352.49
Impact Fee Analysis Update (2029)	\$ 65,000.00	2029	\$ 73,200.00	\$ 112,038.29	100.00%	\$ 112,038.29
500 W Improvements	\$ 357,350.00	2031	\$ 426,700.00	\$ 653,097.54	30.26%	\$ 197,630.04
Subtotal						\$ 836,937.03

Total Impact Fee Eligible						\$ 1,000,429.32
Current ERUS (2025)						2,078
Projected ERUS (2034)						2,662
Number of New ERUs						584
Maximum Impact Fee (Total Eligible Cost / New ERU's)						\$ 1,713.06

Figure XIII-3 shows the potential impact fee per meter size.

Figure XIII-3

Proposed Impact Fee		
Meter Size	ERUs	Impact Fee
5/8" & 3/4"	1	\$1,713.06
1"	1.78	\$3,045.00
1 1/2"	4.00	\$6,852.00
2"	7.11	\$12,181.00
3"	16.00	\$27,409.00
4"	28.44	\$48,727.00
6"	64.00	\$109,636.00

Part of the Impact Fee Analysis is to determine what percentage each project of the capital facilities plan is impact fee eligible. The impact fee eligible percentage of the existing debt service was determined in a previous master plan and should be carried over for the life of the debts. The Majority of these projects involve increase the mainline pipe size. Increasing the size of pipe builds extra capacity in the line to be available for growth. The impact fee eligibility for these projects was determined by taking the percent increase in pipe capacity and multiplying by the percent of the area being served by the pipe that could be developed. Projects not driven by growth are intended to address existing problems and therefore are not considered impact fee eligible.

It is important to note these impact fees are for the improvements shown in the 0 to 10-year planning window and do not provide for the City to design and build anything beyond the

proposed projects. All new additions to the system will need to be considered in the impact fee calculations. Otherwise, developers should be required to make the improvements.

C. IMPACT FEE RELATED ITEMS

In general, it is beneficial to update this impact fee facilities plan analysis at least every five years, or more frequently if drastic growth or changes affect the assumptions and data in this plan. It is assumed that this plan will be updated as recommended.

City staff should be made aware that, in conformance with Utah Code 11-36a-602, impact fees can generally only be expended for a system improvement that is defined in the Impact Fee Facilities Plan and that it is for the specific public facility type for which the fee was collected (i.e., the transportation impact fees can not be used for water or sewer projects). Also, impact fees in Utah must be expended or encumbered for a permissible use within six years of their receipt unless 11-36a-602(2)(b) applies. Additionally, impact fees must have proper accounting (track each fee in and out) in accordance with Utah Code 11-63a-601.

In accordance with Utah Code 11-36a-306 a certification of impact fee analysis is located in Appendix E.

D. CONNECTION FEE

Currently the City charges \$375 connection fee for any new service that is connect to the system. According to Utah State Law, connection fees are not to be more than the actual cost of establishing the connection including a water meter and labor to connect the meter to the water main line. Figure XIII-4 shows the proposed connection fees based on meter size. This includes the costs of the meter, and associated materials, and 2 hours of labor and equipment expense. These fees should be looked at periodically and adjusted as prices for materials and labor increases.

Figure XIII-4

Proposed Connection Fees	
Meter Size	Connection fee
5/8" & 3/4"	\$ 380.00
1"	\$ 480.00
1 1/2"	\$ 772.00
2"	\$ 974.00
3"	\$ 1,562.00
4"	\$ 1,987.00

E. CASH FLOW

A 20-year cash flow analysis was prepared for this update. This cash flow shows several years of past revenues and expenses, along with twenty years of projected revenues and expenses for the water system. These projections are based on assumptions of inflation, growth, average rates, proposed projects, etc. Calculations for average rates and impact fees have been carried over to the cash flow analysis. The cash flow analysis is shown in Appendix E.

Water rates and fees should be reviewed by the City periodically to ensure that they keep up with inflation rates and increase costs in system maintenance. LaVerkin City does not have to adopt the amounts shown in the rate analysis. However, the rates suggested are calculated to cover expenses and ensure that the water fund remains viable.



APPENDIX A

Growth Rate Analysis

Estimated Residential Growth Rate						
Year	Est. Residential Growth Rate	Estimated Residential ERU's	Estimated Commercial ERU's	Institutional / Construction / Other ERU's	Total Estimated ERU's	Estimated Population
2023	3.0%	1,484	412	63	1,958	4,501
2024	3.0%	1,529	424	64	2,017	4,636
2025	3.0%	1,575	437	66	2,078	4,775
2026	3.0%	1,622	450	68	2,140	4,918
2027	3.0%	1,671	463	70	2,204	5,066
2028	3.0%	1,721	477	73	2,271	5,218
2029	3.0%	1,772	491	75	2,338	5,374
2030	2.5%	1,817	506	77	2,400	5,509
2031	2.5%	1,862	521	79	2,462	5,647
2032	2.5%	1,909	537	82	2,528	5,788
2033	2.5%	1,956	553	84	2,593	5,932
2034	2.5%	2,005	570	87	2,662	6,081
2035	2.5%	2,055	587	89	2,731	6,233
2036	2.5%	2,107	604	92	2,803	6,389
2037	2.5%	2,159	623	95	2,877	6,548
2038	2.5%	2,213	641	98	2,952	6,712
2039	2.5%	2,269	660	100	3,029	6,880
2040	2.5%	2,326	680	103	3,109	7,052
2041	2.5%	2,384	701	107	3,192	7,228
2042	2.5%	2,443	722	110	3,275	7,409
2043	2.5%	2,504	743	113	3,360	7,594
2044	2.5%	2,567	762	116	3,445	7,784
2045	2.5%	2,631	781	119	3,531	7,978



APPENDIX B

Water Use Analysis

Historical Usage

Calendar Year	Total Usage (Thousand Gallons)	Number of ERUs	Usage per ERU (gpd/ERU)
2019	199,191	1,716	318
2020	197,224	1,741	310
2021	201,045	1,810	304
2022	188,389	1,983	260
2023	187,388	1,958	262
4-year average	194,647	1,842	290

$$\text{Required Source Capacity} = \#ERU \times \frac{\text{gpd}}{\#ERU} \times \frac{1 \text{ Day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min}}$$

$$\text{Required Storage Capacity} = \#ERU \times \frac{\text{gpd}}{\#ERU} + \text{Fire Flow (1,500 gpm)} \times \frac{60 \text{ min}}{1 \text{ hr}} \times 2 \text{ hr}$$

Current & Projected Required Source Capacity

Calendar Year	# of ERU	% Reduction in Usage Per ERU	Peak Day Usage (gpm/ERU)	Source Capacity Required (gpm)	Existing Source Available (gpm)	Source Capacity Surplus/Deficit (gpm)
2022	16,389	0.5%	901.14	10,256	17,442	7,186
2023	17,520	0.5%	896.64	10,909	17,442	6,533
2024	18,729	0.5%	892.15	11,603	17,442	5,839
2025	20,021	0.5%	887.69	12,342	17,442	5,100
2026	21,122	0.5%	883.25	12,956	17,442	4,486
2027	22,284	0.5%	878.84	13,600	17,442	3,842
2028	23,509	0.5%	874.44	14,276	17,442	3,166
2029	24,450	0.5%	870.07	14,773	17,442	2,669
2030	25,428	0.5%	865.72	15,287	17,442	2,155
2031	26,445	0.5%	861.39	15,819	17,442	1,623
2032	27,503	0.5%	857.09	16,370	17,442	1,072
2033	28,465	0.5%	852.80	16,858	17,442	584
2034	29,462	0.5%	848.54	17,361	17,442	81
2035	30,493	0.5%	844.29	17,878	17,442	(436)
2036	31,560	0.5%	840.07	18,412	17,442	(970)
2037	32,665	0.5%	835.87	18,961	17,442	(1,519)
2038	33,808	0.5%	831.69	19,526	17,442	(2,084)
2039	34,991	0.5%	827.53	20,109	17,442	(2,667)
2040	36,216	0.5%	823.40	20,708	17,442	(3,266)
2041	37,483	0.5%	819.28	21,326	17,442	(3,884)
2042	38,795	0.5%	815.18	21,962	17,442	(4,520)

Storage Capacity Analysis							
Calendar Year	# of ERU	% Reduction in Usage Per ERU	Average Day Usage (gpd/ERU)	Required Storage Capacity (gal)	Existing Storage Capacity (gal)	Storage Capacity Surplus/Deficit (gal)	Projected Storage Capacity Surplus/Deficit (gal)
2022	16,389	0.5%	478.9	8,029,456	9,810,000	1,780,544	1,780,544
2023	17,520	0.5%	476.6	8,529,114	9,810,000	1,280,886	3,780,886
2024	18,729	0.5%	474.2	9,060,576	9,810,000	749,424	5,749,424
2025	20,021	0.5%	471.8	9,625,869	9,810,000	184,131	7,684,131
2026	21,122	0.5%	469.4	10,095,565	9,810,000	(285,565)	7,214,435
2027	22,284	0.5%	467.1	10,588,617	9,810,000	(778,617)	6,721,383
2028	23,509	0.5%	464.8	11,106,185	9,810,000	(1,296,185)	6,203,815
2029	24,450	0.5%	462.4	11,486,417	9,810,000	(1,676,417)	5,823,583
2030	25,428	0.5%	460.1	11,879,880	9,810,000	(2,069,880)	5,430,120
2031	26,445	0.5%	457.8	12,287,036	9,810,000	(2,477,036)	5,022,964
2032	27,503	0.5%	455.5	12,708,360	9,810,000	(2,898,360)	4,604,604
2033	28,465	0.5%	453.3	13,082,019	9,810,000	(3,272,019)	4,182,981
2034	29,462	0.5%	451.0	13,466,822	9,810,000	(3,656,822)	3,767,178
2035	30,493	0.5%	448.7	13,863,101	9,810,000	(4,053,101)	3,364,099
2036	31,560	0.5%	446.5	14,271,199	9,810,000	(4,461,199)	2,972,901
2037	32,665	0.5%	444.3	14,691,470	9,810,000	(4,881,470)	2,581,530
2038	33,808	0.5%	442.0	15,124,274	9,810,000	(5,314,274)	2,190,256
2039	34,991	0.5%	439.8	15,569,987	9,810,000	(5,759,987)	1,798,273
2040	36,216	0.5%	437.6	16,028,993	9,810,000	(6,218,993)	1,406,280
2041	37,483	0.5%	435.4	16,501,690	9,810,000	(6,691,690)	1,014,287
2042	38,795	0.5%	433.3	16,988,484	9,810,000	(7,178,484)	63,215,516



APPENDIX C

Engineers Opinion of Probable Cost

Engineer's Opinion of Probable Cost

Stowells Improvements
LaVerkin City

30-Oct-24
RRH/bcw

NO.	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
GENERAL CONSTRUCTION					
1	Mobilization	1	LS	\$ 45,200.00	\$ 45,200.00
2	Traffic Control	1	LS	\$ 10,000.00	\$ 10,000.00
3	SWPPP Compliance and Erosion Control	1	LS	\$ 5,000.00	\$ 5,000.00
4	Dust Control and Watering	1	LS	\$ 5,000.00	\$ 5,000.00
5	Subsurface Investigation	10	HR	\$ 300.00	\$ 3,000.00
6	Construction Staking	1	LS	\$ 5,000.00	\$ 5,000.00
7	Clearing, Grubbing, Excavation, and Demolition	1	LS	\$ 10,000.00	\$ 10,000.00
8	8" PVC Line & Fittings	2,820	LF	\$ 200.00	\$ 564,000.00
9	8" Gate Valve Assembly	12	EA	\$ 5,500.00	\$ 66,000.00
10	Reconnect Existing Fire Hydrant	1	EA	\$ 2,100.00	\$ 2,100.00
11	3/4" Meter Service Connection (Meter, Barrel, Setter, Etc)	61	EA	\$ 1,500.00	\$ 91,500.00
12	Service Lateral Pipe	1,720	LF	\$ 25.00	\$ 43,000.00
13	Fire Hydrant Assembly	4	EA	\$ 10,000.00	\$ 40,000.00
14	Surface Restoration	1	LS	\$ 50,000.00	\$ 50,000.00
15	Misc. Connections & Tie-ins	1	LS	\$ 10,000.00	\$ 10,000.00
SUBTOTAL					\$ 949,800.00
CONTINGENCY				20%	\$ 190,000.00
CONSTRUCTION TOTAL					\$ 1,139,800.00
INCIDENTALS					
1	Engineering Design	5.6%	LS	\$ 76,500.00	\$ 76,500.00
2	Bidding & Negotiating	0.7%	HR	\$ 10,000.00	\$ 10,000.00
3	Engineering Construction Services	5.6%	HR	\$ 76,000.00	\$ 76,000.00
4	Regulatory Compliance	0.4%	HR	\$ 5,000.00	\$ 5,000.00
5	Topographic & Property Survey	0.9%	EST	\$ 12,000.00	\$ 12,000.00
6	Materials Sampling and Testing	0.4%	EST	\$ 5,000.00	\$ 5,000.00
7	Funding and Administrative Services	0.7%	EST	\$ 10,000.00	\$ 10,000.00
8	Loan Origination Fee	0.7%	EST	\$ 10,000.00	\$ 10,000.00
9	Bond Attorney	0.7%	EST	\$ 10,000.00	\$ 10,000.00
10	GIS Mapping	0.4%	EST	\$ 5,000.00	\$ 5,000.00
11	Miscellaneous Professional Services	0.7%	EST	\$ 10,000.00	\$ 10,000.00
SUBTOTAL					\$ 229,500.00
TOTAL PROJECT COST					\$ 1,369,300.00

In providing opinions of probable construction cost, the Client understands that the Engineer has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinion of probable construction cost provided herein is made on the basis of the Engineer's qualifications and experience. The Engineer makes no warranty, expressed or implied, as to the accuracy of such opinions compared to bid or actual costs.

Engineer's Opinion of Probable Cost

SR-17 12" Line Replacement
LaVerkin City

30-Oct-24
RRH/bcw

NO.	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
GENERAL CONSTRUCTION					
1	Mobilization	1	LS	\$ 52,900.00	\$ 52,900.00
2	Traffic Control	1	LS	\$ 50,000.00	\$ 50,000.00
3	SWPPP Compliance and Erosion Control	1	LS	\$ 7,500.00	\$ 7,500.00
4	Dust Control and Watering	1	LS	\$ 10,000.00	\$ 10,000.00
5	Subsurface Investigation	10	HR	\$ 300.00	\$ 3,000.00
6	Construction Staking	1	LS	\$ 10,000.00	\$ 10,000.00
7	Clearing, Grubbing, Excavation, and Demolition	1	LS	\$ 20,000.00	\$ 20,000.00
8	12" DIP	2,200	LF	\$ 250.00	\$ 550,000.00
9	12" Gate Valve Assembly	6	EA	\$ 8,000.00	\$ 48,000.00
10	10" Gate Valve Assembly	1	EA	\$ 7,500.00	\$ 7,500.00
11	8" Gate Valve Assembly	2	EA	\$ 5,500.00	\$ 11,000.00
12	6" Gate Valve Assembly	1	EA	\$ 5,000.00	\$ 5,000.00
13	Misc. Connections & Tie-ins	1	LS	\$ 7,000.00	\$ 7,000.00
14	Fire Hydrant Assembly	4	EA	\$ 10,000.00	\$ 40,000.00
15	Check Valve	1	EA	\$ 15,000.00	\$ 15,000.00
16	Concrete Removal	5,398	SF	\$ 5.00	\$ 26,987.50
17	Concrete Sidewalk	4,725	SF	\$ 25.00	\$ 118,125.00
24	Curb and Gutter	945	LF	\$ 23.00	\$ 21,735.00
19	Pedestrian Ramps	2	EA	\$ 7,500.00	\$ 15,000.00
20	Signs	3	EA	\$ 350.00	\$ 1,050.00
21	Block Wall/ Fill	75	LF	\$ 200.00	\$ 15,000.00
23	Brick Wall	120	LF	\$ 150.00	\$ 18,000.00
25	Asphalt Patch	420	SF	\$ 7.00	\$ 2,940.00
22	Surface Restoration	1	LS	\$ 25,000.00	\$ 25,000.00
18	Landscape Restoration	1	LS	\$ 6,000.00	\$ 6,000.00
22	Tree	15	EA	\$ 600.00	\$ 9,000.00
SUBTOTAL					\$ 1,110,737.50
CONTINGENCY				20%	\$ 222,100.00
CONSTRUCTION TOTAL					\$ 1,332,837.50
INCIDENTALS					
1	Engineering Design	6.1%	LS	\$ 97,100.00	\$ 97,100.00
2	Bidding & Negotiating	0.6%	HR	\$ 10,000.00	\$ 10,000.00
3	Engineering Construction Services	5.6%	HR	\$ 88,900.00	\$ 88,900.00
4	Regulatory Compliance	0.3%	HR	\$ 5,000.00	\$ 5,000.00
5	Topographic & Property Survey	0.9%	EST	\$ 14,000.00	\$ 14,000.00
6	Materials Sampling and Testing	0.3%	EST	\$ 5,000.00	\$ 5,000.00
7	Funding and Administrative Services	0.6%	EST	\$ 10,000.00	\$ 10,000.00
8	Loan Origination Fee	0.6%	EST	\$ 10,000.00	\$ 10,000.00
9	Bond Attorney	0.6%	EST	\$ 10,000.00	\$ 10,000.00
10	GIS Mapping	0.3%	EST	\$ 5,000.00	\$ 5,000.00
11	Miscellaneous Professional Services	0.6%	EST	\$ 10,000.00	\$ 10,000.00
SUBTOTAL					\$ 265,000.00
TOTAL PROJECT COST					\$ 1,597,837.50

In providing opinions of probable construction cost, the Client understands that the Engineer has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinion of probable construction cost provided herein is made on the basis of the Engineer's qualifications and experience. The Engineer makes no warranty, expressed or implied, as to the accuracy of such opinions compared to bid or actual costs.

Engineer's Opinion of Probable Cost

500 W Improvements
LaVerkin City

30-Oct-24
RRH/bcw

NO.	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
GENERAL CONSTRUCTION					
1	Mobilization	1	LS	\$ 10,400.00	\$ 10,400.00
2	Traffic Control	1	LS	\$ 1,500.00	\$ 1,500.00
3	SWPPP Compliance and Erosion Control	1	LS	\$ 1,500.00	\$ 1,500.00
4	Dust Control and Watering	1	LS	\$ 1,500.00	\$ 1,500.00
5	Subsurface Investigation	4	HR	\$ 300.00	\$ 1,200.00
6	Construction Staking	1	LS	\$ 1,500.00	\$ 1,500.00
7	Clearing, Grubbing, Excavation, and Demolition	1	LS	\$ 5,000.00	\$ 5,000.00
8	8" PVC line & Fittings	720	LF	\$ 200.00	\$ 144,000.00
9	8" Gate Valve Assembly	4	EA	\$ 5,500.00	\$ 22,000.00
10	Surface Restoration	1	LS	\$ 7,500.00	\$ 7,500.00
11	Misc. Connections & Tie-ins	1	LS	\$ 3,000.00	\$ 3,000.00
12	Fire Hydrant Assembly	2	EA	\$ 10,000.00	\$ 20,000.00
SUBTOTAL					\$ 219,100.00
CONTINGENCY				20%	\$ 43,800.00
CONSTRUCTION TOTAL					\$ 262,900.00
INCIDENTALS					
1	Engineering Design	7.2%	LS	\$ 25,700.00	\$ 25,700.00
2	Bidding & Negotiating	2.8%	HR	\$ 10,000.00	\$ 10,000.00
3	Engineering Construction Services	4.9%	HR	\$ 17,500.00	\$ 17,500.00
4	Regulatory Compliance	1.4%	HR	\$ 5,000.00	\$ 5,000.00
5	Topographic & Property Survey	1.1%	EST	\$ 4,000.00	\$ 4,000.00
6	Materials Sampling and Testing	1.1%	EST	\$ 4,000.00	\$ 4,000.00
7	Funding and Administrative Services	1.4%	EST	\$ 5,000.00	\$ 5,000.00
8	Loan Origination Fee	2.8%	EST	\$ 10,000.00	\$ 10,000.00
9	Bond Attorney	2.8%	EST	\$ 10,000.00	\$ 10,000.00
10	GIS Mapping	0.3%	EST	\$ 1,250.00	\$ 1,250.00
11	Miscellaneous Professional Services	0.6%	EST	\$ 2,000.00	\$ 2,000.00
SUBTOTAL					\$ 94,450.00
TOTAL PROJECT COST					\$ 357,350.00

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Engineer's Opinion of Probable Cost

West Water Improvements
LaVerkin City

30-Oct-24
RRH/bcw

NO.	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
GENERAL CONSTRUCTION					
1	Mobilization	1	LS	\$ 110,800.00	\$ 110,800.00
2	Traffic Control	1	LS	\$ 50,000.00	\$ 50,000.00
3	SWPPP Compliance and Erosion Control	1	LS	\$ 10,000.00	\$ 10,000.00
4	Dust Control and Watering	1	LS	\$ 10,000.00	\$ 10,000.00
5	Subsurface Investigation	24	HR	\$ 300.00	\$ 7,200.00
6	Construction Staking	1	LS	\$ 12,500.00	\$ 12,500.00
7	Clearing, Grubbing, Excavation, and Demolition	1	LS	\$ 15,000.00	\$ 15,000.00
8	8" PVC line & Fittings	7500	LF	\$ 200.00	\$ 1,500,000.00
9	8" Gate Valve Assembly	24	EA	\$ 5,500.00	\$ 132,000.00
10	Asphalt Patch	45,000	SF	\$ 5.00	\$ 225,000.00
11	Misc. Connections & Tie-ins	1	LS	\$ 20,000.00	\$ 20,000.00
12	Fire Hydrant Assembly	13	EA	\$ 10,000.00	\$ 130,000.00
13	Water Service Lateral	105	EA	\$ 1,000.00	\$ 105,000.00
SUBTOTAL					\$ 2,327,500.00
CONTINGENCY				20%	\$ 465,500.00
CONSTRUCTION TOTAL					\$ 2,793,000.00
INCIDENTALS					
1	Engineering Design	5.7%	LS	\$ 185,500.00	\$ 185,500.00
2	Bidding & Negotiating	0.3%	HR	\$ 10,000.00	\$ 10,000.00
3	Engineering Construction Services	5.8%	HR	\$ 186,200.00	\$ 186,200.00
4	Regulatory Compliance	0.2%	HR	\$ 5,000.00	\$ 5,000.00
5	Topographic & Property Survey	0.3%	EST	\$ 10,000.00	\$ 10,000.00
6	Materials Sampling and Testing	0.2%	EST	\$ 5,000.00	\$ 5,000.00
7	Funding and Administrative Services	0.3%	EST	\$ 10,000.00	\$ 10,000.00
8	Loan Origination Fee	0.3%	EST	\$ 10,000.00	\$ 10,000.00
9	Bond Attorney	0.3%	EST	\$ 10,000.00	\$ 10,000.00
10	GIS Mapping	0.0%	EST	\$ 1,500.00	\$ 1,500.00
11	Miscellaneous Professional Services	0.3%	EST	\$ 10,000.00	\$ 10,000.00
SUBTOTAL					\$ 443,200.00
TOTAL PROJECT COST					\$ 3,236,200.00

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Engineer's Opinion of Probable Cost

SR 17 and 500 N Improvements
LaVerkin City

30-Oct-24
RRH/bcw

NO.	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
GENERAL CONSTRUCTION					
1	Mobilization	1	LS	\$ 44,500.00	\$ 44,500.00
2	Traffic Control	1	LS	\$ 10,000.00	\$ 10,000.00
3	SWPPP Compliance and Erosion Control	1	LS	\$ 1,500.00	\$ 1,500.00
4	Dust Control and Watering	1	LS	\$ 10,000.00	\$ 10,000.00
5	Subsurface Investigation	6	HR	\$ 300.00	\$ 1,800.00
6	Construction Staking	1	LS	\$ 10,000.00	\$ 10,000.00
7	Clearing, Grubbing, Excavation, and Demolition	1	LS	\$ 8,000.00	\$ 8,000.00
8	8" PVC Iline & Fittings	1,440	LF	\$ 200.00	\$ 288,000.00
9	10" Gate Valve Assembly	3	EA	\$ 7,500.00	\$ 22,500.00
10	8" Gate Valve Assembly	3	EA	\$ 5,500.00	\$ 16,500.00
11	6" Gate Valve Assembly	2	EA	\$ 5,000.00	\$ 10,000.00
12	Fire Hydrant Assembly	4	EA	\$ 10,000.00	\$ 40,000.00
13	8" PRV Unit	2	EA	\$ 38,000.00	\$ 76,000.00
14	Surface Restoration	1	LS	\$ 25,000.00	\$ 25,000.00
15	Misc. Connections & Tie-ins	1	LS	\$ 3,000.00	\$ 3,000.00
16	Replace Cemetery Fence and Pillars	1	LS	\$ 60,000.00	\$ 60,000.00
17	Remove Concrete	9,770	SF	\$ 5.00	\$ 48,850.00
18	Sidewalk	8,550	SF	\$ 25.00	\$ 213,750.00
19	Remove and Replace Fence	200	LF	\$ 6.00	\$ 1,200.00
20	Curb and Gutter	1,000	LF	\$ 12.00	\$ 12,000.00
21	Pedestrian Ramp	3	EA	\$ 7,500.00	\$ 22,500.00
22	Replace 6" Water Way	360	SF	\$ 23.00	\$ 8,280.00
23	Replace Concrete Driveway Transition	60	SF	\$ 23.00	\$ 1,380.00
SUBTOTAL					\$ 934,760.00
CONTINGENCY				20%	\$ 187,000.00
CONSTRUCTION TOTAL					\$ 1,121,760.00
INCIDENTALS					
1	Engineering Design	6.2%	LS	\$ 83,500.00	\$ 83,500.00
2	Bidding & Negotiating	0.7%	HR	\$ 10,000.00	\$ 10,000.00
3	Engineering Construction Services	5.5%	HR	\$ 74,800.00	\$ 74,800.00
4	Regulatory Compliance	0.4%	HR	\$ 5,000.00	\$ 5,000.00
5	Topographic & Property Survey	0.9%	EST	\$ 12,000.00	\$ 12,000.00
6	Materials Sampling and Testing	0.4%	EST	\$ 5,000.00	\$ 5,000.00
7	Funding and Administrative Services	0.7%	EST	\$ 10,000.00	\$ 10,000.00
8	Loan Origination Fee	0.7%	EST	\$ 10,000.00	\$ 10,000.00
9	Bond Attorney	0.7%	EST	\$ 10,000.00	\$ 10,000.00
10	GIS Mapping	0.4%	EST	\$ 5,000.00	\$ 5,000.00
11	Miscellaneous Professional Services	0.7%	EST	\$ 10,000.00	\$ 10,000.00
SUBTOTAL					\$ 235,300.00
TOTAL PROJECT COST					\$ 1,357,060.00

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Engineer's Opinion of Probable Cost

East Water Improvements
LaVerkin City

30-Oct-24
RRH/bcw

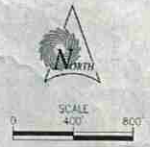
NO.	DESCRIPTION	EST. QTY	UNIT	UNIT PRICE	AMOUNT
GENERAL CONSTRUCTION					
1	Mobilization	1	LS	\$ 111,700.00	\$ 111,700.00
2	Traffic Control	1	LS	\$ 50,000.00	\$ 50,000.00
3	SWPPP Compliance and Erosion Control	1	LS	\$ 10,000.00	\$ 10,000.00
4	Dust Control and Watering	1	LS	\$ 10,000.00	\$ 10,000.00
5	Subsurface Investigation	24	HR	\$ 300.00	\$ 7,200.00
6	Construction Staking	1	LS	\$ 12,500.00	\$ 12,500.00
7	Clearing, Grubbing, Excavation, and Demolition	1	LS	\$ 15,000.00	\$ 15,000.00
8	8" PVC Iline & Fittings	7100	LF	\$ 200.00	\$ 1,420,000.00
9	8" Gate Valve Assembly	40	EA	\$ 5,500.00	\$ 220,000.00
10	Asphalt Patch	42,600	SF	\$ 5.00	\$ 213,000.00
11	Misc. Connections & Tie-ins	1	LS	\$ 20,000.00	\$ 20,000.00
12	Fire Hydrant Assembly	17	EA	\$ 10,000.00	\$ 170,000.00
13	Water Service Lateral	86	EA	\$ 1,000.00	\$ 86,000.00
SUBTOTAL					\$ 2,345,400.00
CONTINGENCY				20%	\$ 469,100.00
CONSTRUCTION TOTAL					\$ 2,814,500.00
INCIDENTALS					
1	Engineering Design	5.7%	LS	\$ 186,800.00	\$ 186,800.00
2	Bidding & Negotiating	0.3%	HR	\$ 10,000.00	\$ 10,000.00
3	Engineering Construction Services	5.8%	HR	\$ 187,600.00	\$ 187,600.00
4	Regulatory Compliance	0.2%	HR	\$ 5,000.00	\$ 5,000.00
5	Topographic & Property Survey	0.3%	EST	\$ 10,000.00	\$ 10,000.00
6	Materials Sampling and Testing	0.2%	EST	\$ 5,000.00	\$ 5,000.00
7	Funding and Administrative Services	0.3%	EST	\$ 10,000.00	\$ 10,000.00
8	Loan Origination Fee	0.3%	EST	\$ 10,000.00	\$ 10,000.00
9	Bond Attorney	0.1%	EST	\$ 4,000.00	\$ 4,000.00
10	GIS Mapping	0.0%	EST	\$ 1,500.00	\$ 1,500.00
11	Miscellaneous Professional Services	0.3%	EST	\$ 10,000.00	\$ 10,000.00
SUBTOTAL					\$ 439,900.00
TOTAL PROJECT COST					\$ 3,254,400.00

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APPENDIX D

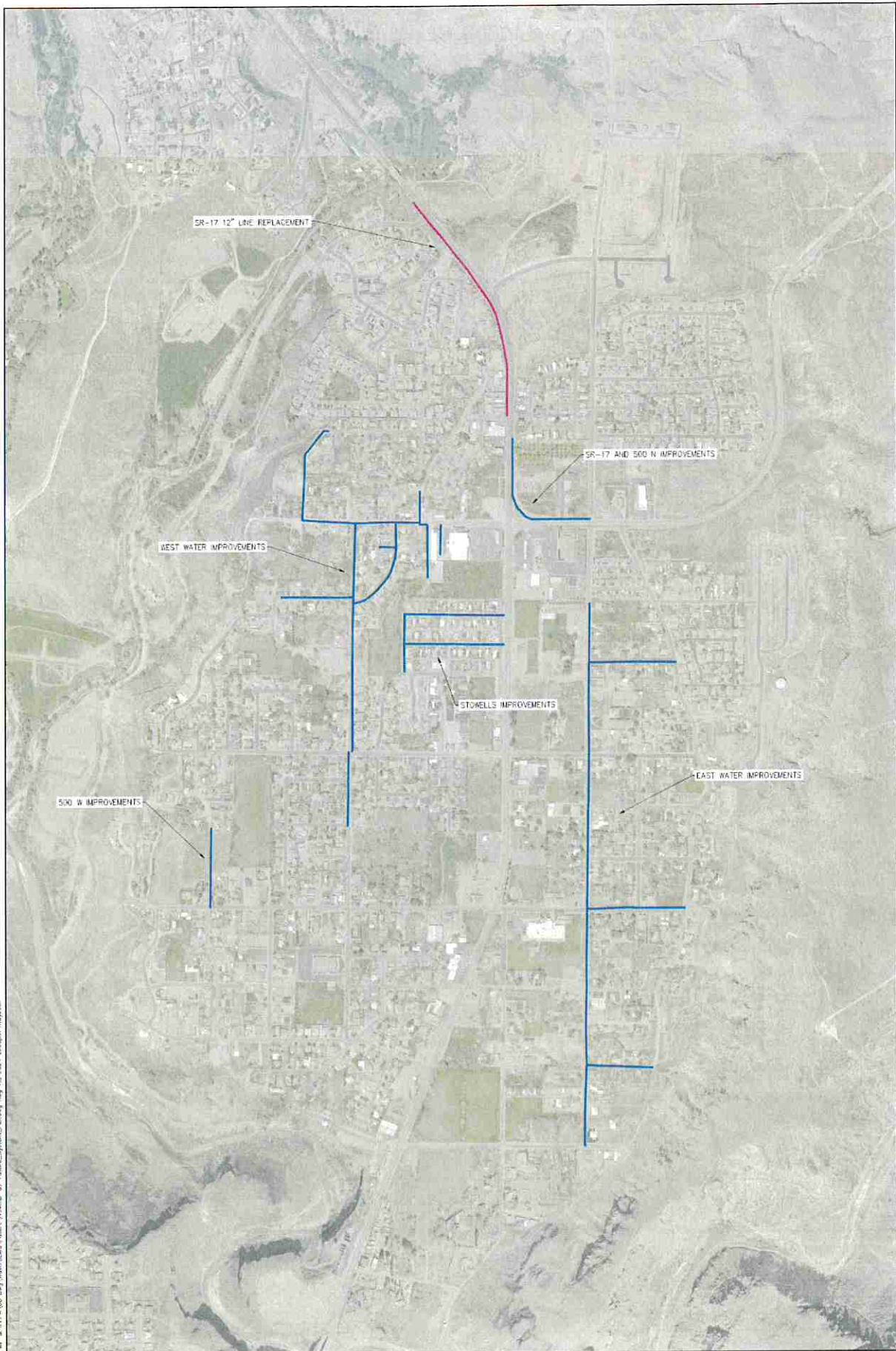
System Maps

LA VERKIN CULINARY WATER SYSTEM



LEGEND	
COLOR	PIPE DIAMETER
Orange	<= 4"
Green	6"
Light Blue	8"
Medium Blue	10"
Dark Blue	12"
Purple	>12"

LAVERKIN CITY
CULINARY WATER JUNCTION MAP



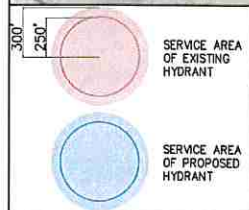
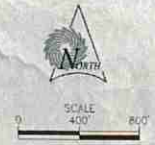
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CITY OF LAVERKIN
CULINARY WATER MASTER PLAN
RECOMMENDED IMPROVEMENTS

 **SUNRISE**
ENGINEERING
 11 NORTH 300 WEST
 WASHINGTON, UT 84780
 TEL 435.652.8450 | sunrise-eng.com

AUGUST 2024

FIRE HYDRANT SERVICE AREA



APPENDIX E

Cash Flow



APPENDIX F

Impact Fee Certification

The City of LaVerkin has averaged over 200 dogs a year (over the last 5 years).

Of these 200 dogs 180 of them were intakes from the COUNTY.

Our capacity for dogs is 8 kennels- and two overflow areas outdoors only when in desperation mode. Over the last couple of years, we have used these areas on two separate occasions. Most of the time when we are full, we have consistently relied on volunteers to foster private residences.

We currently have two Part time Animal Control Officers. Taunya Rangel who averages just under 50 hrs. biweekly and Steve Marcotte who works the additional 24 hrs. at the shelter. We have been very fortunate as our volunteers dedicate an average of 55 hrs. to the kennel per month.

Shelters within our county include Hurricane, Santa Clara Ivins, and Washington City and of course St. George City.

Hurricane has 2 full-time animal control officers and 2 full-time kennel attendants along with a P/T kennel attendant & 1 Full time supervisor. They have a capacity of 9 kennels that can all be split in half for a total of 18 kennels with an overflow of 3 additional kennels outside.

In speaking with Sheriff Brooksby he has been pleased with our animal control services and stated that building this addition for our city would be beneficial for the County as he or the county have no intention to build an animal shelter at this time and this would be a cost effective way of satisfying the need.

Things the County would pay for-

1. Retaining blocks
2. Concrete Pad
3. Insulated Container
4. Plumbing Costs
5. Electrical Costs
6. Chain Link Fencing.
7. Paint
8. Outdoor Shade
9. A/C & Heating systems
10. Additional?

