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AGENDA

SUMMIT COUNTY COUNCIL

Wednesday, August 4, 2010

NOTICE is hereby given that the Summit County Council will meet in regular session

Wednesday, August 4, 2010, at the County Courthouse, 60 North Main Street, Coalville, UT 84017

All times listed are general in nature and are subject to change by the Council Chair

1:30 p.m. Closed Session Conference Room #2

- Pending litigation

2:00 p.m. Work Session, Conference Room #2 *Public comment may or may not be accepted*

- Review of Council mail, calendar, and minutes
- Continued review and update of planning, building, and engineering application fee study and resolution; *Don Sargent, Community Development Director* (30 minutes)
- Review and Discussion of Summit County's Health Insurance plan; *Brian Bellamy, Personnel Director* (1 hour)
- Review and Discussion of Summit County Boards and Commissions; *Dave Thomas, Deputy County Attorney* (1 ½ hours)
- Discussion of Natural Resources Conservation Service (NRCS) Grants for Emergency Watershed Protection Program; *Kevin Callahan, Public Works Administrator* (30 minutes)

5:30 p.m. Regular Session Consideration of Approvals, Council Chambers

- Pledge of Allegiance
- Manager Authorization to execute agreements for Natural Resources Conservation Service (NRCS) Grants for Emergency Watershed Protection Program; *Kevin Callahan, Public Works Administrator*
- Manager's report
- Approval of Minutes: July 7, 2010
- Council comments and questions

Convene as the Board of Equalization: Consideration of Approval of two 2009 BOE decisions; *Kathryn Rockhill, BOE Clerk*

6:00 p.m. Reconvene as the County Council

- Public Input
- Public Hearing to receive comment on the vacation of an old State Road located in Sections 30, T2S, R6E, SLB&M, approximately 5 miles east of the Jordanelle Reservoir and .5 miles west of the intersection of SR 32 and Lower River Road; *Derrick Radke, County Engineer*

Individuals with questions, comments, or needing special accommodations pursuant to the Americans with Disabilities Act regarding this meeting may contact Karen Brostrom, at 336-3025, 615-3025, 783-4351 x3025.

Distribution: A
Posted: July 30, 2010
Next Regular Meeting: August 11, 2010

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MEMORANDUM

To: Summit County Council
Report Date: July 22, 2010
Meeting Date: August 4, 2010
From: Don Sargent, Community Development Director
Project Name & Type: Application Fee Study and Resolution
Type of Item: Work Session

This item includes the continued review and discussion of the application fee study and updated fee resolution. Following two work sessions in December of 2009 and January of 2010, the Summit County Council (SCC) held a public hearing on March 3, 2010, to discuss and receive public input for a proposal to enact updated fees for the Planning, Building, and Engineering Departments.

The SCC subsequently met with staff in a work session on March 24, 2010 to clarify and address several items that were identified at the public hearing with the proposed updated fee resolution. The fee study consultants and Staff has researched and refined the building permit fees in the study and drafted the attached fee resolution addressing the items discussed in work session. The fee resolution encompasses an overall fee schedule for Planning, Building and Engineering.

Staff recommends that the SCC reviews the attached final draft fee resolution and provide any further direction to Staff on the resolution in preparation of second public hearing and possible adoption of the fees.

Attachment: Final Draft Fee Resolution

SUMMIT COUNTY, UTAH
RESOLUTION NO. _____

AMENDMENT TO DEVELOPMENT PERMIT, BUILDING, AND ENGINEERING APPLICATION FEES

WHEREAS, the Snyderville Basin Development Code, Title 10, and the Eastern Summit County Development Code, Title 11 empower the Summit County Council to establish fees for the purpose of covering specific County costs incurred during the review and processing of any development permit application, and

WHEREAS, on July 12, 2006, the previous legislative body, the Summit County Commission, adopted Resolution 99-11A, creating development permit application fees for the 1998 Snyderville Basin Development Code and the 1996 Eastern Summit County Development Code, and

WHEREAS, on July 22, 2009, the Summit County Council adopted Ordinance No. 723 that added a Special Exception Process to the Snyderville Basin and Eastern Summit County Development Codes; and

WHEREAS, on August 12, 2009, the Summit County Council adopted Resolution No. 2009-22 creating the Special Exception Application Fee that is required to be submitted with an associated special exception application; and

WHEREAS, certain Summit County ordinances require the Engineering Department to review and administer permit applications and to inspect the work permitted under these ordinances; and

WHEREAS, on July 12, 2006, the Summit County Commission adopted Resolution 2006-09, creating permit application fees and bond requirements for the Engineering Department; and

WHEREAS, the Uniform Building Standards Act, Utah Code Annotated Title 58, Chapter 56 provides for the statewide adoption of the Uniform Building Code, the Uniform Plumbing Code, the Uniform Mechanical Code, and the National Electrical Code; and

WHEREAS, these codes provide for the payment of building permit fees, plan check fees, plumbing permit fees, mechanical permit fees, and electrical permit fees upon the issuance of permits authorizing building construction within Summit County; and

WHEREAS, on December 19, 1994, the Summit County Commission adopted Resolution No. 94-21, creating building, pluming, mechanical, and electrical permit fees; and **WHEREAS,** since the adoption of the aforementioned resolutions, the interim County Manager contracted with Daly Summit Consulting on September 17, 2009 to conduct a fee study to determine the actual costs of providing development permit application services, and

WHEREAS, the Summit County Council determined that the fee study, attached hereto as **Exhibit A** and incorporated herein, documents and supports the need for an adjustment to certain permit application fees.

NOW, THEREFORE, BE IT RESOLVED, that the County Council of the County of Summit, State of Utah [hereinafter the "Council"] resolves as follows:

Section 1:

a. The Council hereby repeals Summit County, Utah Resolution No 99-11A in order to establish an amended fee schedule for the Snyderville Basin Development Code and the Eastern Summit County Development Code.

b. The Council hereby repeals Summit County, Utah Resolution No. 2009-22 in order to establish an amended fee for special exceptions within the Snyderville Basin and Eastern Summit County Development Code.

c. The Council hereby repeals Summit County, Utah Resolution No 2006-09 in order to establish appropriate revisions to the fee and bond schedules for the Engineering Department.

d. The Council hereby repeals Summit County, Utah Resolution No. 94-21 in order to establish an amended fee schedule for the Building Department.

Section 2:

The Council, hereby establishes new fee schedules for the Community Development, Building, and Engineering Departments attached hereto as **Exhibit B**. Indicated Engineering Fees shall be credited to the Summit County Engineering Department and all other fees shall be credited to the Summit County Community Development Department).

Section 3: Refund of Fees

Community Development Department Fees and Engineering Department Fees

A refund may be given in an amount not to exceed fifty percent of the application fee or fees paid, when the application is withdrawn, in writing, prior to any of the following:

1. Issuance of any notice of public hearing or prior to begin placed on agenda of the County Manager, Planning Commission, Board of Adjustment, or County Council.
2. Completion of the review of any documents or plans submitted with the application.
3. An inspection or site visit requested by the applicant or performed by Staff.

Building Department Fees

A refund may be given in an amount not to exceed eighty percent of the building permit fees paid, at the discretion of the Building Official, if work has not commenced on the permitted project and more than six months has not passed since the granting of the permit. Plan review fees are not refundable.

Section 4: Additional Fees

In the event the Director of Community Development, Building Official, or County Engineer determines that a specific project requires additional resources (e.g. specialized consultant, special mapping, etc.) to review extraordinary conditions related to the development proposal, additional fees to cover the cost of these additional resources shall be assessed to the applicant.

Section 5: Review and Revision of Fee Schedule

The Community Development Department and Engineering Department shall review the fee schedule every two (2) years after the effective date of this resolution, and recommend revisions to the fee schedule to ensure that the fees cover the actual cost of processing applications, but is no case exceeds that amount. In no case shall there be longer than a five (5) year period without the review and recommendation of the Community Development Department regarding necessary changes to the fee schedule.

Section 6: Effective Date
This Resolution shall take effect immediately upon its adoption.

APPROVED, ADOPTED, PASSED and ordered published by the Summit County Council, this _____ day of _____, 2010

SUMMIT COUNTY COUNCIL, SUMMIT COUNTY, UTAH

By: _____
Claudia McMullin, Chair

Councilor Hanrahan voted _____
Councilor Elliott voted _____
Councilor McMullin voted _____
Councilor Ure voted _____
Councilor Robinson voted _____

Exhibit "B"

COMMUNITY DEVELOPMENT DEPARTMENT FEE SCHEDULE

1) **Agricultural Protection Area:** $100

2) **Administrative Appea**l: $400 for Planning Department review, $600 for Planning and Engineering Department review

3) **Board of Adjustment Application:** $400

4) **Conditional Use Permit**
    a. **Residential:** $400
    b. **Non-Residential:** $1,000 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
        1. If the parcel is less than one acre, the fee shall be $1,000
    c. **Wind Turbine, Solar, or Recycling Facility**
        1. Residential: $200
        2. Non-Residential: $500 acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
            a. If the parcel is less than one acre, the fee shall be $500

5) **Condominium Plat:** $200 /lot or unit

6) **Development Agreement:** $1,000 paid with initial application, plus an additional $2,000 to be paid prior to County Council action

7) **Development Agreement Amendment:** $1,000

8) **Development Code Amendment:** $2,000

9) **Final Site Plan**
    a. **Residential:** $40 /lot or unit
    b. **Non-Residential:** $90 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
        1. If the parcel is less than one acre, the fee shall be $90

10) **Final Subdivision Plat:** $300 /lot or unit

11) **General Plan Amendment:** $3,000

12) **Lot Line Adjustment:** $500

13) **Lot of Record Determination**: $50 /parcel

14) **Low Impact Permit**
    a. **Residential:** $210
    b. **Non-Residential:** $870
    c. **Wind Turbine, Solar, or Recycling Facility**

1. Residential: $105
2. Non-Residential: $435 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
    a. If the parcel is less than one acre, the fee shall be $435

15) **Plat Amendment**
    a. Administrative process (if no public hearing is held): $360
    b. Public process (if a public hearing is held): $760

16) **Preliminary Plan**
    a. **Residential:** $250 /lot or unit
    b. **Non-Residential:** $250 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
        1. If the parcel is less than one acre, the fee shall be $250

17) **Public Hearing Notification and Publication:** $2.00/individual notice and actual cost of newspaper publication.

18) **Rezone (Zone District Map Amendment):** $2,000

19) **Sign Permit:** $100/sign

20) **Sketch Plan**
    a. **Residential:** $30.00 /lot or unit
    b. **Non-Residential:** $125 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
        1. If the parcel is less than one acre, the fee shall be $125

21) **SPA Plan**
    a. **Residential:** $30 /lot
    b. **Non-Residential:** $90 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
        1. If the parcel is less than one acre, the fee shall be $90

22) **Special Event Permit**
    a. **Single Location Event:** $250
    b. **Mobile/Multi-Location Event:** $400

23) **Special Exception:** $400

24) **Temporary Use Permit**
    a. **Residential:** $400
    b. **Non-Residential:** $1,000 first-time fee ($100 renewal fee for each time permit is renewed)

25) **Vested Rights Determination**
    a. **Residential:** $500 /lot or unit
    b. **Non-Residential:** $550 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
        1. If the parcel is less than one acre, the fee shall be $550

ENGINEERING DEPARTMENT FEE AND BONDING SCHEDULE

1) **Board of Adjustment Application:** $170

2) **Conditional Use Permit**
   a. **Residential:** $20
   b. **Non-Residential:** $90 /acre of disturbed land
      1. If the development parcel is less than one acre, the fee shall be $90
   c. Wind Turbine, Solar, Recycling Facility
      1. Residential: $10
      2. Non-Residential: $45 /acre of disturbed land
         a. If the development parcel is less than one acre, the fee shall be $45

3) **Condominium Plat:** $35 /lot or unit

4) **Construction Plan**
   a. **Residential of less than 10 lots:** $100
   b. **Residential of 10 lots or more:** $250
   c. **Non-Residential of less than 100,000 square feet of disturbed land:** $175
   d. **Non-Residential of 100,000 square feet or more of disturbed land:** $400
   e. **Engineering Construction Inspection Fee**
      1. For projects whose estimated construction cost is less than or equal to $500,000, the fee is 1.5% times the construction cost.*
      2. For projects whose estimated construction cost is more than $500,000, the fee is $7,500 plus 0.1% times the construction cost.*

   * Construction costs to be included in the fee calculation are all "Civil" Improvements less sewer, water, and landscaping; it does not include building or structure improvement costs.

5) **Development Agreement:** $85

6) **Development Agreement Amendment:** $85

7) **Final Site Plan**
   a. **Residential:** $5 /lot or unit
   b. **Non-Residential:** $5 /acre of disturbed land
      1. If the development parcel is less than one acre, the fee shall be a minimum of $45

8) **Final Subdivision Plat:** $15 /lot or unit

9) **Lot Line Adjustment:** $40

10) **Low Impact Permit**
   a. **Residential:** $40
   b. **Non-Residential:** $130
   c. **Wind Turbine, Solar, Recycling Facility**
      1. **Residential:** $20
      2. **Non-Residential:** $65 /acre of disturbed land
         a. If the development parcel is less than one acre, the fee shall be $65

11) **Plat Amendment:** $40

12) **Preliminary Plan**
   a. **Residential:** $30/lot or unit
   b. **Non-Residential:** $30 /acre of disturbed land
      1. If the development parcel is less than one acre, the fee shall be a minimum of $45

13) **Public Hearing Notification and Publication:** $2.00/individual notice and actual cost of newspaper publication

14) **Road Vacation Petition:** $300

15) **SPA Plan**
   a. **Residential:** $15 / lot
   b. **Non-Residential:** $15 /acre of disturbed land
      1. If the development parcel is less than one acre, the fee shall be a minimum of $15

16) **Ordinance <u>181-D</u> Excavation Encroachments and Structures in the County Right of Way**
   a. **Excavation Permit:** $25 Base Fee for the first 100 linear feet plus $5 per additional 100 linear feet
   b. **Driveway Encroachment Permit**
      1. $100 per Encroachment
      2. $100 Re-inspection Fee
   c. **Structure Encroachment Permit:** $50 first structure plus $10 per additional structure
   d. **Excavation Completion Bond:** $250 per 100 feet of trench ($250 min)
   e. **Asphalt Cut Repair Bond:** $250 plus $25 per square foot
   f. **Driveway Bond**
      1. $250 per Encroachment for lots having average slopes of less than 10%
      2. $500 per Encroachment for lots having average slopes between 10% and 15%
      3. $2,000 per Encroachment for lots having average slopes over 15%
   g. **Road Closure Permit:** $25

17) **Ordinance <u>315-C</u> Excavation, Grading, and Filling on Private Property**
   a. **Grading Permit**
      1. **Less than 5,000 cubic yards:** $40/application
      2. **Equal to or more than 5,000 cubic yards:** $110/application
   b. **Revegetation Bond:** 120% of the estimated cost to complete revegetation
   c. **Completion Bond:** 120% of the estimated cost to complete restoration

18) **Ordinance <u>212-A</u> Floodplain Development**
   a. **Application Review:** $100 per application
   b. **Floodplain Determinations:** $20 per request

19) **Ordinance <u>381-A</u> Storm Water Pollution Prevention Plan and Erosion Control Plan**
   a. **Sites Less Than One Acre:** $25 per application
      1. $100 Re-inspection Fee
   c. **Sites of 1 Acre or More:** $25 per Application + $10 per additional acre
      1. $100 Re-inspection Fee
   d. **SWP3 and ECP Bon**d**:** 120% estimated cost to implement

BUILDING DEPARTMENT FEE SCHEDULE
(fees are based on cost per square foot)

1) Building Valuations

a. **Agricultural Buildings:** $20 per square foot

b. **Commercial Structures per the International Building Code (IBC):** Cost per square foot as reported in the Building Safety Journal published by the International Code Council (ICC)

c. **Residential Structures per the International Residential Code (IRC):** Cost per square foot is based on the table listed below:

Residences (single family and townhouses)

250 – 1300 = $98.95	1801 – 1900 = $104.89	2401 – 2500 = $110.82
1301 – 1400 = $99.94	1901 – 2000 = $105.88	2501 – 2600 = $111.81
1401 – 1500 = $100.93	2001 – 2100 = $106.87	2601 – 2700 = $112.80
1501 – 1600 = $101.92	2101 – 2200 = $107.86	2701 – 2800 = $113.79
1601 – 1700 = $102.91	2201 – 2300 = $108.55	2801 – 2900 = $114.78
1701 – 1800 = $103.90	2301 – 2400 = $109.83	2901 – 3000 = $115.77
		3001 & up = $116.76

d. **Garages:** $37.87 per square foot

e. **Decks:** $5 per square foot

2) Building Fees

a. **Agricultural Buildings:** $6 per $1,000 of valuation or fraction thereof

b. **Commercial Structures built per the IBC:** Fees determined using Appendix L of the currently adopted edition of the IRC and based on the valuations calculated using Section 1 above.

c. **Residential Structures built per the IRC:** Fees determined using Appendix L of the currently adopted edition of the IRC and based on the valuations calculated using Section 1 above.

3) Plan Review Fees

a. **Agricultural Buildings:** No fee

b. **Commercial Structures:** 65% of building permit fee

c. **Residential Structures:** 65% of building permit fee

d. **Detached garages with no living space, decks/porches for existing structures, and accessory buildings:** 15% of building permit fee

4) Plumbing Permit Fees

a. **Permit Issuance Fee:** $10

b. **System Fee (does not include $10 issuance fee):**

i. **Agricultural Buildings:** $0.025 per square foot

ii. **Commercial Structures per the International Plumbing Code (IPC):** $0.03 per square foot

iii. **Residential Structures per the IRC:** $0.025 per square foot

5) **Mechanical Permit Fees**
   a. **Permit Issuance Fee:** $10
   b. **System Fee (does not include $10 issuance fee):**
      i. **Agricultural Buildings:** $0.025 per square foot
      ii. **Commercial Structures per the International Mechanical Code (IMC):** $0.03 per square foot
      iii. **Residential Structures per the IRC:** $0.025 per square foot

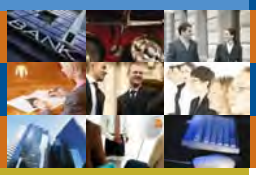
6) **Electrical Permit Fees**
   a. **Permit Issuance Fee:** $10
   b. **System Fee (does not include $10 issuance fee):**
      i. **Agricultural Buildings:** $0.025 per square foot
      ii. **Commercial Structures per the National Electric Code (NEC):** $0.035 per square foot
      iii. **Residential Structures per the IRC:** $0.03 per square foot

7) **Alternative Energy Permits: These permits are separate from the permits issued for new construction. These permits include, but are not limited to, solar hot water, photovoltaic, geo-thermal, and wind generated power.**
   a. **Photovoltaic System:** $700
   b. **Geo-Thermal:** $500
   c. **Solar Hot Water:** $250
   d. **Wind Generator:** $250
   e. **Permit Issuance:** 10% of review fee

8) **Utah State Surcharge:** A 1% surcharge on all permits to be collected and remitted to the State of Utah as per UCA 58-54-9-3, as amended

9) **Other Inspections and Fees**
   a. **Inspections outside of normal office hours:** $100 per hour (minimum of one hour)
   b. **Re-Inspection fee assessed under the provisions of Chapter 1 of both the IBC and IRC:** $100 per occurrence
   c. **Inspections and permits for which no fee is specifically indicated:** $100
   d. **Additional plan review required by changes, additions, or revisions to approved plans:** $100 per hour (minimum of one hour)

Summit County: Preparing for Federal Health Care Reform

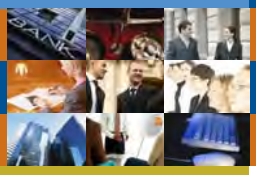


Evaluating Impact and Establishing Action Items

Focus on Group Health Plan Changes

- View from 50,000 Feet
- Plan document and operational changes
- Mandate to offer an "essential health plan," vouchers, and exchanges (2014)
- Effective dates
- Planning for 2011 to 2018

View From 50,000 Feet



How Will Reform Affect the Purchase of Health Insurance?

The View from 50,000 Feet

- Federal changes to health insurance policies and to group health plans -- starting this October -- are designed to move our system to:
  - Shared responsibility -- individuals, employers, federal government
  - Insurance products & plans as commodities, with standard packages, to reduce confusion & reduce utilization
  - State or federal exchange reflect expectation of reduced administrative expenses & increased competition among carriers and other coverage sources
  - Hospitals / providers expect lower write-offs for "charity care"
  - No government-***run*** plan, but government-***organized***
  - Co-ops and multi-state options will operate across state lines and compete with current carriers

The View from 50,000 Feet

- Employer obligations dovetail with programs for low paid persons who cannot afford coverage
  - Employer mandate to offer coverage or pay penalties
  - Individual federal tax credits funded by new and higher taxes, to be used in exchange
  - Subsidized cost-sharing for low-paid individuals by the federal government
  - Employer vouchers for low-paid employees to use in exchange, funded by employers with unaffordable plans

How People Will Buy Health Insurance: After 2014

- People will purchase insurance as individuals or as group members with guarantee issue, rate protections, etc. and may use an exchange
  - Increased carrier regulation will have greatest impact
  - "Health *Insurance* Reform," not "Health *Care* Reform"
- Fragmented Group Purchasing in Exchange
- Utah -- Not Mandatory
  - Insurance costs / rates higher ***inside*** exchange
  - Of groups using exchange, 10% of groups enrolled
- Massachusetts – Mandatory & Similar to 2014
  - One carrier primarily and cannot raise rates
  - State in financial difficulty
- Exchanges will look like Travelocity® and government will regulate which carriers can offer their products, premiums, and benefits

Will Everyone Have Health Insurance After 2014? No.

- People can still waive coverage in employer plans
- People face a fairly low penalty for having no insurance
  - Greater of $695/uninsured adult, or 2.5% of income in 2014
  - Approx. $1,000/year for single person earning $50,000
- Employers with lower-paid, non-benefits-eligible workers may reduce hours worked to under 30 hours per week
- Only 10% - 14% of employers will eliminate their plan altogether and pay the penalty ($2,000 X number of full-time employees)
- Some large firms will sell franchise opportunities -- so each location is under 50 full-time employees
- Medium sized employers *without rich plans and without generous contributions* will feel greatest impact

Effect on High Deductible Health Plans

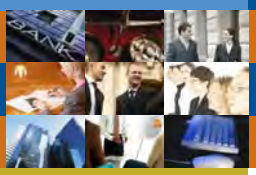
- High Deductible Health Plans Commonly Paired with Health Savings Account (HSA)
- Worries During Reform Process – Current Administration Dislikes HSAs
  - Tax break = less tax revenue and IRS needs $$$$$$
- Optimism for Continuing Consumer-Driven Health Plans with HSAs
  - New law does not disallow & coordinates
  - Regulations & "essential plan" design could hamper or eliminate if maximum deductible is too low

Wellness Plan Design Safe Harbor

- Wellness plan can reward participants who reduce negative health factors
  - Up to 30% premium rebate, discount, cost-sharing waiver, etc.
  - Federal agency can increase to 50%
- Program must have reasonable chance of improving health or preventing disease
- Program not overly burdensome, subterfuge, or suspect in methods
- Law allows employers to confirm success or failure of participant by testing weight loss, improvement in biometrics, etc.
- Alternative method if participation medically inadvisable or unreasonable difficult

Impact on Summit County: Opportunity

Focus on Plan Sponsor Effects of Federal Health Care Reform



Insured Group Health Plan Document & Operational Changes

Carrier Impacts
- Guaranteed Issue & Renewal
- Health Status Cannot Affect Risk/Premium Rating
- Modified Community Rating
- No Rescission of Policy
- Oversight of Premium Increases
- Enrollee Rebates Based on Loss Ratio

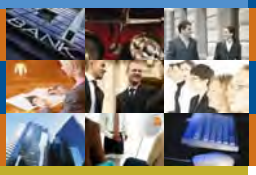
Benefit Impacts
- No Pre-Ex Exclusions < Age 19
- No Pre-Ex Exclusions
- No Lifetime or Annual Limits
- FSA -- OTC and $2,500 cap
- 100% Minimum Preventive Care
- Wellness Benefits
- Emergency Room Access
- Provider Access Rules (ob-gyn, pediatric, etc.)
- Clinical Trial Coverage

Plan Sponsor Impacts
- Essential Plan & Vouchers
- Penalties / Costs

Eligibility Impacts
- Full-time Employees
- Children Covered to Age 26
- No Income (hourly vs. salaried) Distinctions
- Max. 90-Day Waiting Period

Administrative Impacts
- Reporting on Plan Information
- Four-page Mini Summary
- Revised Appeals Process
- MEWA Registration
- Plan Document Revisions
- 60-Day Prior Notice of Plan Changes
- W-2 Reporting of Value
- Automatic Enrollment (over 200 employees)

Employer Mandate for Over 50 Full-Time Employees 2014



Employers To Focus on Penalties, Vouchers, and Contributions

Mandate to Offer a Health Plan

- Effective for plan years beginning on or after January 1, 2014
- Applies if employer averaged over 50 full-time employees on business days in preceding calendar year
  - "Full-time" means ***works*** on average **30 hours** a week in a month (not *scheduled* to work)
  - Count "full-time equivalents" to reach 50
  - Some plans can disregard seasonal workers

Impact on Summit County: Mandate would apply but obligation currently satisfied

Penalties for Failure to Offer Affordable Essential Plan

- $2,000 per employee if fail to ***offer*** essential health plan to all full-time employees (and dependents) – nondeductible / annual
  - Calculated on only full-time workers (not part-time or full-time equivalents), subtracting 30 from number of employees
  - On 1,000 full-time employees, penalty = $2 million

Impact on Summit County: County Already Satisfies Obligation to Offer to Full-Timers and Dependents

- $3,000 per each full-time employee using tax credit or cost-sharing benefit from government program – nondeductible/annual
  - Cost > certain percent of income (roughly 9.5%); less than 60% value of benefits
  - Capped at maximum of $2,000 penalty (above)

Impact on Summit County: County Avoids with Current Contribution

Penalties for Failure to Offer Affordable Essential Plan

- Re-pay any claims incurred in high risk pool by person incented to opt out of employer plan
  - No protection / coverage by insurance policies
  - Standards? Other coverage as condition? Need additional guidance

Impact on Summit County: County Complies with Rule (based on federal statute)

- Deductible vouchers for impoverished persons who pay between 8% and 9.8% of household income for coverage (employee and dependent)
  - Amount of voucher is employer contribution amount
  - Employee will spend in exchange; any excess is paid to employee and taxable to employee

Impact on Summit County: County's Current Contribution Structure Avoids Penalty

Essential Health Plan

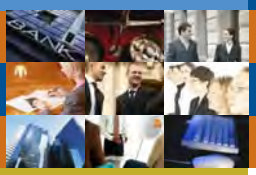
- Specific plan design determined by federal agencies
  - Based on typical employer-sponsored health plan design
- Bronze, silver, gold, and platinum coverage
  - 60%, 70%, 80%, and 90% benefit payment levels, respectively
- No required / set employer contribution percentage or amount, but employers will back into a contribution structure

Impact on Summit County: County's Current Plan Complies to Extent of Federal Guidance

Known Essential Health Plan Provisions

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity and newborn care
- Mental health and substance abuse treatment, including behavioral health treatment
- Prescription drugs
- Rehabilitative and habilitative services and devices
- Laboratory services
- Wellness & preventive services
- Chronic disease management
- Pediatric services (oral and vision care)

Automatic Enrollment



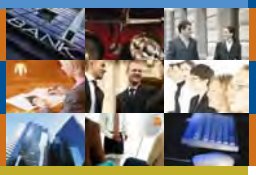
Increased Employer Contribution Costs

Automatic Enrollment Required

- Effective date presumably is date in 2014 or later, when the employer mandate applies
- Affects employers with over 200 employees
- Employees are *all* enrolled, but can opt out
- Increased employer cost for premiums as more persons are enrolled

Impact on Summit County: County Must Comply. Primarily Administrative Concern and Employee Education Issue

Effective Date Timelines & Provisions Affecting Group Health Plans



Prepare in Advance for Change

Grandfathered Plans

- "Grandfathered plan" -- in effect on March 23, 2010 and grandfathered
  - Must *assert, disclose, & protect* grandfathered status
    - Changes disallowed except reenrollment and new dependents
    - Regulations provide guidance on limited scope of changes
- Rule delays ***limited*** number of health reform provisions, perhaps permanently:
  - Primary provider designation rules
  - Direct access to ob-gyns and pediatricians
  - Discrimination by compensation
  - Emergency room benefits (no prior auth./no differential)
  - 100% minimum preventive benefits
  - Revised appeals process
  - Guaranteed renewal/issue & rating restrictions
  - Clinical trial coverage

First Changes to Group Health Plans

Effective Plan Years On Or After October 1, 2010

- No Pre-ex Exclusion for Child < 19 **No Impact**
- No Lifetime or Annual Limits **Minimal Impact**
- 60-Day Prior Notice Plan Changes (our interpretation) **Administrative Impact**
- No Insurance Policy Rescission **Indirect Minimal Impact**
- Access to Providers **No Impact**
- No Discrimination on Compensation **No Impact**
- Emergency Room Access **Minimal Impact**
- 100% Minimum Preventive **Minimal Impact**
- Children to Age 26 **No Impact**
- Reporting on Plan Information **Administrative Impact**
- Revised Appeals Process **Carrier to Address**

Second Wave of Changes to Group Health Plans

Effective Plan Years On Or After January 2011

- Calculate Value of Group Health Plan Coverage (to Appear on 2012 Form W-2 for Each Enrolled Employee)

  Impact on Summit County: County to Track / Report
- No Reimbursement of Over-the-Counter Medications by Health FSA Unless Doctor's Prescription Provided (effective January 1, 2011, not based on plan year)

  Impact on Summit County: County Employee Education Issue
- Minimum Loss Ratio Rules (Insured)
  - 85% for large market segment (County's size)
  - Rebate to enrollees (not County)

  Impact on Summit County: County's Current Carrier Within Range

Third Wave of Changes to Group Health Plans

Effective for Enrollments Starting April 2012

- Four-Page Mini Plan Summary

  Impact on Summit County: Carrier and Hub Will Facilitate Preparation of Communication Item

Effective for Plan or Policy Years Ending After September 30, 2012

- $1 / $2 Research Fee for Comparative Effectiveness Research Institute
  - Maximum of $2 per covered life (i.e., per each person covered by plan)

  Impact on Summit County: Minimal Cost (Annual Cost Would Be $1,648 at $2 Rate)

Fourth Wave of Changes to Group Health Plans

Effective for Taxable Years Starting January 2013

- $2,500 Limit on Health FSAs

Impact on Summit County: County Employee Education Issue

- Prepare for 2014 plan year with prior selection of plan options and pricing, modeling of participant contributions, coordination with vendors, employee disclosures, enrollment form revisions, etc.

Lots of to-do's, so we won't wait until 2013 for most of these tasks!

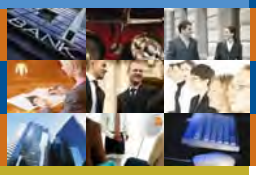
Impact on Summit County: County's Role Primarily Administrative; Greater Impact on Other Employers

Fifth Wave of Changes to Group Health Plans

Effective for Plan Years Beginning On Or After January 2014 (Except as Noted)

- 90-Day Max. Waiting Period **No Impact (Currently 2 Mo. Max.)**
- No Pre-Ex Exclusion **No Impact**
- Non-Discrimination/Wellness Safe Harbor **Opportunity**
- Guaranteed Issue **Carrier Impact**
- Guaranteed Renewal **Carrier Impact**
- Rating Restrictions **Carrier Impact**
- Vouchers **No Impact**
- Benefit Mandates – clinical trial coverage, essential benefits package **Minimal Impact**
- State and Federal Exchanges **Minimal Impact**
- New Co-Ops and Multi-State Plans (2014) **Opportunity**
- Insurance Carrier Taxes (2014 Tax Year) **Minimal Impact**
- No Provider Discrimination **Minimal Impact**
- Employer Mandate **No Impact**
- Automatic Enrollment (Assumed to be 2014) **Administrative Impact**
- Cadillac Tax (2018) **Minimal Impact (Projections)**

Big Picture Effects and Conclusions for the Future



General Effects on Employer Plans

- Carriers are Modeling Cost Estimates
- Impact of Reform Depends on Various Factors:
  - Employee Household Income Levels (Including Spousal Earnings) and Federal Poverty Standards -- Not Current Concern
  - Current Plan Design (Benefits, Eligibility, Etc.)
- Higher Costs -- Enhanced Benefits, Carrier Reforms, and Automatic Enrollment (Over 200 Employees)
- Greater Administrative Duties for HR and Benefits with Lean Staff
- Employer Mandate and Penalties
  - Little Real Effect on Design for Employers Offering Competitive Health Plans Now to Most Employees

Addressing Employee Concerns

- Common Questions
  - "I read on the Internet the law says this…."
  - "How did you calculate this W-2 health plan value?" "Am I getting taxed on this?"
  - "Help me understand federal or state government programs like Medicaid."
  - "How do I use the exchange? Can you show me?"
- General Fear of Change

Guiding the Process: Managing Reform's Impact Strategically

- Budget for increased costs – many parts of the law expand coverage, especially those changes effective first
- Consider your employee population and potential coverage changes based on eliminated limits or expanded coverage
- Leverage wellness incentives – even for small groups
- Evaluate impact
  - Does Utah already impose requirements added by health reform?
  - Are you already offering a rich plan?
- Consider your current plan design and potential impacts with respect to FSA, HSA, all in-network doctors as primary, etc.

Guiding Employers: Managing Reform's Impact Strategically

Support You Should Expect from Hub International

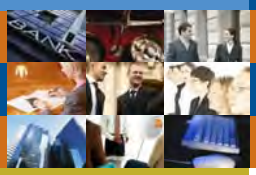
- Reaffirming your benefits philosophy (by size)
- Developing a 3 – 5 year plan; especially for larger employers
- Focusing on the claims portion of your benefit plan strategy
- Embedding wellness, disease and chronic illness management into your strategy; being certain to use available data to optimize your decision-making
- Considering incentive-based plan designs with elements favored by reform – quality and efficacy of certain treatments and questions of "comparative effectiveness" (appropriate practice guidelines)

Guiding Employers: Managing Reform's Impact Strategically

Support You Should Expect from Hub International

- Evaluating your options for permissible plan changes that might offset increased rates
  - Providing guidance on ***"sustainable"*** changes that health reform does not affect in longer term
- Addressing & modeling potential adjustments to employee cost in relation to typical income levels
- Increasing attention on plan details
  - More detailed financial and comparative analysis
  - A focus on providing "actionable" Information
  - Tools for claims analysis and contribution modeling
  - Increased oversight of vendors
  - Consultation and support (which is needed by employers of all sizes)
- Reviewing (by Staff attorneys) the plan changes made by carriers

Thank You!



HUB International

SUMMIT COUNTY
BOARDS & COMMISSIONS

NAME	TYPE	DATE ORGANIZED	NUMER OF MEMBERS & TERM	ELECTED OR APPOINTED
Summit County Board of Adjustment	Quasi-judicial	December 1977	Five Members (3 year term)	Appointed by Manager
Snyderville Basin Planning Commission	Legislative and Administrative	September 1995	Seven Members (3 year term)	Appointed by Council
Eastern Summit County Planning Commission	Legislative and Administrative	September 1995	Seven Members (3 year term)	Appointed by Council
Summit County Senior Services Board	Administrative	May 2000	Five Members (2 year term)	Elected
Summit County Heritage and Landmark Commission	Advisory	Pre-1996	Five Members (2 year term)	Appointed by Manager
Agriculture Protection Area Advisory Board	Advisory	May 1997	Five Members (no term)	Appointed by Council
County Fair Advisory Board	Advisory	Pre-1996	Eleven Members (3 year term)	Appointed by Manager

NAME	TYPE	DATE ORGANIZED	NUMBER OF MEMBERS & TERM	ELECTED OR APPOINTED
Library Board	Statutory	Pre-1996	Five Members (4 year term)	Appointed by Manager
Board of Health	Statutory	Pre-1996	Five Members (3 year term)	Appointed by Manager
Snyderville Basin Public Transit District	Independent District	January 2005	County Council	Elected
Mosquito Abatement District	Independent District	2006	Nine Members (4 year term)	Appointed by Council
Mountain Regional Water Special Service District	Dependent District	January 2000	Five Members (4 year term)	Appointed by Council
Public Arts Advisory Board	Advisory	2006	Nine Members (3 year term)	Appointed by Manager
North Summit Recreation Special Service District	Dependent District	2009	Five Members (4 year term)	Appointed by Council
Community Development and Renewal Agency	Statutory	1981	County Council	Elected

NAME	TYPE	DATE ORGANIZED	NUMBER OF MEMBERS & TERM	ELECTED OR APPOINTED
Summit County Municipal Building Authority	Dependent District	1991	County Council	Elected
Summit County Recreation Arts & Parks Advisory Committee	Statutory	March 2001	Seven Members for each committee (3 year term)	Appointed by Council
South Summit Cemetery Maintenance District	Independent District	May 1949	Five Members (4 year term)	Appointed by Council
Hoytsville Cemetery Maintenance District	Independent District	November 1983	Five Members (4 year term)	Appointed by Council
Wanship Cemetery Maintenance District	Independent District	December 1978	Five Members (4 year term)	Appointed by Council
Snyderville Basin Open Space Advisory Committee	Advisory	May 2002	Eleven Members (3 year term)	Appointed by Manager
Water Conservancy Special Service District	Dependent District	May 2009	County Council	Elected
Snyderville Basin Special Recreation Service District	Dependent District	October 1996	Seven Members (4 year term)	Appointed by Council

NAME	TYPE	DATE ORGANIZED	NUMBER OF MEMBERS & TERM	ELECTED OR APPOINTED
Peoa Recreation Special Service District	Dependent District	May 1998	Seven Members (4 year term)	Appointed by Council
Snyderville Basin Water Reclamation District	Independent District	December 1973	Five Members (4 year term)	Elected
Park City Fire Service District	Dependent District	May 1984	Five Members (4 year term)	Appointed by Council
North Summit Fire Service District	Dependent District	June 1976	Five Members (4 year term)	Appointed by Council
South Summit Fire Protection District	Independent District	July 1952	Three Members (4 year term)	Elected
Summit County Service Area #3	Independent District	November 1982	Seven Members (4 year term)	Elected
Summit County Service Area #5	Independent District	April 1975	Five Members (4 year term)	Appointed by Council
Summit County Service Area #6	Independent District	September 1977	County Council	Elected
Summit County Service Area #8	Independent District	October 1982	County Council	Elected

NAME	TYPE	DATE ORGANIZED	NUMBER OF MEMBERS & TERM	ELECTED OR APPOINTED
Kimball Area Transportation Special Service District	Dependent District	December 2000	County Council	Elected
Summit County Boundary Commission	Statutory	May 2000	Seven Members (4 year term)	Appointed by Council
Echo Creek Ranches Special Service District	Dependent District	December 1988	Five Members (4 year term)	Appointed by Council
Eastern Summit County Agriculture Preservation and Open Space Advisory Committee	Advisory	January 2005	Nine Members (2 year term)	Appointed by Manager
Eastern Summit County Water Advisory Committee	Advisory	September 2006	Five Members (2 year term)	Appointed by Manager
Summit County Wildland Fire Service Area	Independent District	September 1981	County Council	Elected
Summit County Historical Society	Advisory	March 1991	Seven Members (3 year term)	Appointed by Manager

NAME	TYPE	DATE ORGANIZED	NUMBER OF MEMBERS & TERM	ELECTED OR APPOINTED
Timberline Special Service District	Dependent District	July 1995	Seven Members (4 year term)	Appointed by Council
Special Service District #1	Dependent District	July 1989	Three Members (4 year term)	Appointed by Council
Summit County Restaurant Tax Advisory Committee	Advisory (Statutory for 2nd Class Counties)	June 1992	Nine Members (3 year term)	Appointed by Council
Water Concurrency Advisory Board	Created by Ordinance - Advisory	2000	Nine Members (4 year term)	Appointed by Manager (no advice and consent)
Summit County Weed Control Board	Statutory	Pre-1996	Seven Members (4 year term)	Appointed by Manager
Summit County Building Board of Appeals	Quasi-Judicial	Pre-1996	Five Members (3 year term)	Appointed by Manager

Statutory
Independent District
Dependent District
Advisory
Quasi-Judicial
Legislative

Summit County Boards and Commissions

Types of Boards & Commissions

- Special Service Districts
  - Administrative Control Board
  - General Manager (optional)
  - No power to levy tax or bond without approval of county council, but can impose fees and approve budget
  - County Council may delegate/withdraw powers
  - Services: water, sewerage, drainage, flood control, solid waste, health care, transportation, recreation, fire protection, correctional facility, street lighting, consolidated 911 and emergency dispatch, animal control, and receipt of federal lease monies.

Types of Boards & Commissions

- Local Building Authority
  - Non-profit corporation
  - Board of Trustees (the legislative body)
  - President (generally the chief executive officer)
  - Governmental building projects
  - Power to issue Revenue Bonds
  - Power to own property and enter into leaseholds

Types of Boards & Commissions

- Community Development and Renewal Agency
  - Agency Board (legislative body)
  - Urban renewal, economic development, and community development projects
  - Tax Increment Financing
  - Issues bonds
  - No power of eminent domain

Types of Boards & Commissions

- Independent Districts (Local Districts)
  - Board of Trustees
  - Power to impose fees and approve budget
  - Only elected Board has power to levy taxes and issue bonds
  - County Council may not change the statutory powers of the Board
  - Types:
    - Cemetery Maintenance
    - Drainage
    - Fire Protection (no longer allowed)
    - Improvement
    - Irrigation
    - Metropolitan Water
    - Mosquito Abatement
    - Public Transit
    - Service Area
    - Water Conservancy

Types of Boards & Commissions

- Planning Commissions
- Board of Adjustment (variances only)
- Weed Board
- Building Board (appeals of the UBC)
- Boards of Health
- Boundary Commission
- Special boards and commissions created by the legislative body

Summit County Boards

- Eastern and Snyderville Planning Commissions
- Summit County Board of Adjustment
- Summit County Weed Board
- Summit County Building Board
- Summit County Municipal Building Authority
- Community Development and Renewal Agency
- Summit County Board of Health
- Summit County Boundary Commission
- Agricultural Protection Board

Summit County Boards

- Special Service Districts
  - Mountain Regional (water)
  - North Summit Recreation (recreation)
  - Eastern Water Conservancy (sewer)
  - Snyderville Basin Recreation (recreation)
  - Peoa Recreation (recreation)
  - Park City Fire (fire protection)
  - North Summit Fire (fire protection)
  - Kimball Area Transportation (bus service)
  - Echo Creek Ranches (solid waste)
  - Timberline (roads and snow removal)
  - Service District #1 (roads – federal mineral lease funds)

Summit County Boards

- Independent Districts (Local Districts)
  - Snyderville Basin Transit (bus service)
  - Mosquito Abatement (insect abatement)
  - South Summit Cemetery (burial grounds)
  - Wanship Cemetery (burial grounds)
  - Hoytsville Cemetery (burial grounds)
  - Snyderville Basin Water Reclamation (sewer) **Elected Board**
  - South Summit Fire Protection District (fire) **Elected Board**
  - Service Area #3 (water and roads) **Elected Board**
  - Service Area #5 (sewer)
  - Service Area #6 (roads)
  - Service Area #8 (roads)
  - Wildland Fire (limited fire suppression)

Summit County Boards

- Special Boards & Commissions
  - Senior Citizen Services (senior centers)
  - Heritage and Landmark Commission (preserve landmarks)
  - Historical Society (museum and publications)
  - County Fair
  - Library (county library system)
  - Public Art (art in government facilities)
  - RAP Tax (recreation and arts)
  - Restaurant Tax (tourism and convention facilities)
  - BOSAC (basin open space acquisition)
  - ESAP (eastern summit county agricultural preservation)
  - EWAC (eastern summit county water)

County Council Role

- Special Districts
  - Appoints and removes board members
  - Approves budget (although this can be a delegated function)
  - Approves taxes and bonds (cannot be delegated). This includes all Truth in Taxation hearings.
  - Can delegate/withdraw powers (to include Human Resources)
  - Approves Annexations
  - Sets duties
  - Specifies mission
  - Annual Report

County Council Role

- Independent Districts (Local Districts)
  - After May 2009, all future local districts may only be created by resolution of the council (in which there are insufficient protests) and an election of voters within the proposed district (unless the district has no voters)
  - Appoints and removes board members (except elected boards)
  - Approves taxes and bonds (except elected boards)
  - Cannot approve fees, budgets, or annexations
  - Independent District - Cannot change statutory powers
- Board of Health
  - Consents to board appointments of Manager
  - Hears appeals of board member removals
  - Approves budget
  - Approves taxes and bonds
  - Cannot approve fees or discharge the Director of Health
  - Cannot change statutory duties and powers
  - Receives annual report

County Council Role

- Weed Board
  - Consents to appointments of the Manager
  - Adds to the list of noxious weeds in Summit County
  - Approves budget
- Planning Commissions
  - Appoints and removes commissioners
  - Approves budget
  - Delegates approval powers (plats, CUPs, etc.)
  - Must remain independent of the council

County Council Role

- Building Board
  - Consents to appointments of the Manager
  - Governed by statute
- Board of Adjustment
  - Consents to appointments of the Manager
  - Delegates variance and appellate powers (administrative appeals)
  - Must remain independent of the council

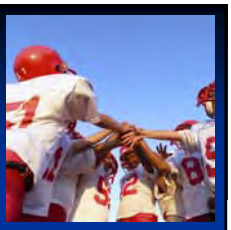
County Council Role

- Municipal Building Authority
  - Council is the Board and has full control
- RDA
  - Council is the Board and has full control
- Boundary Commission
  - Appoints and removes two members of the Commission
  - Statute governs
- AG Board
  - Appoints and removes board members
  - Statute governs

County Council Role

- Special boards and commissions
  - Appoints/Removes/Consents to board members
  - Delegates powers
  - Sets duties
  - Approves budget
  - Approves taxes, bonds, and fees
  - Some statutory limitations on powers

Staff Goals



- Codify all 44 Boards and Commissions
  - Currently only 18 codified
  - Update boards and commissions consistent with current state law
- Propose to Council
  - Summary Presentation of SSD budgets
  - Require annual reports of all SSD and Local Districts (actual presentation to the Council) to better allow for coordination of goals and economies of scale
  - Allow the Council to determine how Human Resource functions will be implemented in SSDs.

Memo

Date: August 4, 2010
To: County Council
From: Kevin Callahan, Public Works Administrator
Subject: Natural Resource Conservation Service Emergency Watershed Program

Background

As a follow-up to the June 2010 flooding along the Weber River, county staff made application for financial assistance for flood damage relief to the Natural Resource Conservation Service (NRCS), which is a branch agency of the US Department of Agriculture. As you know earlier this month we were notified that Summit County had qualified for two federal emergency watershed protection grants from the NRCS. These grants are as follows:

- A $500,000 grant for technical assistance to prepare engineering plans and designs to develop protective measures to repair existing flood damage and reduce the incidence of future flooding along the Weber River. The plans will be based on documented damages noted in the damage survey report which will be conducted the week of August 3, 2010. The technical assistance grant does not have a local match but the plans and specifications must be prepared and approved by the NRCS before we can utilize the second grant for constructing improvements.
- A $5,000,000 grant for constructing flood protection improvements based on the plan approved technical assistance plan. This funding can be used to restore banks along private property damaged by the flood if the work is approved in the plan. Work conducted prior to the approval of the technical assistance plan is **not** eligible for federal reimbursement. The financial grant has a 25% local match which we hope endeavor to provide through in-kind services rather than cash out of pocket.

Staff has met with the NRCS staff and we have prepared all of the documents we will need to make formal application to the federal government for this assistance. The damage survey report, which will be conducted jointly by County and NRCS staff beginning on August 3rd, will provide the basis for the preparation of the technical plans which would guide our actions in providing restoration of private property and protection from future flooding. However, these plans and actions are not merely technical in nature. The availability of this federal funding requires the County Council to provide clear policy direction to staff regarding the County's new role in regards to initiating structural improvements along a river. County code to date has limited the county's involvement in floodplain management to the review and issuance of permits for development within the FEMA designated boundaries of the floodplain. In general, the county has been very reluctant to take on the obligation of channelizing the river or initiating flood protection improvements. The recent flooding has reopened the debate about what the County's appropriate role is in protecting property developed within the floodplain.

The available grant funding allows us to take on these issues sequentially by first studying the river system and seeking alternative recommendations for how we can take steps to reduce the incidence of future flooding. Once we have a plan with alternative action plans, the County Council can decide the priorities of how we utilize the available funding. We are not obligated to utilize the entire $5,000,000 in available funding if we choose a less aggressive approach to addressing the concerns of property owners along the Weber River.

The sequence of actions in utilizing these funds would be as follows:

- Council authorizes County Manager to be the signatory on the attached cooperative agreements for technical assistance (planning) and financial assistance (construction).
- County Manager signs agreements and directs County Engineer to prepare a Request for Proposal for engineering service to complete the technical analysis.
- County hires a technical consulting firm who prepares plans that identify problems areas along the river and provide alternative means of reducing the incidence of future flooding.
- Council reviews the technical plan and provides guidance to staff on how to implement the plan regarding specific improvements and who has the long term maintenance responsibility for those improvements.
- Staff hires contractors to make the requested improvements and manages the grant process.

Recommendation

The action that the Council is requested to take later today is to authorize the County Manager to be the signatory for these agreements. That will initiate the process of the County being able to utilize these funds. It is staff's recommendation that you grant the Manger that authority.

Agreement Number: **68-8D43-10-25**
Fund Code: 10 15T49
Funding Amount: $500,000.00
Expiration date: February 18, 2011

COOPERATIVE AGREEMENT
68-8D43-10-25

between the

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

and

SUMMIT COUNTY, UTAH (County)

PROJECT: Technical Assistance for the Summit County Emergency Watershed Protection Project – Summit County, Utah

I. AUTHORITY

A. Code of Federal Regulations, Title 7: Agriculture, Part 624-Emergency Watershed Protection, paragraph 624.8(c) authorizes the Natural Resources Conservation Service (NRCS) to enter into a cooperative agreement with a sponsor.

B. For purposes of this agreement, "sponsor" refers to Summit County, Utah, and is defined in 7 CFR 624.4(g) as: "Project sponsor means a State government or a State agency or a legal subdivision thereof, local unit of government, or any Native American tribe or tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), with a legal interest in or responsibility for the values threatened by a watershed emergency; is capable of obtaining necessary land rights; and is capable of carrying out any operation and maintenance responsibilities that may be required."

C. The principal role of NRCS in this project is to oversee the financial assistance support provided by NRCS to Summit County. As project owners, the County is responsible for all aspects of the project, including the design, specifications, construction, quality control and assurance, inspection, and ongoing operation and maintenance of sites once the project is completed.

II. PURPOSE

A. Due to an abnormally cold spring with above normal snowfall, the Weber River watershed snowpack did not melt as early in the year as typically expected. During the week of June 5, 2010, temperatures changed to abnormally warm and rain fell on the deep snowpack causing flooding in Summit County, Utah. The magnitude of the event could be reasonably expected to occur only once every 100 years.

DRAFT

B. The flooding caused severe damage to several residences, roads were washed out, and resultant debris clogged waterways, causing flooding in other areas. The purpose of this agreement is to provide assistance to Summit County, Utah, for administrative and technical services expenses that will be incurred by the County in repairing sites damaged by the flood.

C. The NRCS EWP Program may provide both technical and financial assistance to a sponsor. This agreement encompasses **only** the technical assistance component (other than on-the-ground construction) of the project. NRCS intends to issue a second agreement for the financial assistance (actual construction phase) of the project.

1. This agreement obligates NRCS technical assistance funding of $500,000.00 for reimbursement to the County for allowable costs of services such as:

- Development of project design, construction drawings, and specifications.
- Administrative costs incurred in the solicitation, evaluation, award, and management of any required construction contract(s).
- As applicable, development of a design report addressing items pertaining to: geology, geotechnical, structural, hydrology, hydraulics, and sedimentation.
- Development of a Quality Assurance Plan.
- Development of an Operations and Maintenance Plan.
- Development of a Project Inspection Plan.

2. NRCS funding obligated for this agreement will not be applied to costs incurred in actual on-the-ground construction; construction costs will be explained in NRCS cooperative agreement 68-8D43-10-26 between Summit County and NRCS.

3. A cost-share contribution is not required from the County for activities conducted under the terms of this technical assistance agreement. NRCS will reimburse the County for 100% of allowable technical assistance expenses up to maximum funding of $500,000.00. This amount may be revised through award of a signed amendment to the agreement to add funding.

NOTE: Under the terms of the financial assistance agreement (NRCS number 68-8D43-10-26) to be awarded by NRCS to the County for construction costs, the NRCS cost-share contribution is limited to a maximum of 75% of total project construction costs subject to a maximum funding amount. This amount will be identified in the financial assistance agreement.

III. BENEFITS

Repair of damaged sites will protect structures, and clearing debris will mitigate damage from future flooding. This will benefit local residents directly impacted by flood damage and the general public in protection of the watershed resources.

IV. ATTACHMENTS TO AGREEMENT

DRAFT

The following attachments are incorporated into the agreement:

Attachment A: Summit County Plan of Work (including budget)

Attachment B: The following Standard Forms submitted by the County:
SF 424 – Application for Federal Assistance
SF 424C Budget Information Construction Programs
SF 424D Assurances – Construction Programs

Attachment C: Special Provisions for Grants and Cooperative Agreements

Attachment D: Performance Progress Report – SF-PPR (OMB 0970-0334)

Attachment E: Quarterly Accrual Report format

Attachment F: 7 CFR Part 624, Emergency Watershed Protection Program

Attachment G: 7 CFR 3016.36, Procurement

Attachment H: Required Contract Clauses and Bonding Requirements

Attachment I: NRCS Supplement to OSHA Parts 1910 and 1926

V. TERM OF THE AGREEMENT

This agreement is effective on the date of signature by the NRCS State Conservationist and continues in full force and in effect through February 18, 2011. Requests for extension of time must be submitted in writing to the NRCS Project Manager and received by NRCS 60 days in advance of the expiration date. The NRCS Project Manager will review the request and forward it to NRCS Headquarters Office for consideration. If approved, the agreement will be amended to extend the expiration date.

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VI. CONTACT INFORMATION

SUMMIT COUNTY	NRCS UTAH
Summit County Project Manager	**NRCS Project Manager**
Kevin Callahan	Bronson Smart
Public Works Administrator	NRCS Utah State Conservation Engineer
Summit County	USDA Natural Resources Conservation Service
1755 South Hoytsville Road PO Box 128	125 South State St., Room 4402
Coalville, UT 84017	Salt Lake City, UT 84138-1100
Phone: 435-336-3978	Phone: 801-524-4559
Cell: 435-640-0510	Fax: 801-524-4403
Fax: 435-336-0823	
Email: kcallahan@co.summit.ut.us	Email: bronson.smart@ut.usda.gov

Summit County Financial Contact	NRCS Administrative Contact
Blake Frazier	Judy Ousley
County Auditor	Grants and Agreements Specialist
Summit County	USDA Natural Resources Conservation Service
60 North Main Street PO Box 128	125 South State Street, Room 4402
Coalville, UT 84017	Salt Lake City UT 84138-1100
Phone: 435-336-3254	Phone: 801-524-4553
Cell: 435-640-2294	Fax: 801-524-5059
Fax: 435-336-3036	
Email: bfrazier@co.summit.ut.us	Email: judy.ousley@ut.usda.gov

VII. RESPONSIBILITIES AND OBLIGATIONS

A. Summit County will:

1. **Plan of Work** - Complete all tasks described in the County's Plan of Work (POW) for this agreement.

2. **Regulations** Complete the project in compliance with:

   a. All required Federal, State, and local permits.

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b. All terms and conditions herein whether included in full text or by reference. Section VIII. of the agreement lists applicable regulations. Links to regulations are located at the following website:
http://www.ut.nrcs.usda.gov/technical/grants_agreements.html

c. Information and assurances provided in Standard Forms (SF) 424, 424C and 424D, incorporated into this agreement as Attachment B.

d. Special Provisions for Grants and Cooperative Agreements, incorporated into this agreement as Attachment C.

e. Regulations and guidance provided for in the following attachments:

- Attachment F: 7 CFR Part 624, Emergency Watershed Protection Program
- Attachment G: 7 CFR 3016.36, Procurement
- Attachment H: Required Contract Clauses and Bonding Requirements
- Attachment I: NRCS Supplement to OSHA Parts 1910 and 1926

3. **Property Rights** – Secure property rights. As soon as possible, and before commencement of any on-the-ground construction, the County will submit a completed ADS-78 form, Assurances Relating to Real Property Acquisition, to the NRCS Project Manager. An attorney's opinion must be attached to the form certifying an examination of the real property instruments and files was made and found to provide adequate land title, right, permission, and authority for the purpose(s) of the project. **All costs relative to obtaining property rights will be borne by the County. In accordance with EWP program regulations, NRCS cannot pay for these costs nor can they be counted as a cost-share contribution by the County.**

4. **Permits** - Ensure that all applicable Federal, State, and local permits are obtained and work performed in accordance with permit requirements. **All costs relative to obtaining required permits will be borne by the County. In accordance with EWP program regulations, NRCS cannot pay for these costs nor can they be counted as a cost-share contribution by the County.**

5. **Responsibility for Additional Costs** –

a. In acceptance of this agreement, the County acknowledges that NRCS funding may be insufficient to cover all technical assistance costs and the County may need to contribute resources toward completion of the technical assistance tasks.

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b. Additionally, the County agrees to accept all financial and other responsibility for additional costs resulting from failure of the County to obtain, or delay in obtaining, adequate land and water rights, permits, and licenses needed for the project.

6. **Removal or Relocation of Utilities** - Arrange and pay for any necessary location, removal, or relocation of utilities; **EWP program regulations do not allow NRCS to reimburse the County or otherwise pay for any such costs nor do the costs qualify as a cost-share contribution.**

7. **Project Engineering** –

a. Ensure individuals and/or organizations providing engineering services employ a licensed professional engineer who directly supervises the staff performing the services or who serves as a Principal.

b. Ensure any designs, drawings and specifications submitted for review to NRCS State Conservation Engineer, Bronson Smart, meet NRCS standards and are sealed by a licensed engineer. The documents will be certified as follows: **"To the best of my professional knowledge, judgment and belief, these plans** (*or this report, etc.)* **meet applicable NRCS standards."** This certification statement will be signed and sealed by the licensed professional engineer. The Utah NRCS Engineering website address is: http://www.ut.nrcs.usda.gov/technical/engineering/index.html. Contact the NRCS State Engineer if you have difficulty accessing the site:

Bronson Smart
USDA/NRCS Utah State Conservation Engineer
125 South State St., Room 4402
Salt Lake City, UT 84138
Phone: 801-524-4559
Cell: 801-710-5387
Email: bronson.smart@ut.usda.gov

c. Agree that NRCS engineering staff will perform only a functional review of the design and specifications. A functional review shall consist of the following (as defined in NRCS National Engineering Manual (NEM) 505.03(b)(3). :

(1) Achieves the objectives of the plan and program(s);
(2) Meets the criteria in the applicable practice standards;
(3) Complies with the applicable State and Federal programs;
(4) Includes a design report addressing hydrology, hydraulics, and sedimentation, as applicable;
(5) Includes an Inspection Plan and Operation and Maintenance Plan; and,
(6) Does not require a technical review as defined in NEM 511.05.

NRCS shall provide feedback in writing to the County if items of concern are discovered in the functional review or if it is acceptable as is. The NEM website is: http://www.info.usda.gov/CED/ftp/CED/NEM.html.

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NOTE: Designs and/or specifications that, upon cursory review by NRCS, appear to be unacceptable will be returned to the County for revision without further review by NRCS. The County bears the responsibility for ensuring that contracted architectural and engineering firms possess the skills required to successfully and efficiently perform the project work and that payment is made only for work performed in producing acceptable products.

d. Agree to employ competent and professional engineering services so as to insure the soundness and adequacy of engineering services. Engineering service providers must be willing to accept liability for any damage and any additional construction costs to others to correct problems arising during or after construction resulting from deficient engineering and/or construction services.

e. Agree to employ competent and professional individuals to perform engineering and quality assurance functions. These individuals must be willing to accept liability for any damage and any additional construction costs to others, to correct problems arising during or after construction resulting from deficient engineering and/or construction services.

f. Obtain NRCS concurrence, in writing, for any deviations from the certified design. Every attempt will be made to contact NRCS for verbal concurrence of minor deviations and corrections that become necessary during construction; however, construction should not be delayed to await approval **unless there is reasonable doubt on the part of the County that the change will be unacceptable to NRCS. All minor changes and corrections, regardless of whether NRCS was verbally contacted or not, will be documented by the County engineer in writing and submitted to the NRCS Project Manager and Administrative Contact within 24 hours of occurrence.**

g. As-built Drawings. Submit two copies of the final as-built drawings to the NRCS Project Manager. **The as-built drawings will have the seal of the licensed professional engineer responsible for construction oversight along with a statement signed by the responsible licensed professional engineer certifying: "To the best of my professional knowledge, judgment, and belief this practice is installed in accordance with the plans and specifications and meets NRCS standards."**

8. **Quarterly Performance Report** Submit to the NRCS Project Manager and NRCS Administrative Contact, a quarterly performance report (reference "Contacts" section of the agreement).

a. The reporting period for the performance report is based on a calendar-year quarter or portion thereof and the report is due 30 calendar days following the end of the quarter. The performance report will be submitted on SF-PPR form, "Performance Progress Report" (see Attachment D). The performance narrative in block 10 of the form will include, as applicable:

(1) A summary of project progress from beginning of project up to the end of the reporting period.

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(2) Detailed description of project progress during the reporting period. Include tasks from your plan of work that are partially or fully completed. Report on meetings held and decisions made. Describe any problems encountered and how they were resolved. If goals were not met, explain why. Address changes to work schedule, why they occurred and how the changes impact project completion. If significant changes to the work schedule have occurred, submit a revised schedule of work.

(3) Describe successes achieved.

(4) Quantify results when possible. Provide an overview of expenditures by budget category. Report on reimbursements received for the reporting period.

(5) Describe work to be completed during the next reporting period, any anticipated problems, and any opportunities for early project completion or cost-savings.

NOTE: Once actual construction has begun, the weekly construction progress report required under the terms of the financial assistance agreement number, 68-8D43-10-26, will suffice as fulfilling the performance report requirements for this agreement.

b. Events may occur that have significant impact upon the project. In such cases, the County must inform the NRCS Project Manager either (1) verbally, if the issue is time-sensitive, with a written notice documenting the conversation submitted to NRCS within 24 hours of occurrence; or (2) if the issue is not time-sensitive, in writing, as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the County's ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or for less cost than anticipated or producing more beneficial results than originally planned.

9. **Requesting Reimbursement and Financial Reporting** - Comply with the following financial requirements:

a. Agree that total reimbursement from NRCS for this agreement will not exceed $500,000.00 unless amended by NRCS to add funding.

b. The County will request reimbursement by submitting to the NRCS Project Manager (see "Contact" Section) at least quarterly and no more frequently than monthly:

(1) An original, signed Standard Form (SF) 270, Request for Advance or Reimbursement. (SF-270 form is accessible at: http://www.ut.nrcs.usda.gov/technical/grants_agreements.html) and

(2) On a separate page attached to the SF-270, a general breakout of costs incurred during the reporting period and brief written description of work accomplished (materials purchased, services received, etc.) or descriptive invoices.

(a) The brief description of work accomplished during the reporting period or descriptive invoice must be in sufficient detail to allow NRCS to make a determination that funds being requested are reasonable relative to work actually accomplished.

(b) In accordance with 7 CFR 3015.102(b)(3), NRCS will not use the percentage-of-completion method to pay its construction agreements. The County may use that method to pay its construction contractor, but if it does, NRCS payments to the recipient will nevertheless be based on the County's actual rate of disbursements.

c. Costs submitted for reimbursement should substantially match the County proposed budget. NRCS will consider approving shifting funds from one category to another upon written request from the County.

d. If notified by NRCS, submit to the NRCS Project Manager (see "Contact" Section) an SF-425, Federal Financial Report, upon completion of the agreement. Typically, the SF-270 forms include the required information and an SF-425 form will not be required.

e. All non-Federal entities that expend $500,000.00 or more of Federal awards in a year are required to have an annual audit performed in accordance with the Single Audit Act.

10. **Quarterly Accrual Report** - NRCS also requires quarterly accrual information. An accrual is the value of the work you have performed or will perform in cooperation with the NRCS but for which you have:

a. Not yet submitted an SF-270 or

b. Submitted an SF-270 but have not yet received payment.

Please complete the Accrual Information form (see Attachment E) and submit it to the address below no later that 15 days prior to the end of the quarter (submit by March 15, June 15, September 15, and December 15). The U.S. Congress relies on audits of financial statements, including accrual information, to determine future funding amounts for NRCS on-going and new programs.

Submit SF-270 and Accrual Information Form to:

Judy Ousley
USDA/Natural Resources Conservation Service
125 South State Street, Room 4402
Salt Lake City, UT 84138-1100

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11. **Records Retention** - The County is responsible for keeping all records relative to the project, including all documentation of procurements, receipts, and other accounting information. Retain all records relative to this agreement in accordance with 7 CFR 3016.42 or longer in accordance with County policy.

12. **Nondiscrimination Requirements -** Recipients of Federally-Assisted Programs are required to post in their offices and include, in full, on all materials regarding this project that are produced by the recipient for public information, public education, or public distribution:

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer."

B. NRCS will:

1. Contribute up to $500,000.00 to be used by the County to complete technical assistance work in accordance with the County's Plan of Work, reviewed and accepted by NRCS and incorporated into agreement 68-8D43-10-26.

2. Submit to the County the final, signed, Damage Survey Report (DSR) within 30 days of award of the agreement.

3. Complete all necessary NEPA and cultural resources documentation. Notify the County if there are actions the County needs to carry out to ensure compliance with decisions rendered.

4. Provide technical assistance to the County. An NRCS engineer will be designated as the NRCS Government Representative for the project and will be available to assist the County throughout the project.

5. Complete timely review of all submittals by the County.

6. Upon receipt of a properly completed SF-270, Request for Advance or Reimbursement, and requested proper supporting documentation, assess description of work completed relative to allowable funds requested and, if request is reasonable, approve and process payment to the County. In the event there are questions regarding the SF-270 and supporting documentation, NRCS will contact the County in a timely manner to resolve concerns.

VIII. IT IS MUTUALLY AGREED:

A. That NRCS funding available for project technical services identified in this agreement will not exceed $500,000.00 unless amended by NRCS to add funding. Any costs

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in excess of amounts shown in this agreement or amendments are the responsibility of the County.

B. Should inconsistencies arise between language in the agreement and the plan of work, the language in the agreement takes precedence.

C. If the County desires to increase the level of protection over and above that described in the NRCS Damage Survey Report (DSR), the County will be responsible for paying 100 percent of the costs of any unapproved and unfunded upgrade or additional work.

D. EWP program rules prohibit NRCS from reimbursing the County for work performed prior to award date of this agreement (date of signature by NRCS State Conservationist).

E. The County is responsible for 100 percent of the costs incurred in obtaining permits and property rights, and for operation and maintenance of the completed project.

IX. PROVISIONS AND REGULATIONS

A. Administrative Provisions:

This agreement, and other arrangements at any tier under this agreement, shall be governed by the following regulations, appropriate to the type of organization receiving the award, relative to tier, as are in effect on the effective date of award and hereby incorporated by reference: (Internet links for the full text of Code of Federal Regulations (CFR) references may be found at http://www.ut.nrcs.usda.gov/technical/grants_agreements.html).

1. 7 CFR Part 3015, “Uniform Federal Assistance Regulations”

2. 7 CFR Part 3016, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”

3. 7 CFR Part 3017, “Governmentwide Debarment and Suspension (Nonprocurement)”

4. 7 CFR Part 3018, “New Restrictions on Lobbying”

5. 7 CFR Part 3019, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations”

6. 7 CFR 3021, “Government wide Requirements for Drug-Free Workplace (Financial Assistance)”

7. 7 CFR Part 3052, “Audits of Institutions of Higher Education and Other Non-Profit Institutions”

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8. 2 CFR Part 215, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations (OMB Circular A-110)”

9. Treasury Circular 1075, Withdrawal of Cash from the Treasury for Advances under Federal and Other Programs

B. Federal Cost Principles:

Allowable project costs shall be determined in accordance with the authorizing statute, the purpose of the agreement award, and by the following Federal cost principles that are applicable to the type of organization receiving the award, relative to tier, as are effective on the date of award and hereby incorporated by reference: (The full text for OMB Circulars may be found at http://www.ut.nrcs.usda.gov/technical/grants_agreements.html).

1. 2 CFR Part 220, “Cost Principles for Institutions of Higher Education”

2. 2 CFR Part 225, “Cost Principles for State and Local Governments” (including Indian Tribal governments)

3. 2 CFR Part 230, “Cost Principles for Nonprofit Organizations” other than institutions of higher education

4. Federal Acquisition Regulations, Part 31, (http://www.arnet.gov/far) “Contract Cost Principles and Procedures”

C. The County will conduct all procurement activities in a manner that provides, to the maximum extent possible, free and open competition.

D. The County is responsible, without recourse to NRCS or USDA, for the settlement and satisfaction of all contractual and legal issues arising out of arrangements entered into between the County and others to carry out approved project activities. Matters concerning violation of law should be referred to the federal, state, or local authority having proper jurisdiction.

E. The Federal Travel Regulations will serve as a guideline for any travel performed under this agreement.

X. AMENDMENTS, CHANGES, AND TERMINATION

A. This agreement may be amended in writing by mutual consent of the parties. NRCS is responsible for writing the amendment, obtaining signatures, and distributing copies to the County. If an agreement is written that implements only internal administrative changes, the amendment may be issued unilaterally by NRCS; the County will receive a copy of all amendments.

B. Requests from the County to the NRCS Program Manager to extend the term of the agreement must be submitted no less than 60 days prior to the expiration date of the agreement and include a justification, in writing, documenting the need for the extension.

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NRCS expects that the project will be completed within the initially established term of the agreement. Requests for time extensions require the approval of the NRCS National Headquarters Office and are only approved when a sound, defendable justification is provided.

C. Terms of enforcement and termination are in accordance with 7 CFR 3016.43-44 as follows:

"§ 3016.43 Enforcement.

(a) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) Effects of suspension and termination. Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

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(d) Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see §3016.35).

§ 3016.44 Termination for convenience.

Except as provided in §3016.43 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §3016.43 or paragraph (a) of this section."

XI. APPROVAL

The United States Department of Agriculture, Natural Resources Conservation Service and Summit County execute this agreement as of the date of final signature by USDA/NRCS. The signatories below represent that each is duly authorized to bind their respective organization to the terms of this agreement. By signing this agreement, the County assures USDA that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

SUMMIT COUNTY, UTAH		**US DEPARTMENT OF AGRICULTURE** **NATURAL RESOURCES CONSERVATION SERVICE**	
Robert Jasper County Manager	Date	Sylvia A. Gillen State Conservationist	Date

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Agreement Number: 68-8D43-10-26
Fund Code: 10 15F49
Amount: $5,000,000.00
Expiration Date: February 18, 2011

COOPERATIVE AGREEMENT
68-8D43-10-26

between the

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

and

SUMMIT COUNTY, UTAH (County)

TITLE: Financial Assistance for Summit County Emergency Watershed Protection Project – Summit County, Utah

I. AUTHORITY

A. Code of Federal Regulations, Title 7: Agriculture, Part 624-Emergency Watershed Protection (EWP), paragraph 624.8(c) authorizes NRCS to enter into a cooperative agreement with a sponsor.

B. For purposes of this agreement, "sponsor" refers to the County and is defined in 7 CFR 624.4(g) as: "Project sponsor means a State government or a State agency or a legal subdivision thereof, local unit of government, or any Native American tribe or tribal organization as defined in Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), with a legal interest in or responsibility for the values threatened by a watershed emergency; is capable of obtaining necessary land rights; and is capable of carrying out any operation and maintenance responsibilities that may be required."

C. The principle role of NRCS in this project is to oversee the financial assistance support provided by NRCS to the County. As the project sponsor, the County is responsible for all aspects of the project including the design, specifications, construction, inspection, and ongoing operation and maintenance of the project once completed.

II. PURPOSE

A. Due to an abnormally cold spring with above normal snowfall, the Weber River watershed snowpack did not melt as early in the year as typically expected. During the week of June 5, 2010, temperatures changed to abnormally warm and rain

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fell on the deep snowpack causing flooding in Summit County, Utah. The magnitude of the event could be reasonably expected to occur only once every 100 years.

B. The flooding caused severe damage to several residences, roads were washed out, and resultant debris clogged waterways, causing flooding in other areas. The purpose of this agreement is to provide assistance to Summit County, Utah, for administrative and technical services expenses that will be incurred by the County in repairing sites damaged by the flood.

C. This agreement #68-8D43-10-26, is the second of two agreements awarded for the Summit County EWP Project. The first agreement, # 68-8D43-10-25, encompasses technical assistance for the design and specifications, construction administration, inspection services, etc.

D. This agreement (68-8D43-10-26) describes the terms and conditions governing the NRCS funding (up to 75 percent of allowable construction cost within the established threshold) for the actual *construction phase* of the project. The terms of the second agreement require the County to contribute a minimum 25 percent cost-share of total project on-the-ground construction costs, comprised of cash and/or the value of in-kind labor, materials, and/or equipment. To simplify financial accounting for differing cost-share requirements of technical and construction activities, NRCS determined the award of two agreements was the most efficient approach.

III. BENEFITS

Repair of damaged sites will protect structures, and clearing debris will mitigate damage from future flooding. This will benefit local residents directly impacted by flood damage and the general public in protection of the watershed resources.

IV. ATTACHMENTS TO AGREEMENT

The following attachments are incorporated into the agreement:

Attachment A: The following Standard Forms submitted by the City:
SF 424 – Application for Federal Assistance
SF 424C Budget Information – Construction Programs
SF 424D Assurances – Construction Programs

Attachment B: Special Provisions for Grants and Cooperative Agreements

Attachment C: NRCS Supplement to OSHA Parts 1910 and 1926

Attachment D: Required Contract Clauses and Bonding Requirements

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Attachment E: Quarterly Accrual Report format

V. TERM OF THE AGREEMENT

This agreement is effective on the date of signature by the NRCS State Conservationist and continues in full force and in effect through February 18, 2011. Requests for extension of time must be submitted in writing to the NRCS Project Manager and received by NRCS 60 days in advance of the expiration date. The NRCS Project Manager will review the request and forward it to the NRCS Headquarters Office for consideration. If approved, the agreement will be amended to extend the date.

VI. CONTACT INFORMATION

SUMMIT COUNTY	**NRCS UTAH**
Project Manager	**Project Manager**
Kevin Callahan	**Bronson Smart**
Public Works Administrator	**NRCS Utah State Conservation Engineer**
Summit County	**USDA Natural Resources Conservation Service**
1755 South Hoytsville Road	**125 South State St., Room 4402**
PO Box 128	**Salt Lake City UT 84138-1100**
Coalville, UT 84017	
Phone: 435-336-3978	**Phone: 801-524-4559**
Cell: 435-640-0510	**Fax: 801-524-4403**
Fax: 435-336-0823	**Email: bronson.smart@ut.usda.gov**
Email: kcallahan@co.summit.ut.us	
Financial Contact	**Administrative Contact**
Blake Frazier	**Judy Ousley**
County Auditor	**Grants and Agreements Specialist**
Summit County	**USDA Natural Resources Conservation Service**
60 North Main St	**125 South State St., Room 4402**
PO Box 128	**Salt Lake City, UT 84138-1100**
Coalville, UT 84017	
Phone: 435-336-3254	**Phone: 801-524-4553**
Cell: 435-640-2294	**Fax: 801-524-5059**
Fax: 435-336-3036	**Email: judy.ousley@ut.usda.gov**
Email: bfrazier@co.summit.ut.us	

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VII. DELIVERABLES AND OBLIGATIONS

A. Summit County will:

1. **Plan of Work** – Once the design and specifications are completed, the County will submit to the NRCS Project Manager and NRCS Administrative Contact (see "Contact" Section) a Financial Assistance (Construction) Plan of Work (POW). The construction phase of the project, including solicitation for the construction contract, will not occur until the final plan of work, reviewed and acceptable to NRCS, is incorporated into this agreement. The plan of work will include:

- Project description and background
- Objectives
- Beneficiaries
- Project approach
- Time schedule
- Budget, including general category cost accounting for NRCS contribution for up to 75% of total construction cost and description and accounting for County 25% of total construction cost cost-share.
- NRCS developed Damage Survey Report (DSR)
- Design and Specifications
- Design report addressing hydrology, hydraulics, and sedimentation, as applicable
- Inspection Plan
- Quality Assurance Plan
- Operations and Maintenance Plan

a. NRCS will review the revised Financial Assistance (Construction) POW and provide comments to the County. The County will review comments, contact the NRCS Project Manager as needed to discuss, and incorporate changes into the Construction POW.

b. Once a final Financial Assistance (Construction) POW acceptable to both NRCS and the County is completed, an amendment to this agreement will be written incorporating the revised, final Financial Assistance POW into the agreement as an attachment.

Development of the revised Financial Assistance (Construction) POW is the first task to be completed for this agreement. The County is cautioned to refrain from proceeding with construction, including soliciting for a construction contract, until NRCS issues an amendment incorporating the revised, final Construction POW into the agreement. REQUESTS FOR REIMBURSEMENT FOR THIS AGREEMENT SUBMITTED FOR WORK PERFORMED PRIOR TO THE AGREEMENT EFFECTIVE DATE OR FOR ON-THE-GROUND CONSTRUCTION

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WORK PERFORMED PRIOR TO SUBMISSION AND ACCEPTANCE OF THE FINAL POW BY NRCS WILL BE DENIED BY NRCS.

2. **Cost-share** - Contribute a minimum 25 percent of total allowable project construction costs in County funds and/or value of in-kind labor, materials, or equipment. The County will have a process in place to directly charge County construction costs dedicated to this project (salaries and benefits of County employees performing construction, use of County-owned equipment, etc.) and will have supporting documentation on file.

a. NRCS contribution will not exceed 75 percent of total allowable project construction costs up to a maximum of $5,000,000.00. Estimated project cost is:

NRCS (up to 75% and not to exceed): $5,000,000.00

County required cost share (25%): 1,666,660.00

Total project cost: $6,666,660.00

b. Upon completion of the project, NRCS and the County will meet and, based on documentation presented, mutually determine the total construction project cost and the cost to each party.

c. Once the project is completed and all requests for reimbursement submitted, excess funding remaining in the agreement (over and above the NRCS commitment of up to 75% of actual construction cost and within the not-to-exceed amount) will be deobligated from the agreement.

d. The County is prohibited from using other Federal funding as a part of their cost-share requirement.

3. **Pre-Construction**

a. **Notification** Prior to beginning on-the-ground construction work, the County will contact the NRCS Project Manager to confirm that all requirements relative to the following items have been completed by the County and are acceptable to NRCS:

(1) Project design, construction drawings, and specifications

(2) Environmental compliance, including cultural resources

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(3) Federal, State, and local permits. **All costs relative to obtaining required permits will be borne by the County. In accordance with EWP program regulations, NRCS cannot pay for these costs nor can they be counted as a cost-share contribution by the County.**

(4) Design report addressing items pertaining to: geology, geotechnical, structural, hydrology, hydraulics, and sedimentation

(5) Real property rights – Form NRCS-ADS-78 and attorney's opinion – **NOTE: The ADS-78 and attorney's opinion must be submitted by the County and accepted by NRCS prior to start of construction. <u>All</u> costs relative to obtaining property rights will be borne by the County. In accordance with EWP program regulations, NRCS cannot pay for these costs nor can they be counted as a cost-share contribution by the County.**

(6) Project inspection plan

(7) O&M plan completed and acceptable to NRCS

(8) Inspection/Quality Assurance Plan completed

b. **<u>Pre-Construction Photos</u>**. The County will photograph the sites prior to start of construction. These photos will be included in the photo-documentation required in paragraph 7 of this section.

4. **<u>Safety</u>** - All contractors on NRCS assisted projects are required to perform their work in accordance with OSHA regulations, NRCS Supplement to OSHA Parts 1910 and 1926 (incorporated into the agreement as an attachment) and the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). The County is responsible for periodically checking to ensure the contractor is in compliance. The County will notify NRCS of all serious accidents and/or injuries that occur on the NRCS assisted project.

5. **<u>Inspection, Quality Control and Assurance</u>** - Perform all inspections and quality assurance/control of construction work and materials to verify that County employees and the County's construction contractor are performing work in accordance with plans, specifications, design, and contract clauses. Inspection 100 percent of the time is required when work is being performed through award of a contract by the County.

Diligent oversight leading to successful completion of the project is the County's responsibility. Contracting with an engineering firm for inspection services does

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not relieve the County of the responsibility of diligent contract oversight to ensure inspections are being properly performed within the required timeframes.

6. **Weekly Progress Reports** - Once a week, throughout the duration of construction activities, digital images documenting construction progress will be submitted to the NRCS Project Manager and NRCS Administrative Contact identified in the "Contact" section of the agreement. **Photos will be accompanied by a narrative progress report documenting construction progress during the week.** Submission via e-mail is acceptable.

7. **Digital Photographic Diary of Construction Activities** -

a. Upon completion of the project, the County will provide photographs in digital format (.jpeg) on a CD to both the NRCS Project Manager and Administrative Contact. The photographic documentation should be a complete diary of activities from preconstruction through final inspection.

b. A set of final photos should be made of all completed project sites and should be taken from similar vantage points as the original pre-construction photos. Photos should be taken daily of construction activities and should show construction methods, subsurface materials encountered, construction problems as well as problem solutions, and any damages incurred during construction either natural or manmade.

8. **Site Visits** - The County acknowledges that NRCS representatives will conduct site visits to the construction site. The purpose of the visits will be to observe construction activities to ensure they are in compliance with Federal laws and regulations and the terms of the agreement (reference paragraph VII.B.2). **It is important to note that these are site visits only and not inspections. If NRCS observes problematic practices during a site visit, the County will be notified and expected to immediately address and resolve the concern. Failure of the County to act may result in termination of the agreement. The County is responsible for managing their contracts and NRCS expects that frequent scheduled and random site visits to the construction site(s) will be made by County officials.**

9. **Notification of Significant Events** - Events may occur that have significant impact upon the project. In such cases, the County must inform the NRCS Project Manager either (1) verbally, if the issue is time-sensitive, with a written notice documenting the conversation submitted to NRCS within 24 hours of occurrence; or (2) if the issue is not time-sensitive, in writing, as soon as the following types of conditions become known:

a. Problems, delays, or adverse conditions that will materially impair the County's ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

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b. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

10. **Inspection for Final Acceptance** - A final inspection will be scheduled by the County when all construction has been completed, the County's Architect/Engineer has accomplished his/her final inspection and all deficiencies have been corrected. The project must be complete and functional before the final inspection is performed. The final inspection will be made by representatives of the County, the Architect/Engineer and the contractor(s). The NRCS Project Manager (see "Contact" Section) must be given advance notice of the final inspection date so that an NRCS representative may participate, at the option of NRCS.

11. **As-built Drawings** - Submit two copies of the final as-built drawings to the NRCS Project Manager. **The as-built drawings will have the seal of the licensed professional engineer responsible for construction oversight along with a statement signed by the responsible licensed professional engineer certifying: "To the best of my professional knowledge, judgment, and belief this practice is installed in accordance with the plans and specifications and meets NRCS standards."**

12. **Perform all construction in compliance with:**

a. NRCS standards and specifications.

b. All required local, State, and Federal permits. The County is solely responsible for obtaining all permits.

c. All terms and conditions herein whether included in full text or by reference. Section VIII, Provisions and Regulations, of the agreement lists applicable regulations. Links to regulations are located at the following website: http://www.ut.nrcs.usda.gov/technical/grants_agreements.html

d. Information and assurances provided in Standard Forms (SF) 424, 424C and 424D, incorporated into this agreement as Attachment A;

e. Special Provisions for Grants and Cooperative Agreements, incorporated into this agreement as Attachment B.

13. **Additional Costs** - Accept all financial and other responsibility for excess costs resulting from failure of the County to obtain, or delay in obtaining, adequate land and water rights, permits, and licenses needed for the emergency watershed protection measures.

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14. **Engineering Services** - Agree to employ competent and professional engineering services so as to insure the soundness and adequacy of engineering services. Engineering service providers must be willing to accept liability for any damage and any additional construction costs to others to correct problems arising during or after construction resulting from deficient engineering and/or construction services.

15. **Performance Reports** - In accordance with 7 CFR 3015.92, on-site technical inspection conducted by the County will be used to monitor project progress along with submissions required by paragraphs 6 and 7 above.

16. **Requesting Reimbursement and Financial Reporting** - Comply with the following financial requirements:

a. Agree that total reimbursement from NRCS for this agreement will not exceed $5,000,000.00.

b. The County will request reimbursement by submitting to the NRCS Project Manager (see "Contact" Section) at least quarterly and no more frequently than monthly:

(1). An original, signed Standard Form (SF) 270, Request for Advance or Reimbursement. (SF-270 form is accessible at: http://www.ut.nrcs.usda.gov/technical/grantsagreements.html) and

(2). On a separate page attached to the SF-270, a general breakout of costs incurred during the reporting period and brief written description of work accomplished (materials purchased, services received, etc.) or descriptive invoices.

(a). The brief description of work accomplished during the reporting period or descriptive invoice must be in sufficient detail to allow NRCS to make a determination that funds being requested are reasonable relative to work actually accomplished.

(b) In accordance with 7 CFR 3015.102(b)(3), NRCS will not use the percentage-of-completion method to pay its construction agreements. The County may use that method to pay its construction contractor, but if it does, NRCS payments to the recipient will nevertheless be based on the County's actual rate of disbursements.

c. Costs submitted for reimbursement should match the County proposed budget.

d. If notified by NRCS, submit to the NRCS Project Manager (see "Contact" Section) an SF-425, Federal Financial Report, upon completion of the

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agreement. Typically, the SF-270 forms include the required information and an SF-425 form may not be required.

17. **Quarterly Accrual Report** - NRCS also requires quarterly accrual information. An accrual is the value of the work you have performed or will perform in cooperation with the NRCS but for which you have:

a. Not yet submitted an SF-270 or

b. Submitted an SF-270 but have not received payment.

Please complete the Accrual Information form (see Attachment E to this agreement) and submit it to the address below no later than 15 days prior to the end of the quarter (submit by March 15, June 15, September 15, and December 15). The U.S. Congress relies on audits of financial statements, including accrual information, to determine future funding amounts for NRCS on-going and new programs.

Submit SF-270 and Accrual Information Form to:

Judy Ousley
USDA/Natural Resources Conservation Service
125 South State Street, Room 4402
Salt Lake City, UT 84138-1100

18. **Records Retention** - The County is responsible for keeping all records relative to the project, including all documentation of procurements, receipts, and other accounting information. Retain all records relative to this agreement in accordance with 7 CFR 3016.42 or longer in accordance with County policy.

19. **Audit Requirements** - Comply with the Single Audit Act requiring all non-Federal entities that expend $500,000 or more of Federal awards in a year to obtain an annual audit.

20. **Nondiscrimination Requirements -** Recipients of Federally-Assisted Programs are required to post in their offices and include, in full, on all materials regarding this project that are produced by the recipient for public information, public education, or public distribution:

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer."

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B. NRCS will:

1. **Funding** - Contribute up to $5,000,000.00 to reimburse the County for up to 75 percent of allowable project construction costs.

2. **Government Representative** - Designate an NRCS engineer as the government representative for the project. The government representative will be on-site during construction in an almost full-time capacity to observe construction. The presence of the government representative does not relieve the County of the responsibility of oversight of their construction contractor nor the requirement to provide full-time construction inspection.

3. **Consultation** - As requested, consult with the County on technical issues and provide advice and direction on administrative matters. Provide timely review and comments to the County on the draft POW to be submitted by the County.

4. **Reimbursement** - Upon receipt of a properly completed SF-270, Request for Advance or Reimbursement, and proper supporting documentation, assess description of work completed relative to funds requested and, if request is reasonable, approve and process payment to the County. In the event there are questions regarding the SF-270 and supporting documentation, NRCS will contact the County in a timely manner to resolve concerns.

5. **Process Amendments** - Develop and process amendments to the agreement as needed.

C. It is mutually agreed:

1. If the County desires to increase the level of protection over and above that described in the NRCS Damage Survey Report (DSR), the County will be responsible for paying 100 percent of the costs of any unapproved and unfunded upgrade or additional work.

2. NRCS cannot reimburse the County for construction work performed prior to award date of this agreement (date of signature by NRCS State Conservationist) and acceptance by NRCS of the County's final POW.

3. The County is responsible for 100 percent of the costs incurred in obtaining permits and property rights, and for the operation and maintenance of the completed project.

4. Should inconsistencies arise between language in the agreement and the POW, the language in the agreement takes precedence.

VIII. PROVISIONS AND REGULATIONS

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A. Administrative Provisions:

This agreement, and other arrangements at any tier under this agreement, shall be governed by the following regulations, appropriate to the type of organization receiving the award, relative to tier, as are in effect on the effective date of award and hereby incorporated by reference: (Internet links for the full text of Code of Federal Regulations (CFR) references may be found at http://www.ut.nrcs.usda.gov/technical/grants_agreements.html).

1. 7 CFR Part 3015, "Uniform Federal Assistance Regulations"

2. 7 CFR Part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"

3. 7 CFR Part 3017, "Governmentwide Debarment and Suspension (Nonprocurement)"

4. 7 CFR Part 3018, "New Restrictions on Lobbying"

5. 7 CFR Part 3019, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations"

6. 7 CFR 3021, "Government wide Requirements for Drug-Free Workplace (Financial Assistance)"

7. 7 CFR Part 3052, "Audits of Institutions of Higher Education and Other Non-Profit Institutions"

8. 2 CFR Part 215, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations (OMB Circular A-110)"

9. Treasury Circular 1075, Withdrawal of Cash from the Treasury for Advances under Federal and Other Programs

B. Federal Cost Principles:

Allowable project costs shall be determined in accordance with the authorizing statute, the purpose of the agreement award, and by the following Federal cost principles that are applicable to the type of organization receiving the award, regardless of tier, as are in effect on the effective date of award and hereby incorporated by reference: (The full text for OMB Circulars may be found at http://www.ut.nrcs.usda.gov/technical/grants_agreements.html).

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1. 2 CFR Part 220, "Cost Principles for Institutions of Higher Education"

2. 2 CFR Part 225, "Cost Principles for State and Local Governments" (including Indian Tribal governments)

3. 2 CFR Part 230, "Cost Principles for Nonprofit Organizations" other than institutions of higher education

4. Federal Acquisition Regulations, Part 31, (http://www.arnet.gov/far) "Contract Cost Principles and Procedures"

C. The County will conduct all procurement activities in a manner that provides, to the maximum extent possible, free and open competition.

D. The County is responsible, without recourse to NRCS or USDA, for the settlement and satisfaction of all contractual and legal issues arising out of arrangements entered into between the County and others to carry out approved project activities. Matters concerning violation of law should be referred to the federal, state, or local authority having proper jurisdiction.

E. The Federal Travel Regulations will serve as a guideline for any travel performed under this agreement.

IX. AMENDMENTS, CHANGES, AND TERMINATION

A. This agreement may be amended in writing by mutual consent of the parties. NRCS is responsible for writing the amendment, obtaining signatures, and distributing copies to the County. If an amendment is written that implements only internal administrative changes, the amendment may be issued unilaterally by NRCS. The County will receive a copy of all amendments.

B. Requests from the County to the NRCS Project Manager to extend the term of the agreement must be submitted no less than 60 days prior to the expiration date of the agreement and include a justification, in writing, documenting the need for the extension. NRCS expects that the project will be completed within the established term of the agreement. Requests for time extensions require the approval the NRCS National Headquarters Office and are only approved when a sound, defendable justification is provided.

C. Terms of enforcement and termination are in accordance with 7 CFR 3016.43-44 including:

"§ 3016.43 Enforcement.

(a) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding

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agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) Effects of suspension and termination. Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see §3016.35).

§ 3016.44 Termination for convenience.

Except as provided in §3016.43 awards may be terminated in whole or in part only as follows:

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(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §3016.43 or paragraph (a) of this section."

X. APPROVAL

The United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), and Summit County execute this agreement as of the date of final signature by USDA/NRCS. The signatories below represent that each is duly authorized to bind their respective organization to the terms of this agreement. By signing this agreement the recipient assures the USDA that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

SUMMIT COUNTY, UTAH		**U. S. DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE**	
Robert Jasper County Manager	Date	Sylvia A. Gillen State Conservationist	Date

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COUNCIL SUBMITTAL FORM

- **Agenda items must be scheduled by Tuesday at 12:00 p.m. one week prior to being placed on the agenda**
- **Staff reports and information must be submitted by 12:00 p.m. the Thursday before the Council meeting**

Agenda date: August 4, 2010

Time allotment 10 Minutes

Requestor and contact information Kathryn Rockhill

Item type: *public hearing ☐ work session ☐ discussion ☐ approval ☑
** Email notice published in paper*

Submit language for agenda (public hearing - email notice published in paper)

Reconvene as Board of Equalization.
Approval 0f 2 (2009) decisions

Has the Attorney's Office reviewed and signed off? ☐Yes ☑No

Attorney name

Is this an Ordinance or a Resolution? ☐Ordinance ☐Resolution ☑No

PLEASE PROVIDE 1 (ONE) ORIGINAL HARDCOPY AND EMAIL INFORMATION TO kbrostrom@co.summit.ut.us by 12:00 p.m. the Thursday before Council meeting (must include staff report) or the item will be removed from the agenda

CLICK HERE to Submit

SAVE **PRINT** **CLEAR**

County Engineer Derrick A. Radke, P.E.

MEMORANDUM

Date: July 20, 2010

To: Summit County Council

From: Derrick A. Radke, County Engineer

Re: Agenda Item for August 4, 2010 - Petition to Vacate Roadways Located in:
Sections 30, T2S, R6E, SLB&M.
Summit County, Utah

On June 3, 2010, my office received a "Petition" authored by Steven Gunn of Ray Quinney & Nebeker, addressed to the Summit County Commissioners [Council] on behalf of Raymond Alt and Patricia Standing to vacate an existing public highway right-of-way located in Section 30, T1S, R6E as noted above and detailed in the Petition which is attached for your information. The road is located just west of the Francis Town Limits and just east of the Wasatch County Line. The property deeds call out descriptions to an "old state road".

The Petition was advertised in the local news paper, notices were mailed to all property owners within 1000 feet for a Public Hearing, and the Notice was published on the State of Utah's Web Site.

Based on staff's research, the roads described in the petition do not appear on either the Class "B" road map (Class "B" County Road being defined as a County maintained road and for which the County collects a portion of the Gasoline Tax as it is distributed by the State of Utah), or the Class "D" road map (Class "D" public road being defined as a road that is open to general public access, but it is not maintained by the County) of the County. Also, based on a review of the USGS map titled, Francis, UT 1967, it does not appear that the roads alignment as described in the property deeds even shows up on that map.

POLICY CONSIDERATIONS

As discussed above, there are two classes of roads within the County over which the County Council along with the County Executive are the highway authority. Class B roads are those which are maintained by the county and Class D roads are those which are not.

P.O. Box 128 • Coalville, UT 84017
Coalville: (435) 336-3250 • Kamas: (435) 783-4351 ext. 3250 • Park City (435) 615-3250
Fax: (435) 336-3043 • Park City Fax (435) 615-3043

As a general rule, whether or not to vacate the public's interest in a county road is a policy decision to be made by the County legislative body acting as the highway authority pursuant to Utah Code Ann. § 72-3-105(3), § 72-3-108 and § 72-3-109. Any vacation of a road must be evidenced by an ordinance adopted by the legislative body. There are no legal standards which must be met under state law prior to vacating the public's interest in a county road. It is a policy decision.

The policy direction of the County legislative body has changed throughout the years. The current Council has chosen the following three (3) pronged test which should be met before vacating any public interest to a road. That test is:

1. Does, did, or will the road access any public lands, public uses or provide any other public purpose;
2. Is the road included in the County's Class D road map; and
3. Is the public interest in the road the only means of access for any property owner along the road.

If the test were applied to this application, the answer would be "no" to all three questions in which case vacation would be recommended. After hearing the matter and input from the public, staff is recommending that you pursue one of two options:

1. Based upon the staff criteria listed above, vacate the road by adoption of an ordinance; or
2. Deny the petition to vacate the road based upon a policy determination that it is in the best interest of the public not to do so.

Staff would recommend that the Council vacate the road identified in the petition.

This item has been noticed as a Public Hearing so that the Council can hear arguments from the Public as to why the roads should or should not be vacated. A decision on the matter will need to be re-noticed for a future meeting. If the Council believes that they may consider vacating the roads at that future meeting, staff will prepare an Ordinance for your consideration.

If you have any question, please contact me.

Enclosures (Petition, Powerpoint)

cc: Robert Jasper, County Manager
Jami Brackin, Deputy County Attorney
Kevin Callahan, Public Works Administrator
file (S:\Projects\2010\pw10\misc\standing road vacation\cc-staff report1.dar.wpd)

RAY QUINNEY & NEBEKER

June 3, 2010

Summit County Commissioners
P.O. Box 128
Coalville, Utah 84017

Steven H. Gunn
ATTORNEY AT LAW

PO Box 45385
Salt Lake City, Utah
84145-0385

36 South State Street
Suite 1400
Salt Lake City, Utah
84111

801 532-1500 FIRM
801 323-3327 DIRECT
801 532-7543 FAX
sgunn@rqn.com
www.rqn.com

Re: Abandonment of Roadway Located in Section 30, Township 2 South, Range 6 East, Summit County Utah

Dear Ladies and Gentlemen:

Raymond Alt and Patricia Standing, the owners of three contiguous tracts of land located on State Road 32 about five miles east of the Jordanelle Reservoir, have retained me and my law firm, Ray Quinney & Nebeker, to apply to this Commission for the vacating of an abandoned road (referred to commonly as the "Old County Road") which runs across their property. Please regard this letter as an application for the vacating of that roadway.

I have attached to this letter a number of exhibits which will aid you in visualizing the location of my clients' property and the Old County Road which transverses it.

At Tab A you will find a survey map which depicts the three parcels. I have highlighted in blue my clients' property, according to the legal description. (We believe that they have now established ownership of an additional strip bounded by the center line of the Old County Road on the north and the southern edge of the Old County Road on the south.)

At Tab B you will find a color aerial photograph of approximately the same area shown on the survey. Note the location of the Thompson Sawmill on the north side of State Road 32. You will see a photograph of the Sawmill taken from the southern edge of my clients' property at Tab C.

The photographs found at Tab D show red-flagged stakes which were placed on the center line of the Old County Road by our surveyor. The first photograph looks west along the centerline toward the juncture of the Old County Road and State Road 32. The second and third photographs look back west. One is taken from that point where the Old County Road intersects with my clients' northern property line. The other photograph shows the center of the Old County Road where it crosses the eastern boundary of my clients' property.

At Tab E you will find the 1968 and 1969 deeds by which my clients' parents obtained their three parcels from the Prescotts and the Willoughbys, their predecessors in interest. My clients' deed from their parents is at Tab F.

In our research we have been unable to find when it was that the Old County Road was last used as a roadway. That use terminated far earlier than 1969; however, we have found no record of vacation or abandonment by Summit County.

In a memorandum dated March 24, 2009 which is unrelated to my clients' case, Derrick Radke, Summit County Engineer, recommended that the Perdue Creek and Neil Creek roads be vacated because they met following the three-pronged test:

> "1) Does, did, or will the road access any public lands, public uses or provide any other public purpose;
> 2) Is the road included in the County's Class D road map; and
> 3) Is the public interest in the road the only means of access for any property owner along the road."

(I have attached a copy of that memorandum at Tab G.) My clients respectfully suggest to the Commission that the proposed vacating of the Old County Road where it transverses their property meets the above criteria.

- **Public Uses or Purposes**. The Old County Road is not used as an access to public land. Nor does it have public uses or public purposes. As best we have been able to ascertain, the road has not been used for decades.

- **County's Class D Road map**. The Old County Road is not shown on the County's Class D Road map. (A copy is attached at Tab H.)

- **Only means of access for any property owner**. There are only two land owners who could conceivably require the use of the road for access to their properties: my clients and the owners of Victory Ranch which owns property located south of the Old County Road and south of SR 32 to the west of my clients' property. To our knowledge Victory Ranch has never used the Old County Road for access to its property. Victory Ranch's access to the portion of its land which lies south of the Old County Road

apparently comes from farther south and from SR 32 to the west, not from the Old County Road.

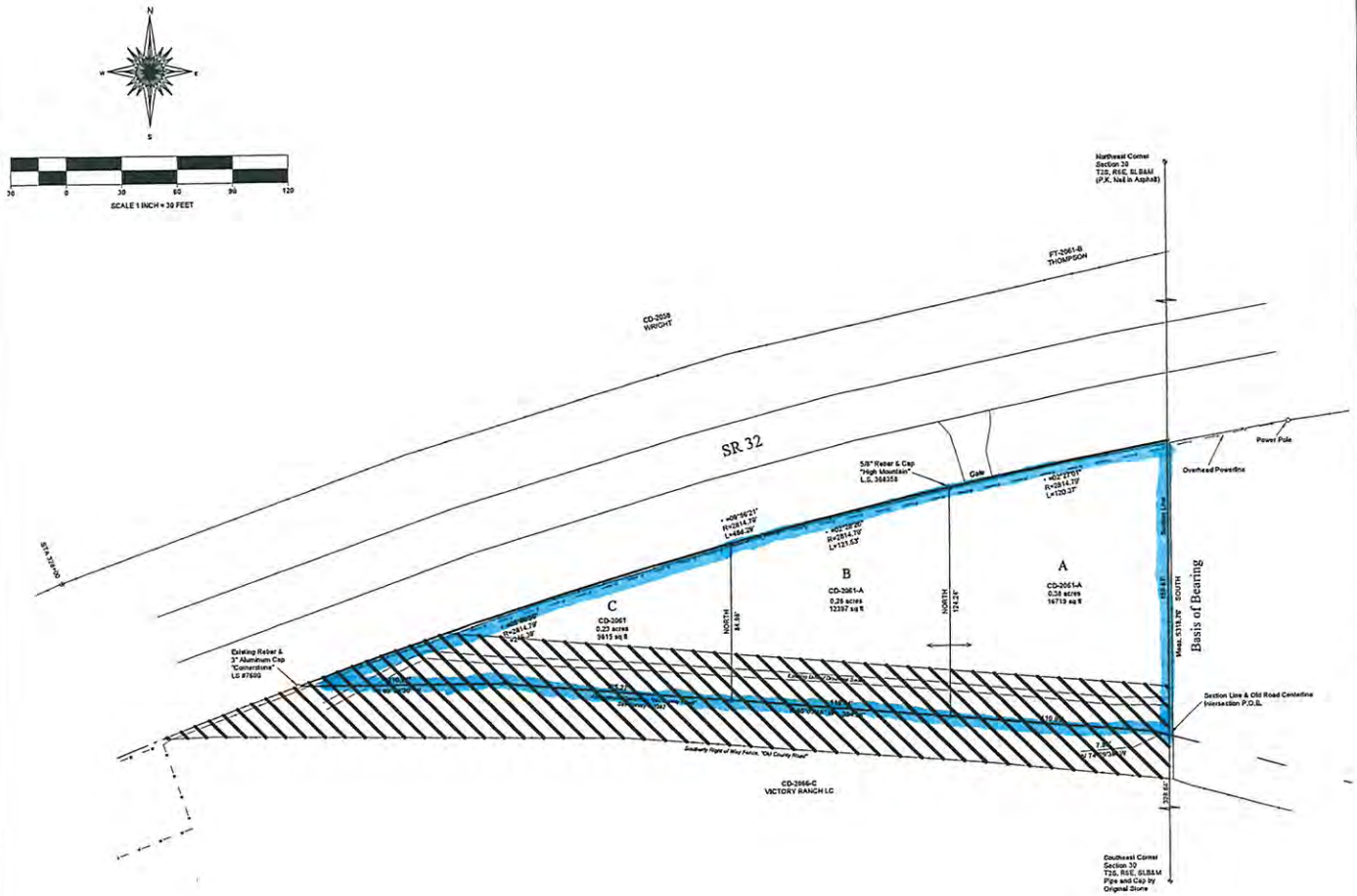
Because the Old County Road has not been used by the public for decades and because the vacating of the road meets the three-pronged test described in Mr. Radke's Memorandum of March 24, 2009, Mr. and Mrs. Alt respectfully request that Summit County vacate the Old County Road, at least that segment of the roadway which is located on the property of Raymond Alt, Jr. and Patricia Standing in Summit County. (I have attached at Tab I a legal description of that portion of the Old County Road which traverses my clients' property.)

Sincerely,

RAY QUINNEY & NEBEKER P.C.

Steven H. Gunn

SHG/jp
Enclosures
cc: Helen E. Strachan
Summit County Attorney's Office
1078840



SURVEY DESCRIPTIONS

Parcel A
CD-2061-A

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and having a Basis of Bearing taken as North between the Southeast Corner and the Northeast Corner of said Section 30 described as follows:

Beginning at the intersection of the East boundary line of Section 30, T2S, R6E, SLB&M and the centerline of the "Old State Road" which in some documents is referenced as the "Old County Road" and being located 328.84 feet North from the Southeast Corner of said Section 30 and running thence North 74°29'39" West, 7.85 Feet along said centerline; thence North 85°03'16" West, 116.30 Feet along said centerline; thence North, 124.24 Feet to a point on the southerly line of the "New State Highway" or SR 32; thence along the arc of a 2814.79 Foot radius curve to the right and central angle of 02°27'01" a distance of 120.37 feet (LCB = North 78°38'05" East, 120.34) along said SR 32 Southerly Right of Way line; thence South, 158.41 Feet to the POINT OF BEGINNING and described tract containing 0.28 Acres, more or less.

Parcel B
CD-2061-A

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and having a Basis of Bearing taken as North between the Southeast Corner and the Northeast Corner of said Section 30 described as follows:

Beginning a point which is North 74° 29' 39" W 7.85 feet and N 85° 03' 16" W 116.85 feet from the intersection of the East boundary line of Section 30, T2S, R6E, SLB&M and the centerline of the "Old State Road" which in some documents is referenced as the "Old County Road" and said intersection point being located 328.84 feet North from the Southeast Corner of said Section 30 and running thence North 85°03'16" West, 118.44 Feet along the centerline of said "Old Highway"; thence North, 84.98 Feet to a point on the Southerly line of the "New State Highway" or SR 32; thence along the arc of a 2814.79 foot radius curve to the right and central angle of 02° 28' 26" a distance of 121.53 feet (LCB = North 76° 16' 22" East, 121.52) along said SR 32 Southerly Right of Way line; thence South, 124.24 Feet to the POINT OF BEGINNING, and described tract containing 0.28 Acres, more or less

Parcel C
CD-2061

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and having a Basis of Bearing taken as North between the Southeast Corner and the Northeast Corner of said Section 30 described as follows:

Beginning a point which is North 74° 29' 39" W 7.85 feet and N 85° 03' 16" W 235.29 feet from the intersection of the East boundary line of Section 30, T2S, R6E, SLB&M and the centerline of the "Old State Road" which in some documents is referenced as the "Old County Road" and said intersection point being located 328.84 feet North from the Southeast Corner of said Section 30 and running thence North 85°03'16" West, 125.27 Feet along the centerline of said "Old Highway"; thence South 03°34'30" West, 110.61 Feet along the centerline of said "Old Highway" more or less to the Southerly Right of Way Line of the "New State Highway" or SR 32, thence along the arc of a 2814.79 foot radius curve to the right and central angle of 05° 00' 55" a distance of 246.35 feet (LCB = North 73° 27' 41" East, 246.34) along said SR 32 Southerly Right of Way line, thence South 84.98 Feet to the POINT OF BEGINNING, and described tract containing 0.23 Acres, more or less.

NARRATIVE

1. Ray Alt requested a survey of Parcels CD-2061 and CD-2061-A, located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, SLB&M

2. The above mentioned property is bound on the north by Highway Project #S-240 (SR 32). Said property is bound on the East by the East Line of Section 30, T2S, R6E, SLB&M. Said property is bound to the South by the centerline of the original "Old County Road" also referred to as the "Old State Road".

3. A prior survey performed by Cornerstone Professional Land Surveyor was used to determine the centerline of the "Old State Road" and is filed at Summit County as Survey No S-3392.

4. Additional information used in performing this survey include the following Deeds: Book 1020, Page 513, Book 1328, Page 514, Book M28 Page 512 which document are the current vesting deeds of Parcels CD-2061 and CD-2061-A.

5. The centerline of the old highway was used for the South line of Parcels CD-2061 & CD-2061-A as the old roadway was abandoned and relocated to the current location. That exact boundary line of the abutting parcels to the middle of the former highway.

Surveyor Certificate

I Paul Ferry, a Licensed Professional Land Surveyor as provided by the Laws of the State of Utah and holding License No 364358, do hereby certify that I have made a survey, or a field survey was made under my direction of the described property and that the plat hereon is a true and correct representation of said survey.

PROFESSIONAL LAND SURVEYOR
PAUL G. FERRY
No. 364358
LICENSED
STATE OF UTAH

HIGH MOUNTAIN
SURVEYING, LLC
P.O. Box 445
1325 South Hoytsville Road
Coalville, Utah 84017
(435) 336-4210

COMMENTS:

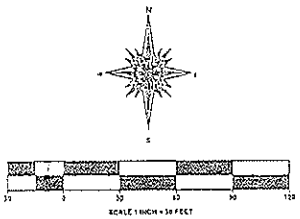
SHEET 1 OF 1

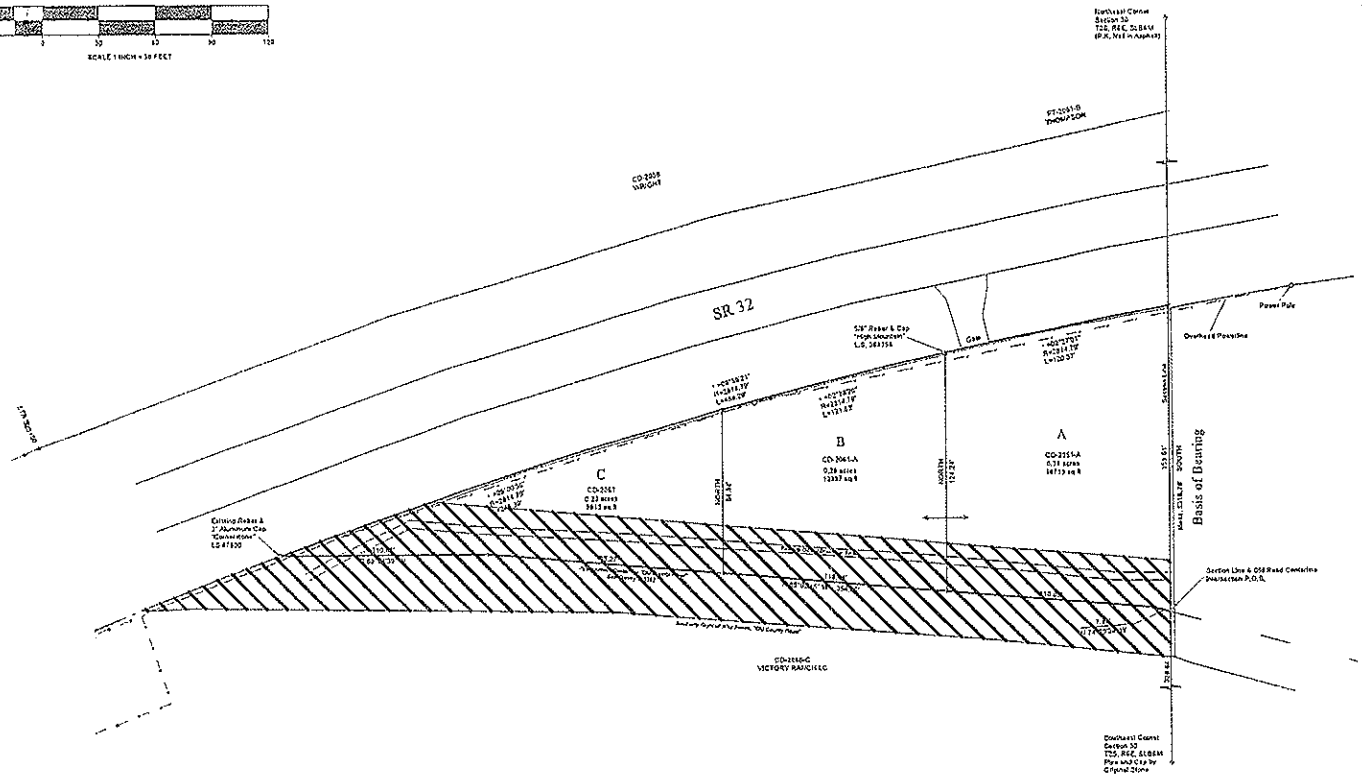
SURVEYED BY: PCF	DRAWN BY: PCF		
FIELD FILE: ALT FAY PCE	PROJECT NO: 1919-07		
DATE: March 20, 2007			

RECORD OF SURVEY

Prepared For: Ray Alt
Parcels CD-2061 & CD-2061-A
Part of the SE 1/4, Section 30, T2S, R6E, SLB&M
Francis, Summit County, Utah

TAB A





SURVEY DESCRIPTIONS

Parcel A
CD-2061-A

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and being a strip of Drawing taken as North between the Southeast Corner and the Northeast Corner of said Section 30, described as follows:

Beginning at the intersection of the East-most line of Section 30, T2S, R6E, SLB&M and the centerline of the "Old State Road" which is more documented and referred to as the "Old County Road" and being located 818.14 feet North from the Southeast Corner of said Section 30 and running thence North 74°25'58" West, 7.45 Feet along said centerline; thence North 30°51'47" West, 116.95 Feet along said centerline; thence 30.96 - 13.24 Feet to a point on the southerly line of the "New State Highway" on SR 32; thence along the arc of a 2814.79 Foot radius curve to the right and concave to the south (Chord bears North 78°19'37" East, 119.36 Feet) through a central angle of 02°27'03" a distance of 119.37 feet; thence South 30°51'47" East, 119.36 Feet along said 24.13 Southerly Right of Way line; thence South, 13.24 Feet to the POINT OF BEGINNING. said tract of land containing 0.28 Acres more or less.

Parcel B
CD-2061-A

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and being a strip of Drawing taken as North between the Southeast Corner and the Northeast Corner of said Section 30, described as follows:

Beginning at point which is North 74°25'58" W 7.45 feet and N 30°51'47" W 116.95 feet from the intersection of the East-most line of Section 30, T2S, R6E, SLB&M and the centerline of the "Old State Road" which is more documented and referred to as the "Old County Road" and said intersection point being located 818.14 feet North from the Southeast Corner of said Section 30 and running thence North 30°51'47" W 6.25 feet along the centerline of said "Old Highway"; thence North, 13.24 Feet to a point on the Southerly line of the "New State Highway" on SR 32; thence along the arc of a 2814.79 foot radius curve to the right and concave south of 02°28'24" a distance of 121.18 feet (Chord bears 74° 16 33" East, 121.17) along said 24.13 Southerly Right of Way line; thence South, 12.24 Feet to the POINT OF BEGINNING. said tract of land containing 0.18 Acres, more or less

Parcel C
CD-2061

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and being a strip of Drawing taken as North between the Southeast Corner and the Northeast Corner of said Section 30, described as follows:

Beginning a point which is North 31°29'35" W 3.45 feet and N 31°45'16" W 239.23 feet from the intersection of the East-most line of Section 30, T2S, R6E, SLB&M and the centerline of the "Old State Road" which is more documented and referred to as the "Old County Road" said tract of land being located 326.44 feet South from the Southeast Corner of said Section 30 and running thence North 87°51'16" West, 105.19 Feet along the centerline of said "Old Highway"; thence North 30°51'47" West, 116.95 Feet along the centerline of said "Old Highway" north of SR 32 to the Southerly Right of Way line of the "New State Highway" on SR 32; thence along the arc of a 2814.79 foot radius curve to the right and concave south of 01°37'24" a distance of 106.39 feet (Chord bears North 77° 21' 42" East, 106.38) along said 24.13 Southerly Right of Way line; thence South 34.24 Feet to the POINT OF BEGINNING. said tract of land containing 0.23 Acres, more or less.

NARRATIVE

1. Key All references are top of Parcels CD-2061 and CD-2061-A, located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, SLB&M

2. The above mentioned property is located on the north by Highway Project #96-2(6) (SR 32). Said property is bound on the East by the East Line of Section 30, T2S, R6E, SLB&M. Said property is bound to the South by the centerline of the original "Old County Road" described as the "Old State Road".

3. A new survey performed by Cornerstone Professional Land Surveyors was used in addition to the centerline of the "Old State Road" and at Old or Special County of Survey File #-3332

4. Additional information used in performing this survey include the following Deeds: Book 3112, Page 313, Book 1188, Page 14, Book 3322 Page 513 which documents all the Deed of vesting title of Parcels CD-2061 and CD-2061-A.

5. The centerline of the old Road survey was used for the South line of Parcels CD-2061 & CD-2061-A as the old road way is at the bound and referred to the current Deeds. The road bed which is of the abutting parcels to the middle of the former Highway

Surveyor Certificate

I Paul Perry, a Licensed Professional Land Surveyor as prescribed by the Laws of the State of Utah and holding License No. 349356, do hereby certify that I have made a survey on a field survey under my supervision of the described property and that the plat hereon is a true and correct representation of said survey.

HIGH MOUNTAIN
SURVEYING, LLC
P.O. Box 415
1325 South Highway 48
Coalville, Utah 84017
(435) 336-2210

COMMENTS:

SHEET 1 OF 1

CONTRACTOR: PCF	DRAWN BY: PCF	REVIEWED:	REVISED:
FIELD WK: ALT RAN PCS			
DATE: MARCH 26, 2007			

RECORD OF SURVEY

Prepared For: Roy Alt
Parcels CD-2061 & CD-2061-A
Part of the SE 1/4, Section 30, T2S, R6E, SLB&M
Francis, Summit County, Utah

TAB A

TAB B

TAB C

TAB D

TAB D

TAB D

TAB E

CD 2061/A .39 ac

WARRANTY DEED

RAYMOND WILLOUGHBY and KATHERINE P. WILLOUGHBY, Husband and wife

Grantors, of Orem, Utah County, State of Utah

hereby CONVEY AND WARRANT to RAYMOND ALT and ELIZABETH ALT, Husband and wife as JOINT TENANTS with full right of survivorship to the survivor of either, and NOT AS TENANTS IN COMMON

Grantees, of
Street Address City County State

for the sum of Ten Dollars and other good and valuable consideration DOLLARS

the following described tract of land in Summit County,

State of Utah, to-wit:

Beginning at the intersection of the east boundary line of Section 30, Tp 2 S. R. 6 E., Salt Lake Base and Meridian, and the center of the old state road, which point is approximately 325 feet North from the S.E. corner of said Section 30; thence West 118 feet; thence North 140 ft. Thence East along the new State Hwy 118' feet thence South 150 feet to the point of beginning.

Entry No. 105503 Book M20
RECORDED 4-4-69 at 10:41 AM Page 513
REQUEST of Raymond Alt
FEE MONDA Y. SPRIGGS, SUMMIT CO. REC.
$ 2.00 By Manda Y. Spriggs
INDEXED A ABSTRACT

SURVEY REF "A"

BOOK M20 PAGE 513

WITNESS THE HAND of said Grantor this day of

, A. D. 19 69

Signed in the presence of

Raymond Willoughby
Katherine P. Willoughby

STATE OF UTAH,
County of Utah } ss.

On the 4th day of March, A. D. 19 69, personally appeared before me, a Notary Public in and for the State of Utah,

Raymond Willoughby and Katherine P. Willoughby

the signers of the above instrument, who duly acknowledged to me that they executed the same.

Victor R. Christensen
Notary Public

My commission expires Residing at Orem, Utah

MY COMMISSION EXPIRES DEC. 24, 1971.

MAIL TAX NOTICE TO
Raymond Alt
137 Parkview Ave
S.L.C.

Standard Supply Co. Provo, Utah

14

TAB E

Parcel 2 of CD 2061 A .131ac

WARRANTY DEED

RAYMOND WILLOUGHBY and KATHERINE P. WILLOUGHBY, Husband and Wife

Grantor.S., of Orem, Utah County, State of Utah

hereby CONVEY AND WARRANT to RAYMOND ALT and ELIZABETH ALT, Husband and Wife as JOINT TENANTS with full right of survivorship to the survivor of either, and NOT AS TENANTS IN COMMON

Grantee.S., of
Street Address City County State

for the sum of Ten Dollars and other good and valuable consideration DOLLARS

the following described tract of land in Summit County,

State of Utah, to-wit:

Beginning at a point which is 118 feet West of the intersection of the east boundry line of Section 30, Tp 2 S. R. 6 East., Salt Lake Base and Meridian, and the center of the old state road, which point is approximately 325 feet North from the S. E. corner of said section 30; thence West 122 feet; thence North 75 feet; thence along the boundry of the new state hwy East 122 feet; thence South 140 feet to the point of beginning.

Entry No. 108904 Book M20
RECORDED 4-4-69 at 10:42 M Page 514
REQ. of Raymond Alt
FEE WANDA Y. SPRIGGS, SUMMIT CO. RECORDER
$ 2.00 By Wanda Y. Spriggs
INDEXED A ABSTRACT

SURVEY REF "B"

BOOK M20 PAGE 514

WITNESS day of

Sig Raymond Willoughby
Katherine P. Willoughby

STATE OF UTAH,
County of Utah } ss.

On the 16th day of March, A. D. 19 69, personally appeared before me, a Notary Public in and for the State of Utah, Raymond Willoughby and Katherine P. Willoughby

the signer.S of the above instrument, who duly acknowledged to me that they executed the same.

Victor H. Christensen
Notary Public

My commission expires Residing at Orem, Utah

MY COMMISSION EXPIRES DEC. 24, 1971.

MAIL TAX NOTICE TO
Raymond Alt
137 Poulton Ave
S.L.C.

Raymond Alt
Mail Tax Notice to 137 Paxton Ave S.L.C.
Address
~~Kamas~~ Utah

TAB E

Mail Deed to
Address
~~Kamas~~ Utah

Quit Claim Deed

A.D. Prescott and Maye Prescott, his wife — Grantor

of Kamas County of Summit, State of Utah, hereby Quit Claims to Raymond Alt

GRANTEE

of Salt Lake City County of Salt Lake, State of Utah, for the sum of ----------Ten and no/100---------- DOLLARS and other good and valuable consideration, the following described tract of land in Summit County, State of Utah:

Beginning at the intersection of the East Boundary Line of Section 30, Township 2 South, Range 6 East, Salt Lake Meridian and the center of the old state road, which point is approximately 325 feet North from the Southeast corner of said Section 30; Thence Westerly 245 feet, more or less, thence North 75 feet, more or less, to Highway Project No. S-240; thence South Westerly along right-of-way Project No. S-240, 210 feet, thence South 10 feet. Thence Easterly 200 feet more or less to point of beginning.

It is the intentions of grantor to convey all their interest in Section 30, in the above vicinity, south of Highway Project No. S-240.

SURVEY REF "C"

118
122
240

WITNESS the hand of said Grantor, this tenth day of April A. D. 19 68

Signed in the presence of

A D Prescott
A.D. Prescott

Maye Prescott
Maye Prescott

STATE OF UTAH
County Summit } ss.

On the 10th day of April A. D. 1968

Personally appeared before me A D Prescott and Maye Prescott, his wife

the signers of the within instrument, who duly acknowledged to me that they executed the same.

(Notary Public)
Residing at Kamas Utah

My Commission Expires Dec 10, 1971
(Notary Seal)

(Use black typewriter ribbon only)

Recording Data
Fees $ Serial No.
Entry No.

Platted ☐ Indexed ☐
Recorded ☐ Abstracted ☐
Compared ☐ Paged ☐

Entry No. 108902 Book M20
RECORDED 4-4-69 at 10:40 AM Page 512
REQUEST of Raymond Alt
TO WANDA Y. SPRIGGS, SUMMIT CO. RECORDER
$ 2.00 By Wanda Y. Spriggs
INDEXED A ABSTRACT

BOOK M20 PAGE 512

TAB F

Sec 30

RED NOTE ___ AB 6/2 N

308327

Raymond Alt Jr.

89 MAY 23 PM 1:04

ALAN SPRIGGS
SUMMIT COUNTY RECORDER

REC'D BY BH 7.00

WARRANTY DEED

Raymond Alt, Sr., a single man, sometimes known as Raymond Alt, Grantor, hereby conveys and warrants unto Raymond Alt, Jr. and Patricia Standing, 1374 Emery Street, Salt Lake City, Utah, as joint tenants with full rights of survivorship, Grantees, the following described real property in Summit County, State of Utah:

> Beginning at a point which is 118 feet West of the intersection of the east boundary line of Section 30, Tp 2 S. R.6 East., Salt Lake Base and Meridian, and the center of the old state road, which point is approximately 325 feet North from the S.E. corner of said Section 30; thence West 122 feet; thence North 75 feet; thence along the boundary of the new state hwy East 122 feet; thence south 140 feet to the point of beginning.
>
> Together with all improvements and appurtenances.

Witness the hand of the Grantor, this 22 day of May, 1989.

Raymond Alt Sr
Raymond Alt, Sr.

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

BOOK 522 PAGE 236

Personally appeared before me this 22 day of May, 1989, Raymond Alt, Sr., the signer of the foregoing Warranty Deed who duly acknowledged to me that he executed the same.

Craig A. Stanley

My Commission Expires:
04-30-90

Notary Public

Residing at SLC UT

J:WAR6

7.00

TAB F

RED NOTE ___ AB Section 6/2 N

308329
Raymond Alt Sr.
89 MAY 23 PM 1:05
ALAN SPRIGGS
SUMMIT COUNTY RECORDER
REC'D BY BH

WARRANTY DEED

Raymond Alt, Sr., a single man, sometimes known as Raymond Alt, Grantor, hereby conveys and warrants unto Raymond Alt, Jr. and Patricia Standing, 1374 Emery Street, Salt Lake City, Utah, as joint tenants with full rights of survivorship, Grantees, the following described real property in Summit County, State of Utah:

> Beginning at the intersection of the east boundary line of Section 30, Tp 2 S, R. 6 E., Salt Lake Base and Meridian, and the center of the old state road, which point is approximately 325 feet North from the S.E. corner of said Section 30; thence West 118 feet; thence North 140 feet. Thence East along the new State Hwy 118' feet thence South 150 feet to the point of beginning.
>
> Together with all improvements and appurtenances.

Witness the hand of the Grantor, this 22 day of May, 1989.

Raymond Alt Sr
Raymond Alt, Sr.

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

Personally appeared before me this 22 day of May, 1989, Raymond Alt, Sr., the signer of the foregoing Warranty Deed who duly acknowledged to me that he executed the same.

Craig A. Standing
Notary Public
Residing at SLC UT

My Commission Expires:
09-30-90

CRAIG A. STANDING
J:WARS
STATE OF UTAH

BOOK 522 PAGE 240

TAB F

Sec 30-

RED NOTE AB 6/2 HP.

308331

Raymond Alt Jr

89 MAY 23 PM 1:05

ALAN SPRIGGS
SUMMIT COUNTY RECORDER

REC'D BY B447

WARRANTY DEED

Raymond Alt, Sr., a single man, sometimes known as Raymond Alt, Grantor, hereby convey and warrants unto Raymond Alt, Jr. and Patricia Standing, 1374 Emery Street, Salt Lake City, Utah, as joint tenants with full rights of survivorship, Grantees, the following described real property in Summit County, State of Utah:

> Beginning at the intersection of the East Boundary Line of Section 30, Township 2 South, Range 6 East, Salt Lake Meridian and the center of the old state road, which point is approximately 325 feet North from the Southeast corner of said Section 30; thence Westerly 245 feet, more or less, thence North 75 feet, more or less, to Highway Project No. S-240; thence Southwesterly along right-of-way Project No. S-240, 210 feet; thence South 10 feet; thence Easterly 200 feet, more or less, to point of beginning.
>
> Together with all improvements and appurtenances.

Witness the hand of the Grantor, this 22 day of May, 1989.

Raymond Alt Sr
Raymond Alt, Sr.

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

Personally appeared before me this 22 day of May, 1989, Raymond Alt, Sr., the signer of the foregoing Warranty Deed who duly acknowledged to me that he executed the same.

Craig A. Stanch
Notary Public
Residing at SLC UT

My Commission Expires:
09-30-90
J:WARIO

CRAIG A. STANCH
NOTARY PUBLIC
STATE OF UTAH

BOOK 522 PAGE 244

7.00

TAB G

County Engineer

Derrick A. Radke, P.E.

MEMORANDUM

Date: **March 24, 2009**

To: **Summit County Council**

From: **Derrick A. Radke, County Engineer**

Re: **Agenda Item for April 1, 2009 - Petition to Vacate Roadways Located in:**
Township 1 North, Range 6 East, Sections 25 and 36 and
Township 1 North, Range 7 East, Sections 30 and 31
Summit County, Utah

On September 9, 2008, my office received a "Petition" authored by Keith W. Meade of Cohne, Rappaport & Segal, P.C., and Elizabeth T Dunning of Holme Roberts & Owen, LLP, addressed to the Summit County Board of Commissioners on behalf of Family Link, LLC, David K. Richards, and Doug and Laurie Dohring to abandon and vacate any potential public claim for use of the roadways noted above and detailed in the Petition which is attached for your information (see files petition.pdf, exh-a.pdf through exh-f.pdf). The roads are commonly refereed to as, Perdue Creek and Neil Creek. The Petition was advertised for a Public Hearing and forwarded to the Commission for their consideration, however the Commission choose not to hear the petition in the last few weeks of their term and another Notice was published cancelling the hearing.

On January 14, 2009, the County Attorney's Office received a request from the original Petitioners for the County Council to hear the request for the County to vacate the above referenced roads (see attached file, barnes-abandonment.pdf).

I have also attached an email message and legal brief from Bruce Baird, the attorney representing Nadine Gillmor and Sheila Williams, who are opposed to the Council Vacating the above referenced roads (see attached file, baird-road closure petition.pdf). Their claim is that the roads were used by the general public for a period of at least 10 years. Please see the attached file, baird-final 12 03 08.pdf for their arguments.

P.O. Box 128 ◦ Coalville, UT 84017
Coalville: (435) 336-3250 ◦ Kamas: (435) 783-4351 ext. 3250 ◦ Park City (435) 615-3250
Fax: (435) 336-3043 ◦ Park City Fax (435) 615-3043

TAB G

Access to Purdue Creek and Neil Creek Roads is from the Weber Canyon Road, a County maintained public road, approximately 6.7 miles east of Oakley, Utah.

Based on staff's research, the roads described in the petition do not appear on either the Class "B" road map (Class "B" County Road being defined as a County maintained road and for which the County collects a portion of the Gasoline Tax as it is distributed by the State of Utah), or the Class "D" road map (Class "D" public road being defined as a road that is open to general public access, but it is not maintained by the County) of the County. Also, based on a review of the USGS map titled, Hidden Lake, UT 1998 (submitted with the petition), it does not appear that the roads described in the petition provide direct access to any public lands such as National Forest or Bureau of Land Management.

POLICY CONSIDERATIONS

As discussed above, there are two classes of roads within the County over which the County Council along with the County Executive are the highway authority. Class B roads are those which are maintained by the county and Class D roads are those which are not.

As a general rule, whether or not to vacate the public's interest in a county road is a policy decision to be made by the County legislative body acting as the highway authority pursuant to Utah Code Ann. § 72-3-105(3), § 72-3-108 and § 72-3-109. Any vacation of a road must be evidenced by an ordinance adopted by the legislative body. There are no legal standards which must be met under state law prior to vacating the public's interest in a county road. It is a policy decision.

The policy direction of the County legislative body has changed throughout the years as different elected officials serve their terms in office. Recently, from 1998 through 2004 the policy was to keep the public interest in all county roads and to vacate the interest only when there was clear and convincing evidence that there was no past, present or future need for public access to the road. From 2004 until 2008, the policy direction of the legislative body was to vacate the public's interest whenever possible without harming property owners or the public. Given the direction to review all public roads, in 2005, staff recommended that there be a three (3) pronged test which should be met before vacating any public interest to a road. That test was:

1. Does, did, or will the road access any public lands, public uses or provide any other public purpose;
2. Is the road included in the County's Class D road map; and
3. Is the public interest in the road the only means of access for any property owner along the road.

TAB G

If the staff's test were applied to this application, the answer would be "no" to all three questions in which case vacation would be recommended.

As part of your policy considerations, however, you should also know that there is currently litigation involving this road. The plaintiffs are claiming that the road was dedicated to the public by ten years' use under the provisions of Utah Code Ann. § 72-5-104. The defendant's who are also the petitioners before you, are asserting that the road has been and continues to be a private road. The county is not a party to this litigation.

Recently, the county was involved in similar litigation, during which the plaintiff's petitioned to vacate the road in that case. The Board of Commissioners at the time, determined that they would not make a final decision of the vacation petition, until the litigation was resolved. The litigation is on appeal and to date, no final ruling on that petition has been made.

It is my hope that this background gives you some insight in making your policy determination on this petition. After hearing the matter and input from the public, staff is recommending that you pursue one of three options:

1. Based upon the staff criteria listed above, vacate the road by adoption of an ordinance; or
2. Deny the petition to vacate the road based upon a policy determination that it is in the best interest of the public not to do so; or
3. Take the petition under advisement until such time as the litigation has been completed.

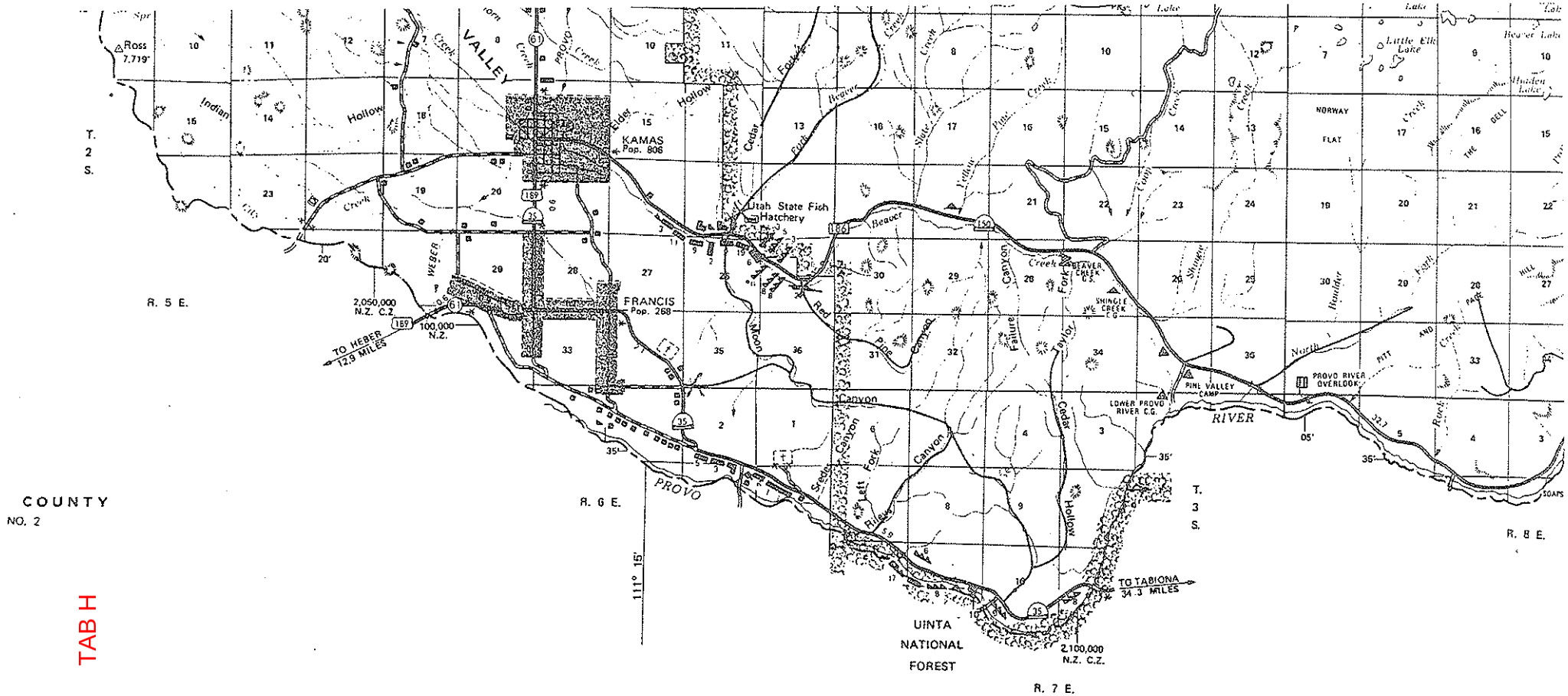
This item has been noticed as a Public Hearing so that the Council can hear arguments from the Public as to why the roads should or should not be vacated. A decision on the matter will need to be re-noticed for a future meeting. If the Council believes that they may consider vacating the roads at that future meeting, staff will prepare an Ordinance for your consideration.

If you have any question, please contact.

Enclosures

cc: David R. Brickey, Summit County Attorney
Jami Brackin, Deputy County Attorney
Kevin Callahan, Public Works Administrator
Brian Bellamy, County Manager
file (Y:\Engineering\Projects\2008\pw08\misc\perdue-neil vacation\cc-petition-stffreport1a.dar.wpd)

P.O. Box 128 ◦ Coalville, UT 84017
Coalville: (435) 336-3250 ◦ Kamas: (435) 783-4351 ext. 3250 ◦ Park City (435) 615-3250
Fax: (435) 336-3043 ◦ Park City Fax (435) 615-3043



WASATCH COUNTY

SHEET NO. 2

CLASS "D" ROAD SYSTEM

1978

Data Furnished by Local Governmental Agencies

Accuracy and Validity Not Checked by UDOT

TAB I

Approximate Right of Way Location, "Old State Road"

A tract of land located in the Southeast Quarter of Section 30, Township 2 South, Range 6 East, Salt Lake Base and Meridian and having a Basis of Bearing taken as North between the Southeast Corner and the Northeast Corner of said Section 30 described as follows:

Beginning at the intersection of the East boundary line of Section 30, T2S, R6E, SLB&M and the southerly boundary line of the "Old State Road" which in some documents is referred to as the "Old County Road" and being located 304.66 feet more or less, North from the Southeast Corner of said Section 30 and running thence the next (6) courses along the southerly right of way fence of the "Old State Road", North 83°57'52" West, 12.03 feet; thence North 83°57'52" West, 82.43 feet; thence North 85°31'15" West, 100.91 feet; thence North 85°14'20" West, 98.23 feet; thence North 89°10'23" West, 223.88 feet; thence South 88°11'16" West, 28.38 feet more or less to a point on the southerly right of way line of the "New State Highway" or SR 32; thence 163.72 feet along the arc of a 2814.79 foot radius curve to the right, (Long Chord Bears North 69°58'41" East, 163.69') more or less to a point of intersection of the northerly right of way line of the former "Old State Road"; thence South 85°03'16" East, 392.32 feet more or less along said northerly right of way line to a point on the section line; thence South, 50.52 feet to the POINT OF BEGINNING; said described tract containing 0.55 Acres, more or less.

SUMMIT COUNTY COUNCIL AGENDA ITEM AUGUST 4, 2010

Petition to Vacate a Road Located in:

Township 2 South, Range 6 East, Section 30

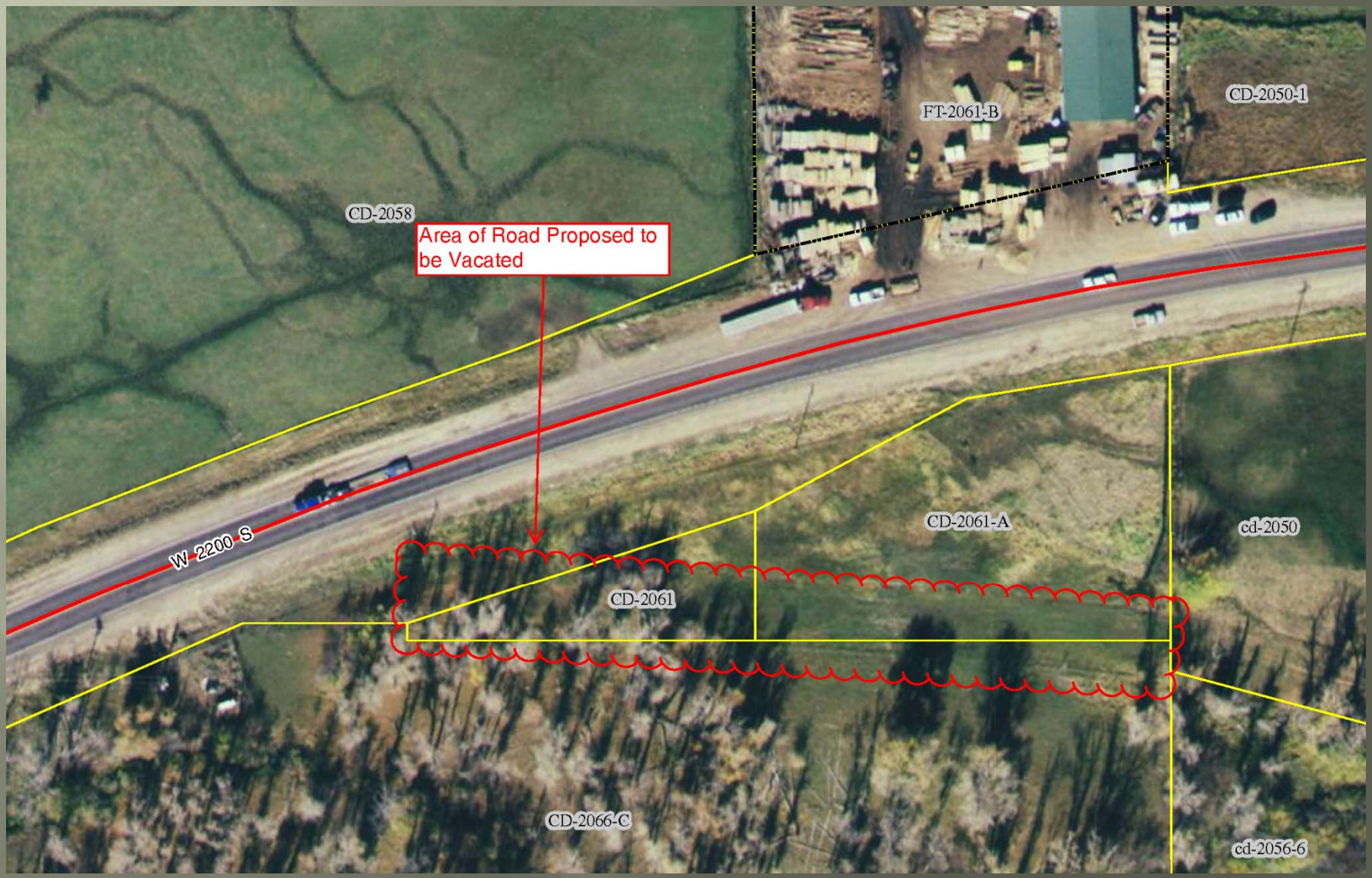
Summit County, Utah

Petition to Vacate Public Road near Francis, Utah
-Background Information-

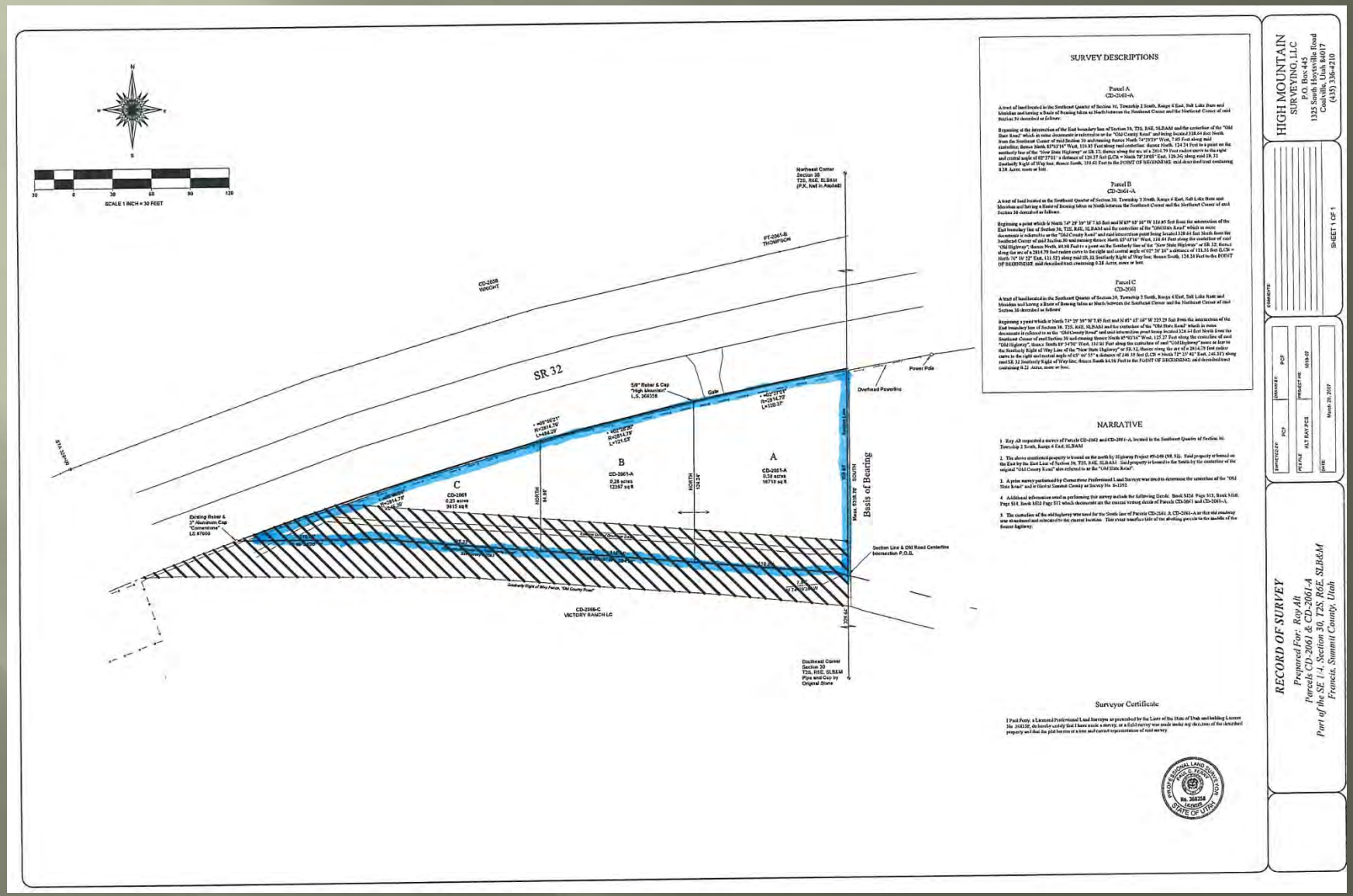
- Petitioners:
  - Raymond Alt and Patricia Standing
  - Represented by: Steven Gunn of Ray Quinney & Nebeker
  - Petition submitted June 3, 2010
- Road located just off the existing SR-32 between the Wasatch County/Summit County Line and the Francis Town Limits.
- Road does not appear on the County's Class "B", Class "D" road map, or the 1967 USGS Quadrangle Map
- Road does not appear to provide access to any Public Lands (National Forest or BLM)
- If vacated, no additional property/acreage is added to property, only the public right-of-way is deleted from the property.

Petition to Vacate Public Road near Francis, Utah
-Area Map 1-

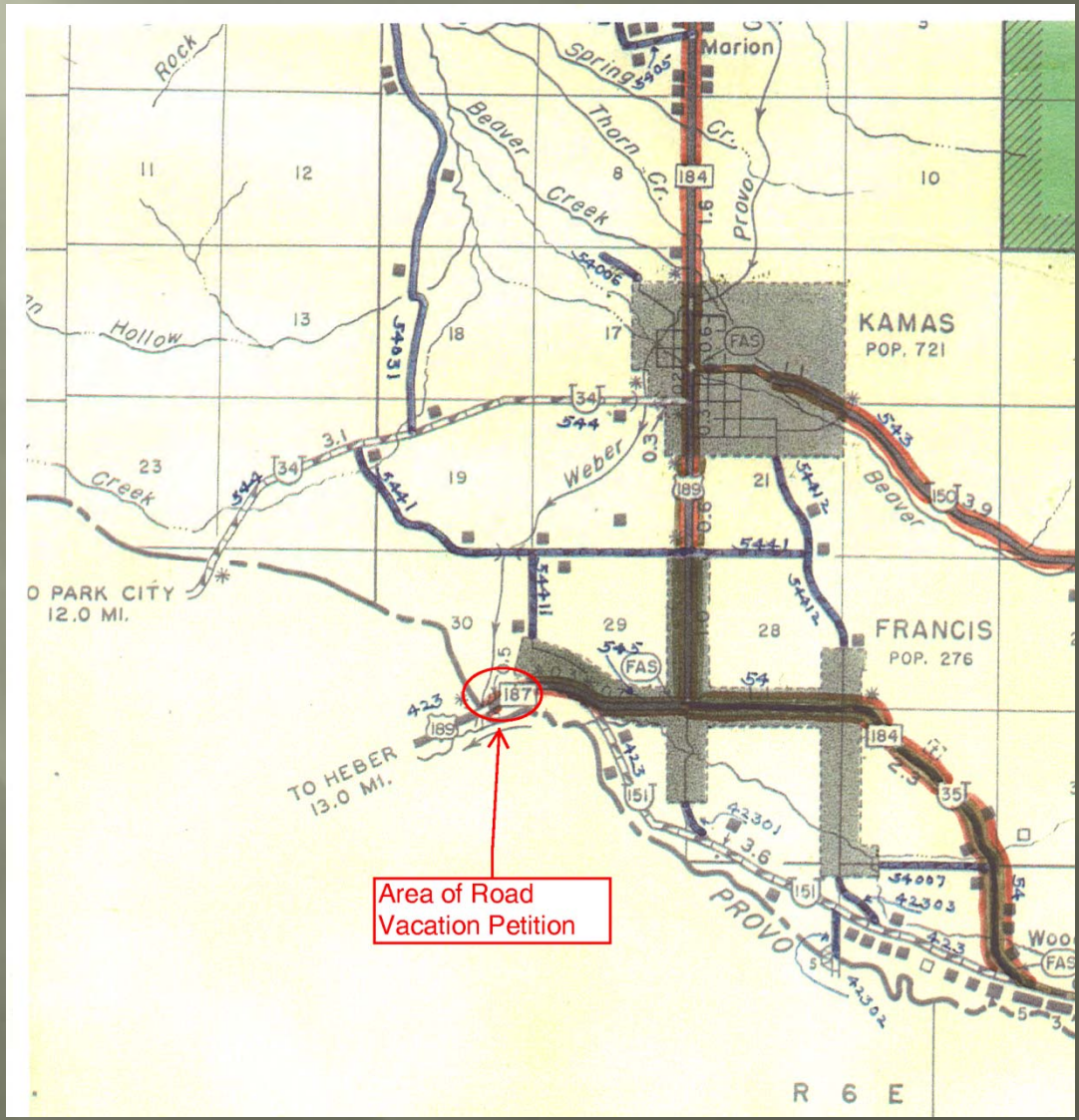
Petition to Vacate Public Road near Francis, Utah
-Area Map 1-



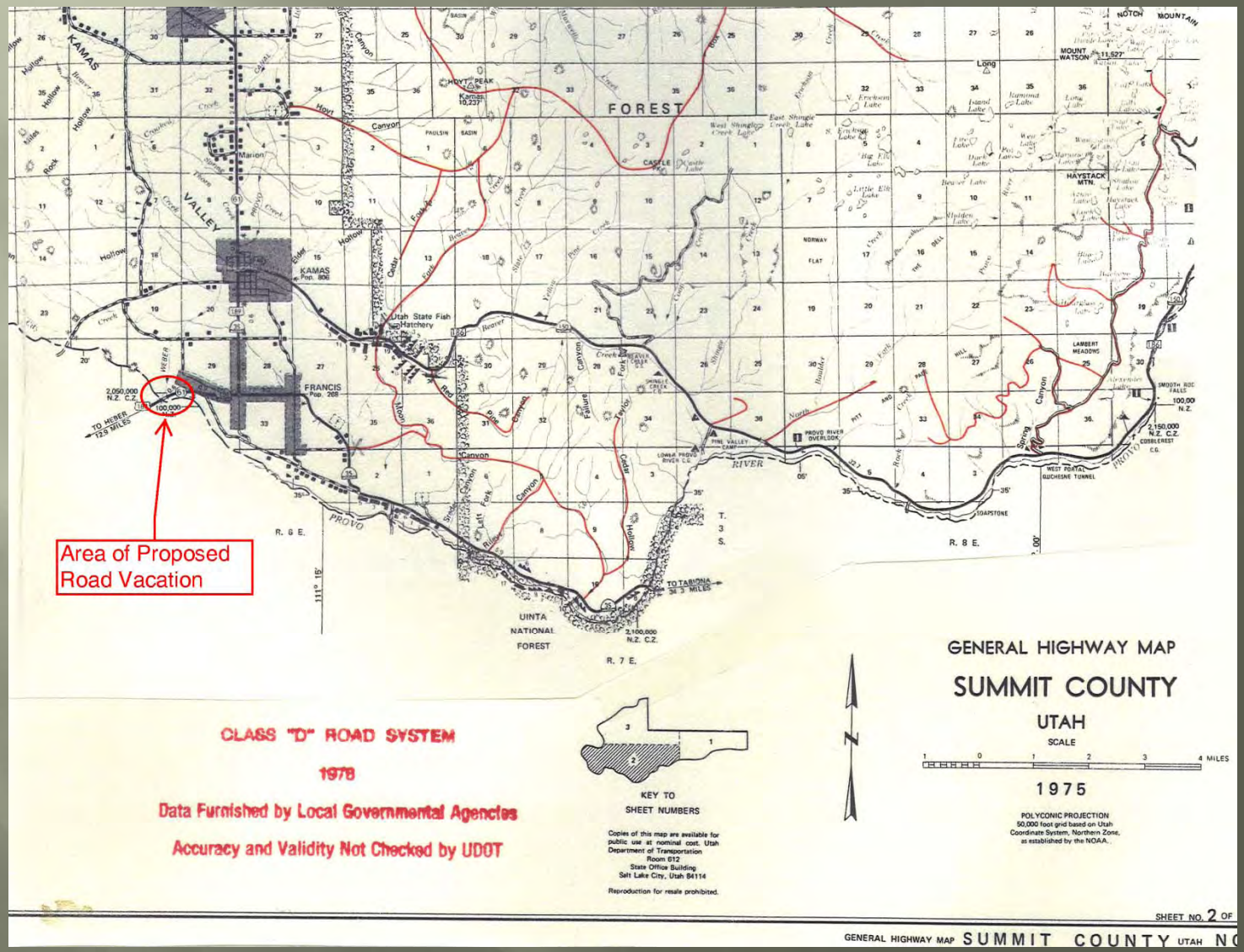
Petition to Vacate Public Road near Francis, Utah
- Survey Plat-



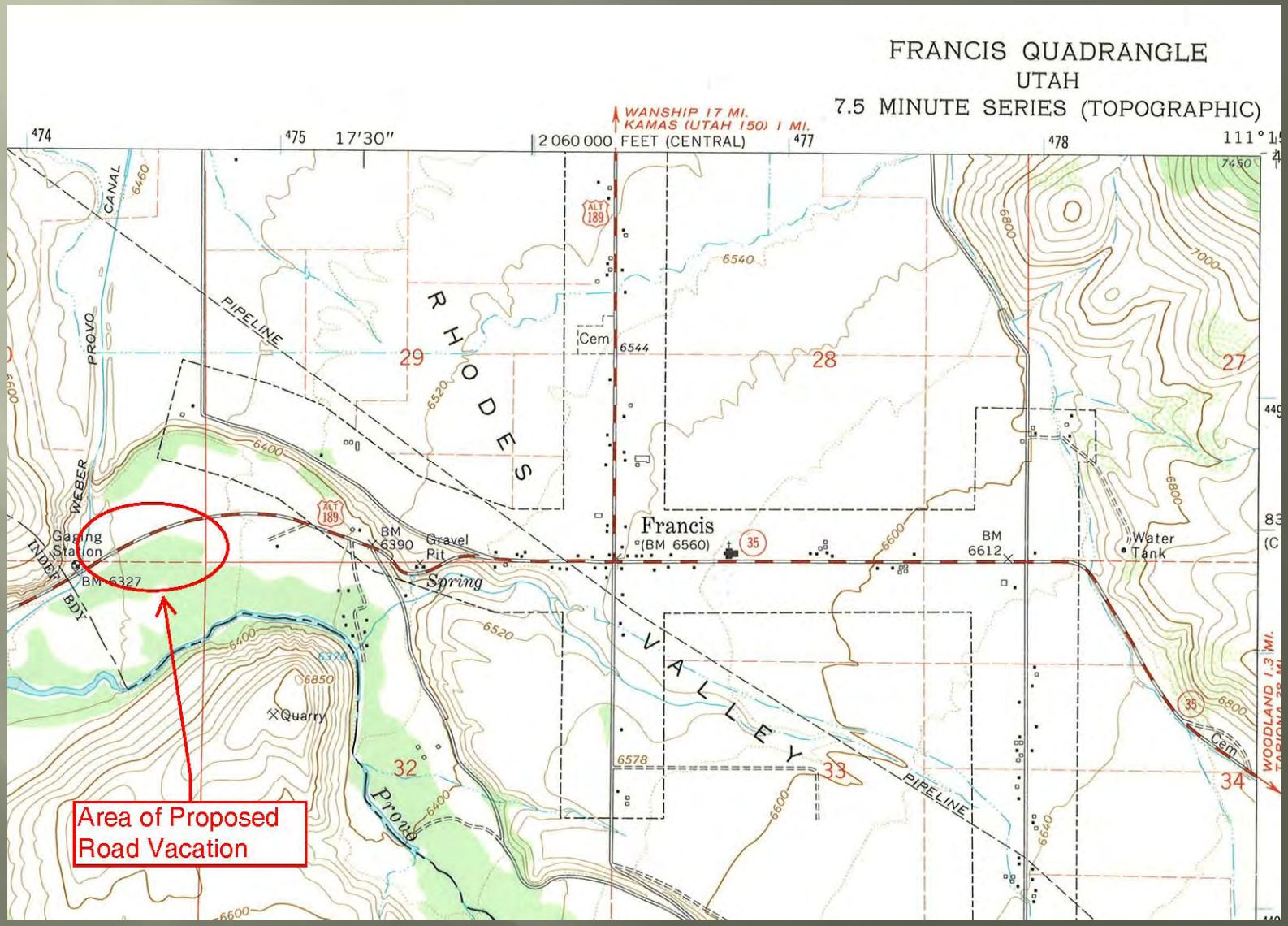
Petition to Vacate Public Road near Francis, Utah
-Class "B" Road Map (1950)-



Petition to Vacate Public Road near Francis, Utah
-Class "D" Road Map (1977)-



Petition to Vacate Public Road near Francis, Utah
-USGS Map-



Area of Proposed Road Vacation

Petition to Vacate Public Road near Francis, Utah
-Policy Discussion-

- Policy
  - Vacation of the public's interest in a county road is a policy decision to be made by the County legislative body acting as the highway authority pursuant to Utah Code Ann. § 72-3-105(3), § 72-3-108 and § 72-3-109
  - There are no legal standards which must be met under state law prior to vacating the public's interest in a county road. It is a policy decision.
  - The policy direction of the County legislative body has changed throughout the years. The current Council has chosen the following three (3) pronged test which should be met before vacating any public interest to a road. That test is:
    - Does, did, or will the road access any public lands, public uses or provide any other public purpose;
    - Is the road included in the County's Class D road map; and
    - Is the public interest in the road the only means of access for any property owner along the road.

Petition to Vacate Public Road near Francis, Utah
-Conclusion/Recommendation-

- Conclusion:
  - Staff's analysis is that if this test were applied to this application, the answer would be "no" to all three questions in which case vacation would be recommended.
  - Staff is recommending that you pursue one of two options.
    - Based upon the staff criteria listed above, vacate the road by adoption of an ordinance; or
    - Deny the petition to vacate the road based upon a policy determination that it is in the best interest of the public not to do so.