

**MINUTES OF COMBINED COMMISSION WORKING & REGULAR SESSION
MEETING HELD MONDAY, APRIL 27, 2026, BEGINNING AT 9:00 A.M. IN
DUCHESNE, UTAH**

Present –

Commissioner Greg Miles, Commissioner Tracy Killian, Commissioner Jeff Chugg, Deputy Attorney Grant Charles, Public Works Director Mike Casper, Public Works Deputy Director Clint Curtis, Deputy Clerk-Auditor Oaklee Larsen, Recorder Shelley Brennan, Treasurer Stephen Potter, Human Resource Director Judy Stevenson, Clerk-Auditor Chelise Curtis, Sheriff Travis Tucker, Emergency Management Director Josh Phillips, Surveyor Ryan Allred, Economic Development Assistant Deborah Herron, Library Director Daniel Mauchley, Intern Attorney Daniel Beales, Assessor Traci Herrera, Centennial Event Center Coordinator and Fair Assistant Jayden Sillert, Attorney Stephen Foote, Human Resource Generalist Tommi Mascaro, Lynn Sitterud with Senator Curtis' Office, Cheryle Boren and Tiffany Reyes with the Children's Justice Center, Duchesne County Residents Moreen Henderson and Boni Monks, and Commission Executive Assistant Melissa Hughes is taking the meeting minutes.

Opening Comments

(9:00 a.m.)

Chairman Miles welcomed everyone to the meeting.
Commissioner Chugg said the prayer.

Pledge of Allegiance

(9:01 a.m.)

Presentation for Department Recognition

(9:02 a.m.)

Human Resource Director Judy Stevenson presented the Department Recognition to each Commissioner and the Executive Assistant. Library Director Daniel Mauchley, Recorder Shelley Brennan, Clerk-Auditor Chelise Curtis, Attorney Stephen Foote, Sheriff Travis Tucker, Surveyor Ryan Allred, Assessor Traci Herrera, Treasurer Stephen Potter, Public Works Director Mike Casper, Emergency Management Director Josh Phillips, Economic Development Assistant Deborah Herron, and Mindi Crowley expressed their appreciation to the Commissioners and Executive Assistant Melissa Hughes. Each Commissioner thanked everyone for the recognition and teamwork, it takes all employees and Elected Officials to make the County run well.

Public Works Update

(9:24 a.m.)

Public Works Director Mike Casper provided an update of ongoing and upcoming work. The road graveling in the Tabiona Valley is complete; it turned out well. Culverts were installed on County Road 82 and in Pleasant Valley. They will start chipping the roads in those areas. The parties discussed Page Bench Road in Roosevelt and the project that Roosevelt City completed on the road. The repairs need to be discussed with Roosevelt City, and they can work it out with their contractor. Moon Lake Electric would like to partner with the County on another project. The parties discussed the needs of the roads. The realignment project on Pole Line Road and Highway 40 was also discussed.

Discussion & Consideration of Approach Permits

(9:33 a.m.)

Public Works Deputy Director Clint Curtis thanked the Commissioners for their integrity and commitment to the County and its departments. He presented two approach permits. One permit was submitted as an encroachment permit, but it is an approach permit. The parties discussed permit A26-026. *Commissioner Chugg made a motion to approve permit A26-026 and authorize the chair to sign. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.*

Public Works Deputy Director Clint Curtis presented permit A26-024 and explained the location. The parties discussed the request. *Commissioner Killian made a motion to approve permit A26-024 as presented and authorize the chair to sign. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.*

Discussion & Consideration of Encroachment Permit

(9:39 a.m.)

There is no encroachment permit to consider at this time.

Discussion & Consideration of Resolution #26-03; A Resolution Declaring the Existence of a Drought Emergency in Duchesne County, Utah – Pursuant to U.C.A. §17-78-307

(9:41 a.m.)

Emergency Management Director Josh Phillips presented the resolution. He explained the need for the Resolution. The parties discussed the resolution and the current drought situation. *Commissioner Chugg made a motion to adopt Resolution #26-03; A Resolution Declaring the Existence of a Drought in Duchesne County, Utah – Pursuant to U.C.A. §17-78-307. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.*

Children's Justice Center Report

(9:45 a.m.)

Children's Justice Center (CJC) Director Cheryl Boren presented the Duchesne County CJC Statistical Report from January 1, 2025, through December 31, 2025. This report shows the number of cases opened, interviews conducted, CJC Medical Exams, MDT Case Reviews, the ages of the children at the center, types of abuse, the VOCA Counseling/Therapy – Counseling Sessions and Referrals to Therapy, the Criminal Court Filings, Genders of the children, Types of Abuse, and the Relationship of the Offender. The parties discussed how the Center is doing and how the numbers have increased again. Director Boren also presented a chart showing the number of cases for each law enforcement department in the county for 2023, 2024, and 2025. The parties discussed the numbers. Commissioner Miles asked why Roosevelt City's numbers had decreased. Sheriff Travis Tucker explained his perspective on the reasons they have increased for Duchesne County and decreased for Roosevelt City. Commissioner Miles commented on his visit to the CJC and on the comfortable atmosphere the building provides. Attorney Stephen Foote explained his request to Officers to have children interviewed at the CJC, which can be used in court cases instead of the child having to testify in domestic violence cases.

Discussion & Consideration of a Forensic Interview Specialist for the Children's Justice Center
(9:57 a.m.)

Children's Justice Center (CJC) Director Cheryl Boren explained why it is important to have a Forensic Interview Specialist on staff at the CJC and why it is best practice. Duchesne County is one of the four in the state that don't have a Forensic Interview Specialist. The cases continue to increase year after year. The cost for a part-time Forensic Interview Specialist through UBAOG would be about \$51,000 per year. The parties discussed how to budget the position and the need for flexibility for interviews.

Discussion & Consideration of the Memorandum of Understanding Between Duchesne County and Duchesne County Children's Justice Center Advisory Board

(10:18 a.m.)

Children's Justice Center (CJC) Director Cheryl Boren presented and explained the MOU between the County and the CJC Advisory Board. The parties discussed the MOU. *Commissioner Killian made a motion to approve the MOU between the County and the CJC Advisory Board and authorize the chair to sign. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.*

Discussion & Consideration of the Memorandum of Understanding for the Duchesne County Children's Justice Center and Community Partners

(10:20 a.m.)

Children's Justice Center (CJC) Director Cheryl Boren presented and explained the MOU between the CJC and Duchesne County. The program provides a comprehensive, multidisciplinary, and intergovernmental response to child abuse victims at the CJC. The parties discussed the MOU. *Commissioner Chugg made a motion to approve the MOU for the Duchesne County CJC and Community Partners and authorize the chair to sign. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.*

Recess 10:22 a.m. to 10:33 a.m.

Commissioner Chugg made a motion to saunter. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.

Discussion & Consideration of the Public Defender Contract with Roosevelt City

(10:33 a.m.)

Deputy Attorney Grant Charles explained the vision that Commissioner Irene Hansen had when the Public Defenders Office was created. Roosevelt City would like to contract with the County for Public Defender services. The parties discussed the contract and the caseload it would add to the Public Defenders' Office. *Commissioner Killian made a motion to approve the Agreement for Legal Services with Roosevelt City and authorize the chair to sign. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.*

Discussion & Consideration of the Library Board Member Re-Appointment

(10:40 a.m.)

Commissioner Chugg explained that Jessie Walker's term on the Library Board is expiring, and she would like to be re-appointed. He explained that she is a very active, passionate, and engaged board member. *Commissioner Chugg made a motion to re-appoint Jessie*

Walker to the Library Board. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.

Auditor's Office – Vouchers

(10:41 a.m.)

Deputy Clerk-Auditor Oaklee Larsen presented the vouchers for April 27, 2026, check numbers 172694 through 172758, totaling \$215,207.53. The parties reviewed the submitted vouchers. *Commissioner Killian made a motion to approve the vouchers for April 27, 2026, as presented. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.*

Auditor's Office – Surplus

(10:49 a.m.)

Clerk-Auditor Chelise Curtis presented items from Building & Grounds for surplus. There are two condensers, an air conditioning unit, and a four-drawer filing cabinet. The parties discussed the items. *Commissioner Chugg made a motion to approve the surplus items as presented. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.*

Consideration of Minutes of the Combined Commission Meeting held April 20, 2026

(10:50 a.m.)

The parties reviewed the combined minutes of the April 20, 2026, meeting. *Commissioner Killian made a motion to accept the minutes of the April 20, 2026, meeting, as corrected. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.*

Discussion of Possible Subjects for the Next Meeting

(10:55 a.m.)

Calendaring & Weekly Update on Events

(10:57 a.m.)

Discussion & Consideration of County Volunteers

(11:04 a.m.)

Human Resource Director Generalist Tommi Mascaro presented one volunteer for the Library. The parties discussed the volunteer. *Commissioner Chugg made a motion to approve the volunteer as presented. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.*

Discussion & Consideration of Amended Policy 605; Grievances

(11:05 a.m.)

Deputy Attorney Grant Charles explained the policy updates. The Utah codes listed were outdated and needed to be updated. *Commissioner Killian made a motion to approve the amended policy 605 as presented. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.*

Discussion & Consideration of Policy 630: Employee Medical Examination

(11:07 a.m.)

Human Resource Director Judy Stevenson presented the new policy and explained it. This policy establishes guidelines to ensure that all required medical examinations are conducted fairly and without a financial or personal burden on employees or applicants, per Utah State Code 34-33-102, effective May 6, 2026. The parties discussed the policy and payment process. *Commissioner Chugg made a motion to approve and accept Policy 630 as presented. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.*

Human Resource Update

(11:12 a.m.)

Human Resource Director Judy Stevenson gave an update on her department. They will start interviews for I.T. next week and will also post for a full-time I.T. position. Interviews for the Justice Court Clerk position will take place today. The employee appreciation dinner is coming up, and she continues to receive RSVP's for the event.

Closed Session – Strategy Session to Discuss: The Character, Professional Competence, or Physical or Mental Health of an Individual

(11:14 a.m.)

Commissioner Killian made a motion to go in and out of a closed session to discuss: The Character, Professional Competence, or Physical or Mental Health of an Individual. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.

Consideration to take action during the closed session

(11:25 a.m.)

No action needed at this time.

Recess 11:25 a.m. to 12:02 p.m.

Commissioner Chugg made a motion to recess. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.

PUBLIC HEARING 12:00 PM – Consider Appeals of the Duchesne County Planning Commission's Decision

(12:00 p.m.)

Present –

Commissioner Greg Miles, Commissioner Tracy Killian, Commissioner Jeff Chugg, Deputy Attorney Grant Charles, Attorney Stephen Foote, Intern Attorney Daniel Beales, Community Development Assistant Josh Felter, Community Development Planner Duncan Kading, Economic Development Assistant Deborah Herron, Clerk-Auditor Chelise Curtis, Recorder Shelley Brennan, Economic Development Director Kori Wilde, Spencer Turnbow, Angie Brady, Janet L. Monsen, Diana Davies, Michelle Bosh, Don Reilly, Angela Bates, Zak Collings, Merrilli McKee, Tom Bruton, Kalvin Killian, Michelle Hill, David Aaron Jensen, Wayland Selfe, Fredric Christiansen, Kathy Christiansen, Bradley Wardle, Annie Crawford, Paul Pace, Judy Pace, Mark Ohr, Dylan Dastrup, Deb Baker, Sara Labrum, Val Labrum, Karen Lewis, Glade Lewis, Nina & Cal Robinson,

Arnell Copperfield, Clint Allae, Olivia Baker, Shawn Taylor, Wynn Barker, Stan Larson, Kathryn Larson, Jaron Gillman, Amy Massey, Casey Jensen, Charles Rolfson, Allan Sannall, Debra King, Malissa A. Bates, Brent Gillman, Erica Gillman, Sheri Madsen, Blair Madsen, Annette McRae, Janice Shipman, Michelle Shiner, Markus N., Charlotte Navanick, Corey Navanick, Michelle Lewis, Larry Cesspooch, Dollie Denton, Craig Denton, Kristi Wilson, Dianne Gifford, Rebecca Bell, Mike Stengel, Ian Stengel, Myles Stengel, Ursula and Dale Capewell, Diane Dietz, Duane W Moss, Danica Hatch, Linda Polson, Steve Polson, Frank Traeger, Louis Nicoletti, Misty Neilson, Dean Hatch, Elizabeth Keate, Rebecca Boren, Heber Taylor, Jodi Taylor, Mary Neilson, Ashley Denny, Thomas Raith, Timmothy Higgs, Rydan Jensen, Clark Jensen, Heather Abbe, Eugene R Mortensen, Kelli Bellon, Jenny Adams, Makayla Bell, Lynne Bell, Flordlena Grant, Diana Trager, Woody Cuch, Deklyn Jessen, Tenesa Nielson, Jeffrey Simpson, Moreen Henderson, Boni Monks, James Morey, Teresa Simpson, Raegan Nielson, Johnny Pentico, Dave Creamer, Konrad Wilson, Gail Gardner, Kelly Cook, Robert Alexander, Herald Cripo, Keith Goodspeed, Gary Broadhead, Becky Broadhead, Jheane Robinson, L. Carl Robinson, Braxton Newkirk, and Commission Executive Assistant Melissa Hughes is taking the meeting minutes.

Nine Mile Data LLC, Appellant Moreen Henderson

(12:03 p.m.)

Commissioner Greg Miles read the Appeals of Planning Commission Decisions guidelines: Any person deemed to have standing by virtue of being the applicant, a board or officer of the county, or an adversely affected party, may file an appeal with the county commission within ten (10) days of the date of the decision specifying the nature of the appeal. Following receipt by the county commission of an appeal of a decision of the planning commission, the county commission shall give notice and schedule a de novo public hearing. The appellant shall present all theories of relief to the county commission, as failure to raise such theories at this stage of appeal precludes presentation of such theories to the district court. Following the hearing and the review of all relevant information, the county commission shall render a decision on the appeal. So, we need to determine whether the appellant has standing.

Moreen Henderson stated her address on Wells Draw Road, six (6) miles from the proposed site of the data center. She said: I can't support the center because we don't have any information about what the center is. I think that the Duchesne County Commissioners, the Planning Commission, and the people of Duchesne County have a right to know just exactly what we are getting. For one thing, we don't know the size of the center. Everything depends on the size of that center. We don't know how big the solar farm will be because we don't know how large the center will be. Will the solar farm generate heat? Will it cause an area to heat more? How big an area will it heat? We need to know these answers.

I'm sure there's plenty of natural gas for the generators, but we need to know how many there will be, how big they are, when they plan to use them, and whether they are backup or supplemental power. We also need to know when they'll use these generators. Are they going to use them in January, during the wintertime, when we have an inversion? What is that going to do to our air quality?

The next thing we need to know is how much culinary water do they get? I believe that

they will be in the Johnson Water District. Does Johnson Water have the water that they can supply for their culinary needs? What do they want to use Johnson water for? Do they want to use it to cool or just for culinary use? We need to know that. How much water will they need for cooling, and where will it come from? I understand that it may come from the disposal ponds. Is this water a good source? Is it the kind and quality that they need? Can they provide that much water? If they can't provide that water, where is that water going to come from? The population in Duchesne County in 1970 was 7,249. In 2020, we were 19,617. So we've more than doubled our population. We didn't grow quite as fast as the rest of the state. But over the last 50 years, our water supply has decreased.

When I was a kid, there were glaciers in those mountains. Those glaciers are gone. The water is not what it used to be. We don't have the water supply we had before. But our demand is bigger because we have more people, which is a good thing. We want to keep our kids here. All of our water comes from one source: the Uinta Mountains. With the drought issues we have right now and the issues on the Colorado River, for which we do not know what Congress is going to do with us there, it may not be the time to put more pressure on the water we have here. The last figures I've seen from the snowtail site show we were at 48% of normal. Commissioner, think about what that's going to do to you. I'm in Pleasant Valley. We're probably going to be okay this year. Next year, we might not be. Who knows what our weather's going to be? We need to plan ahead to avoid overusing our water.

All culinary, industrial, and irrigation water is issued a water right by the state of Utah. Have they gone to the state and gotten any change of use of water? Culinary water has 100% depletion. Industrial water has 100% depletion. Irrigation water has a 50% depletion. The Division of Water Rights sets your depletion rate. 100% means they don't think any of that water will make it back into the rivers or into any underground aquifers where irrigation water will. They figure 50% of what is used will be returned.

We need to know who will own this center and what they plan to do with it. The center needs to be owned and operated by a legal U.S. company and cannot store or sell data to any foreign nation.

My recommendations to the County Commissioners are that you need to have from the entities that want to build this center memorandums of understanding or letters of intent from Johnson Water, from ReWater, from their disposal pits, the company providing the natural gas, and Moon Lake Electric, of what they may or may not want from Moon Lake Electric, and that these conditions should be met, reviewed, and made public before this permit goes on.

The entities need to present their proposal to the public. So that we know what they are doing. We don't have any idea. It's really hard to judge what we need because we don't know what they want from us.

If the county officials know what these people want, you need to make it transparent to the public so that we know what we are looking at. The county needs to be competitive on this project, not just catch up. We need to know what we are getting ourselves into. You need to make it transparent. Now I need to make one more comment. I've been very professional

up to this point, but I received an email from Melissa. It said that only the applicants would be able to get up and speak. This is supposed to be a public meeting. I read that, and I still feel the same: this should be a public meeting, and you need to listen to your constituents.

Commissioner Chugg said that he appreciates the process we have here. It's already been through its process, with a Planning and Zoning Commission meeting. There were also a large number of people in attendance, which is great. We should have more people involved in our government, and I applaud you all for being here. I know there were some questions about the timing of all this, but since we had noticed it at this time, we couldn't change it. The other meeting was in the evening, so there was an opportunity to make that comment at other times. But like I said, what we're here to determine initially is whether Mrs. Henderson has standing. She, by her own words, admitted that she's not sure that she does.

Commissioner Chugg made a motion to deny the appeal. Commissioner Killian seconded the motion. Commissioner Chugg voted aye, Commissioner Killian voted aye, and Commissioner Miles voted aye. The motion passed.

Nine Mile Data LLC, Appellant Diana Meacham Davies

(12:20 p.m.)

Speaking on behalf of Diana Meacham Davis is Andrea Glade (Annie). She said: My name is Annie, and I am speaking on behalf of Diana, who was our appellant, and I am a part of a group of appellants to join the HIA appeal concerning April 2nd, 2026 approvals for the Nine Mile Data Center and its related facilities, including one for the Wells Draw Natural Gas Plant, the solar facility, and the ReWater produced water operation. My statement is not about whether economic development is desirable or a doable business project. Rather, these approvals comply with Duchesne County's General Plan, the A-5 Agricultural Zoning Framework, and Utah's Land Use Development and Management Act. Under Utah law, an administrative land use decision is presumed valid only if it is supported by substantial evidence, contains adequate written and documented findings, and is consistent with applicable land use applications and the General Plan. If any of those elements are missing, the decision is illegal and must be reversed automatically.

The Utah Supreme Court has repeatedly emphasized that findings must be detailed enough to permit meaningful review. In *McKelvey v. City of Moab* and *Northern Monticello Alliance v. San Juan County*, the courts upheld that a failure to make required findings is not a harmless error. It is a fatal defect. In the case of Nine Mile LLC data center applications and conditional use permits, or CUP, which I'll be referring to as such for the rest of this hearing, the Duchesne County Planning Commission approvals suffer from several interrelated legal deficiencies. First, the findings report fails to apply the general plan's rural character, resource protection, land use compatibility, and land use compatibility policies.

The approval also failed to comply with the procedural and evidentiary requirements of the Duchesne County zoning ordinance governing conditional uses under County Code Section 8-13-4, which, if you guys would like, I can offer you kind of this chart that I made, that is a table of a lot of the different codes and laws that we reference. Under Section 8-13-4, the Planning Commission may approve a conditional use only upon findings from the application and the facts presented at the public hearing, and may impose conditions

related to location, site planning, traffic control, dust control, noise, operation, and other impacts as necessary to protect adjacent properties and the public interest. Findings for the Nine Mile LLC data center were made without site-specific surveys or empirical baseline information necessary to evaluate those factors.

Despite approving a project covering 4 parcels totaling 960.32 acres and a stated operational footprint of approximately 475 acres for this initial complex, which they stated at the original public hearing that they may apply to expand up to 960 acres in the future. This will include permanent security fencing, 24-hour operation, and a planned lifespan of at least 50 years. The record contains no wildlife surveys, no EIS statement, no migration corridor or fencing impact analysis, no baseline noise measurements, no lighting impact assessment, and no site-specific analysis of operational error and while the applicant describes the use as occurring on private land and seeks approval through CUP rather than a subdivision review, County Code again, Section 8-13-4 does not relax evidentiary standards for conditional uses and requires affirmative findings based on fact in the record for the findings report. By relying on generalized assurances, the absence of known impact, and future agency compliance rather than requiring surveys or studies to establish whether impacts exist on the approved acreage, the Commission departed from the procedures required by its own ordinance and approved the use without the factual foundation necessary to support its findings, rendering the original decision procedurally defective and unsupported by substantial evidence. The project is located in the A-5 Agricultural District, whose express purpose is to protect agricultural land, preserve open space, safeguard wildlife habitat, and prevent land-use conflicts.

Yet the findings contain no explanation of how converting 475 acres to up to 960 acres into a permanent, lighted, 24-hour industrial data and energy complex is consistent with those purposes. Instead, the findings report relies almost entirely on generalized references to economic development, stating that the General Plan supports economic development and supporting industries for energy development. Utah courts are clear that economic benefits do not substitute for the required findings of land use compatibility or mitigation. Without an analysis of how this use aligns with the purpose of the A-5 District, the approval is unsupported by any substantial evidence. Second, the Commission failed to apply the general plan policy protecting wildlife habitat and migration corridors.

The project applicant narrative itself acknowledges that the site lies within the range of bald and golden eagles, western yellow-billed cuckoo, monarch butterflies, and sensitive habitats. The findings nevertheless conclude impacts are negligible because there are no known individuals or habitats immediately within the development footprint on the privately owned land. That reasoning is legally defective. Utah law requires analysis of reasonably anticipated impacts to adjacent and surrounding land, not just the absence of documented sightings.

The findings do not evaluate corridor fragmentation, cumulative impacts from fencing and lighting, long-term displacement, pollution, or connectivity loss. Migration corridors are defined by landscape function and movement, not by whether a habitat polygon appears on a map; that is what the reported polygons are when there's a sighting in the area. You can look it up on the GIS data. But so that's what a habitat polygon is. Third, the findings are legally insufficient with respect to traffic, access, and recreation impacts, particularly

regarding Gate Canyon access and portions of Wells Draw Road.

Although Gate Canyon access is labeled an auxiliary route, the Site Access Plan identifies it as a designated route for construction and operations, including use during peak construction involving heavy trucks. Labeling a road secondary does not eliminate the obligation to analyze its actual use and impact. Gate Canyon Access is not an industrial haul road. It is a public access route providing entry to Nine Mile Canyon, a nationally recognized cultural recreational landscape. Yet the findings contain no analysis of road safety, conflicts with recreation, capacity, wear, noise, dust, or what happens when traffic shifts to this route during congestion, emergencies, or maintenance on the primary route.

Under Utah law and the General Plan, these are reasonably anticipated impacts that must be addressed with findings, not avoided through mere terminology; the county cannot avoid analyzing real-world impacts by labeling them as minor or harmless. Calling something an auxiliary route, secondary route, minimal impact, or no known habitat does not relieve the Planning Commission of its legal duty to analyze what will actually happen because of the project. The law looks at function and effect, not labels.

The findings fail to meaningfully address the impacts of air, noise, and light pollution, relying instead, again, on generalized future compliance. Regarding air impact, the findings contain no analysis. They did not identify anticipated emission sources. They do not evaluate cumulative air impacts from operating the data center in tandem with adjacent power generation, and do not explain why air impacts will not affect public health or welfare. Instead, the findings rely on future reporting obligations under state law, which is not a substitute for land use compatibility findings at the time of approval. Regarding noise, the project narrative states only that the applicant plans to comply with the county nuisance ordinance. The findings do not identify baseline conditions.

They do not analyze continuous operational noise from a 24-hour industrial facility, nor do they impose any enforceable noise conditions. General compliance language is not the same as a documented or reported finding, and it does not satisfy the conditional use standard. Regarding light, the findings again lack analysis. The project includes full perimeter fencing, security infrastructure, and round-the-clock operation. Yet, there are no findings addressing light spill, sky glow, wildlife impact, or rural character, even though these impacts are entirely foreseeable in the proposed location.

The water and energy findings are internally inconsistent and legally insufficient. The findings state that the data center will not be unduly detrimental if the local water withdrawals are not impacted. Yet the commission did not determine whether local water withdrawals will be impacted at all. And there is no confirmed or listed water source in the findings or in the vicinity. So, instead, water supply and reporting were again deferred to future-state processes. Utah law does not allow land use authorities to defer core compatibility determinations to later approvals.

Outside of their jurisdiction, nor did the Commission analyze the combined water demand from the data center operating together with the adjacent natural gas plant and produced water facility. Findings must be based on the record as it exists, not on the assumption that other agencies may resolve these impacts later. The water findings are legally insufficient

under Utah Water Law because the record does not establish a lawful water supply for this industry. Under Utah Code Section 7-33-3, any change in the place, purpose, or nature of water use requires approval by the state engineer. Meaning the findings don't identify anywhere in the report or provide documentation at the time of the original public hearing and permitted a conditional use permit, a record of existing state engineer approval, or an approved change application authorizing water diversion or use for this project, and instead relied on future reporting and permitting processes.

Intent or future planning does not authorize water diversion or use. By contrast, other large data centers in Utah, including the federal NSA facilities in Bluffdale, NOVA in West Jordan, and MetaBase folks in Eagle Mountain, were all approved in reliance on identified municipal water providers. Holding existing state engineer-administered water rights rather than on future reporting or unspecified permitting. The findings report identified no specific water right, no approved change application, and no determination that lawful water has been secured for this project. The findings rely solely on future reporting requirements, but reporting statutes do not create a right to use water, and the Commission should understand this.

They are transparency tools. Without evidence in the record showing how water will be lawfully obtained and used, you, as the commission, could not possibly make a grounded or data-driven conclusion that the project will not substantially impact local water resources. And even assuming this use of so-called closed-loop or recycled water systems, those designs do not eliminate impact. They often increase energy demand because more mechanical cooling is required, and they still produce wastewater, including a concentrated brine flowdown that must be managed and disposed of through lawful and expensive means.

These tradeoffs are well known in hyperscale data center operations, yet none are analyzed in the findings report provided by the project app. Water impact determinations require evidence of a lawful water source, analysis of operational water use, and evaluation of cumulative demand. Because the findings report establishes none of these elements in the administrative record, the Commission's reliance on future commitments and generalized assurances did not satisfy the substantial evidence standard required by the Duchenne County Code or Utah law. Finally, the Commission failed to apply conditional use standards and instead treated this project as though it were effectively permitted. Conditional uses are not presumed compatible under Utah law.

Approval requires affirmative findings identifying reasonably anticipated detrimental effects and explaining how those effects will be substantially mitigated through enforceable conditions. Here, the findings largely recycle ordinance language and rely on future compliance without identifying the impacts or mitigation. That is legally insufficient. For the record, regarding procedural preservation, we respectfully request that the Commission issue a single final decision with complete written findings rather than deferring unresolved issues to later permits or later proceedings. Under Utah Code Section 17-27A-801 and County Code Section 8-16-4, the county may not require duplicate or successive appeals as a condition of exhaustion.

Because the Planning Commission failed to apply the Duchenne County General Plan,

failed to make findings required by ordinance and statute, failed to analyze reasonably anticipated accumulated impact, and failed to apply the conditional use standard. The April 2nd approvals are illegal and supported by substantial evidence within the meaning of Utah Code Section 17-27A-801(3)(b)-c. The approvals are illegal because they are based on an incorrect application of the Duchesne County zoning code, conflict with the authority granted to the commission under Title 17, and are contrary to the law. They are arbitrary and capricious because findings are not supported by substantial evidence in the administrative record. The approvals further violate Duchesne County zoning code Section 8-13-4, again, which requires that CUPs be granted only upon findings made from the application and the facts presented at the public hearing. Demonstrating that the proposed use will not be detrimental to public health, safety, welfare, and surrounding properties, and that it complies with the purposes of the zoning district and the general plan.

By approving an industrial-scale data center development in the A-5 Agricultural District without site-specific evidence, without findings addressing reasonably anticipated impacts, and without enforceable mitigation conditions, the commission failed to follow its own ordinance and exceeded the discretion granted to it by its county laws. This appeal, uh, constitutes the exhaustion of all administrative remedies available under Duchesne County Code. County Code Section 8164 expressly provides that an adversely affected party may seek judicial review within 30 days of a final decision, and that the county may not require duplicate or successive appeals before the same or separate appeal authorities as a condition of exhaustion. Accordingly, if the commission declines to reverse or amend the conditional use permit approvals in response to this appeal and issues a final written decision, administrative remedies shall be deemed fully exhausted as a matter of law. Any attempt to require additional or repetitive appeals of the same land use decision, particularly where each appeal carries a substantial filing fee of \$500, would directly conflict with County Code Section 8-16-4.

Utah Code Section 17-27 became fatal and would unlawfully burden the statutory right to judicial review. Upon issuance of a final decision on this appeal, the appellants are therefore entitled to seek direct court review without further administrative proceedings. In conclusion, the April 2nd approvals must be vacated and reversed, or at a minimum, remanded for a unified review. In the alternative to the permit being vacated and reversed, should the Commission determine that outright reversal is not appropriate, we request that the approvals be remanded for a unified review, including a cumulative impact analysis and the preparation of legally sufficient written findings supported by evidence in the administrative record that are consistent with Duchesne County Code and Utah law. Pending completion of such review and issuance of findings that comply with applicable standards, we further request that no site development, ground disturbance, or construction activity proceed under the challenged conditional use permit so that the county's land use decision is not implemented in advance of a lawful and supportable approval.

Thank you for your time and consideration on this first appeal regarding the 9 Mile Data LLC.

Commissioner Miles thanked her for the comments and asked: Do you have any damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision?

I would say, as a resident of Duchesne County and as many people who signed the original appeals, yes, this will affect us. It will affect me personally, as a resident of Duchesne County, whether we're talking about tax revenue, water, or even just quality of life and air quality. We're already outside of non-attainment for the basin, pretty consistently since 2018.

Wells Draw Energy LLC Natural Gas Power Plant, Appellant Diana Meacham Davies

(12:42 p.m.)

Speaking on behalf of Diana Meacham Davis is Andrea Glade (Annie). She said: Again, I am speaking on behalf of the petitioners appealing the Planning Commission's April 2nd, 2026 approval of a conditional use permit for the Wells Draw Energy LLC natural gas power plant. This appeal is not about whether Duchesne County supports economic development, because it clearly does.

The question the commission now faces is whether the Planning Commission initially complied with the mandatory findings and evidentiary standards required by Duchesne County Code and Utah Land Use Law. Respectfully, the record shows that it did not. At the outset, for accuracy in the record, the findings report contains a typographical error on its front page, identifying the natural gas power plant allocation as a solar power plant. Despite that error, the findings report substantially address natural gas power plant, and this appeal concerns the conditional use permit for the Wells Draw Energy LLC natural gas facility, not the solar project. Under Utah law, a land use decision is presumed valid only if it is supported by substantial evidence and is legally correct.

A decision is arbitrary and capricious when required findings are unsupported by evidence and illegal when the governing ordinance is misapplied. Utah appellate courts also require written findings detailed enough to permit meaningful review. Conclusory findings are not enough. Duchesne County Code Section 8-13-4 requires 3 findings before a conditional use can be approved. First, the use will not be unduly detrimental to public health, safety, or welfare. Second, it complies with the county general plan. And third, that the site is of adequate size and dimensions to operate without being intentionally detrimental to surrounding properties. The April 2nd findings and documentation provided in the original findings report at the time of the hearing do not meet these standards.

First, the finding of the general plan consistency is conclusory. The findings report states only that the General Plan supports economic development in energy-related industries. It does not identify any specific General Plan policies, nor does it analyze how this project complies with the General Plan when read as a whole. Economic development cannot be treated as a determinant. The General Plan also includes policies addressing resource protection, recreation, and tourism. Tourism, scenic corridors, wildlife habitat and migration, and public access. Those policies were raised in the appeal already submitted, and they are directly implicated by this site, yet the findings report does not analyze or reconcile them.

The Commission also appeared to accept the notion that this project is appropriate, given that natural gas development already exists in the area. That assumption is unsupported by the record. Existing gas extraction is not the same land use as what was approved here. The findings report also does not identify any prior conditional or industrial use on the subject parcels. The land is zoned as A-5 agriculture, and the record contains no findings that the

parcels were previously used for any energy production or any other non-agricultural purpose.

Accordingly, this conditional use permit represents a change from agricultural open land to a permanent industrial power generation use. State and oil and gas mapping maintained by the Utah Division of Oil, Gas, and Mining shows regional oil and gas activity in the Wells Draw area, but does not identify an existing industrial power generation or gas processing facility on the proposed parcels. The county's findings report likewise treats the proposed natural gas power plant as a new use requiring a conditional use permit, rather than as the continuation or expansion of an existing facility. This project is a 400-megawatt continuously operating natural gas power plant with 800 to 1,600 megawatt-hours of energy storage, accompanied by permanent industrial infrastructure, year-round operations, new traffic patterns, emissions, noise, lighting, and long-term industrial footprint. Nothing in the findings report meaningfully analyzes that expanded scale and intensity.

The presence of upstream gas development does not establish site compatibility for a centralized power generation facility, nor does it excuse the site-specific analysis required by the ordinance. Relatedly, the findings report does not meaningfully analyze water use or wastewater impacts associated with a large natural gas power plant that will operate for decades. While the project narrative makes general statements about low water use and water reuse, it provides no substantial analysis of cumulative water demand, wastewater generation, or disposal impacts in an arid basin where water resources are already constrained. Those impacts bear directly on public welfare and long-term land stewardship, yet they were not addressed in the findings. The Commission also accepted without evidence the claim that a significant portion of Basin natural gas has nowhere to go and that this power plant is therefore necessary.

There is nothing in the Wells Draw Energy LLC natural gas findings report nor in the project record that substantiates that claim. No market analysis, pipeline capacity study, or regulatory findings support the claim that 30% of Basin gas is stranded. Unsupported assertions cannot substitute for evidence, particularly when they are used to justify.

Second, the finding that the site is of adequate size and dimensions relies only on anchorage. Section 8-13-4 requires more than anchorage. It requires a determination that the use will not be materially detrimental to adjoining and surrounding properties. The findings report did not analyze increased industrial traffic in the recreational corridors in that region, noise and visual impacts beyond traversal boundaries, fragmentation of wildlife movement through a known corridor, or cumulative impacts on access routes serving Nine Mile Canyon and the Green River. Without that context, the finding lacks substantial evidence.

Third, the Commission deferred required findings to future conditions. The ordinance allows conditions only after required findings are made. Conditions cannot substitute for missing findings or cure fundamental site incompatibility. Here, approval relies on future permits and agency approvals to address impacts that should have been analyzed upfront. That approach shifts the burden from the applicant to us, the public, and me as an appellant, and postpones analysis until the approval stage.

Fourth, the finding of no detriment to public health, safety, or welfare ignores the record that the site lies within the range of protected species, introduces industrial infrastructure into a recreation-heavy corridor, and fails to meaningfully analyze traffic impacts on recreational access. Under Utah law, public welfare includes environmental integrity, recreation, and long-term land stewardship, not merely the absence of immediate hazards. The Wells Draw Energy LLC natural gas power plant cannot be lawfully evaluated in isolation from its surrounding regional context.

Duchesne County Code 8-13-4 requires affirmative evidence-based findings that a proposed conditional use will not be unduly detrimental to the public welfare and that the site size and dimensions allow the use to operate without materially harming adjoining and surrounding properties. The findings report does not satisfy those requirements when the full context of this location is considered. Nine Mile Canyon is a nationally recognized cultural and recreational landscape, often described as the world's longest art gallery, with thousands of irreplaceable rock art sites and a longstanding designation as a Scenic Backcountry Byway. Federal land managers and preservation organizations have repeatedly emphasized that the canyon is fragile and highly sensitive to industrial traffic, noise, and cumulative disturbance. Gate Canyon Access and Wells Draw serve as access points to Nine Mile Canyon, and the sandwash flows into the Green River, meaning industrial development in this corridor directly affects the canyon's use, integrity, and visitor experience.

The findings report contains no substantive analysis of how a large, continuously operating industrial power plant capable of driving increased traffic, noise, lighting, and air emissions will avoid degrading the adjacent cultural landscape. The project is also located near the Sand Wash and the Green River, which is not a minor access point but a primary gateway for floating desolation in Gate Canyon. Sand Wash includes managed camping, parking, and a boat ramp and is subject to permit requirements because of its regional recreational importance. Industrialization in the access corridor leading to Sand Wash foreseeably affects public safety, traffic conflicts, dust, noise, and the quality of a major outdoor recreation experience. Those are direct public welfare considerations under 8-13-4, and yet the finding report does not meaningfully analyze them.

In addition, this site lies within a wildlife movement and hunting landscape that includes the Nine Mile Anthromite and Bench hunting units, as reflected on the Utah Division of Wildlife Resources hunt planner maps included in our original appeal letter. The Pleasant Valley Mountain area also supports extensive hunting and wildlife-based recreation, including a large actively managed hunting preserve. Scientific research from the Intermountain West demonstrates that industrial energy development, especially when accompanied by permanent fencing, lighting, noise, and traffic, can fragment migration corridors and alter ungulate movement well beyond the footprints of facilities. Itself.

These are precisely the kinds of location-based cumulative impacts and conditional use standards that require a land use authority to evaluate upfront. The findings report does not analyze fragmentation, long-term wildlife displacement, impacts on hunting access, or the cumulative effects of converting hundreds of acres into a permanently fenced and lighted industrial facility at this site. Instead, it relies on a generalized statement of economic benefit and conclusive reassurances of no detriment without grounding those conclusions

in any site-specific evidence. When the project scale and permanence are considered alongside the documented cultural fragility of Nine Mile Canyon, the regional significance of Sand Wash, and the demonstrated sensitivity of wildlife corridors and hunting landscapes to industrial disturbance, the county could not lawfully conclude based on this record that the project will not be unduly detrimental. Or that the site is adequate to support the use without material harm.

The required findings under Duchesne County Code Section 8-13-4 are therefore unsupported by any substantial evidence. Finally, mandatory operational safeguards under Duchesne County Code Sections 8-13-5 and 8-13-5-2 require proof of compliance with air quality, dust, odor, noise, setbacks, bonding, and state and federal permits. The record contains no evidence of present compliance. Instead, approved compliance was deferred to future permitting. Because these safeguards are prerequisites, approval without evidence is speculative and unlawful.

For all of these reasons, the April 2nd, 2026 approval lacks the findings required by ordinance, is unsupported by substantial evidence, and cannot be meaningfully reviewed under detailed law. That makes the decision arbitrary, capricious, and illegal. Accordingly, the petitioners respectfully request that the conditional use permit approval be reversed and vacated. In the alternative, we request remand with instructions to issue findings of legal jurisdiction supported by substantial evidence and consistent with Duchesne County Code and Utah law. Thank you for your time and consideration.

Other kinds of property being proposed for the Natural Gas Power Plant, data center, and related solar power plant do not have any existing oil and gas surface infrastructure. There are several directional wells, but the blue lines here represent lateral underground wellbore paths, not an emissions-producing power plant. What is the point of locals out here being on Moon Lake Electric, a renewable hydropower operation and energy source that is currently under threat due to drought, if we are going to destroy the environment and the waterways that support it anyway?

Commissioner Miles asked if there is anything that you have to share to show where you will suffer damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision?

Wells Draw Energy LLC Solar Power Plant, Appellant Diana Meacham Davies

(12:57 p.m.)

Speaking on behalf of Diana Meacham Davis is Andrea Glade (Annie). She said: I appear on behalf of the name of Helen Smith, myself, an affected resident and landowner, in support of the appeal and reversal of the conditional use currently granted to Wells Draw Energy LLC for the Wells Draw Solar Power Facility. This appeal concerns whether the Planning Commission's April 2nd, 2026 decision complies with Duchesne County Code and Utah's Land Use Development and Management Act. Under C, a land use decision must apply the governing ordinance correctly and must be supported by substantial evidence in the administrative record. Decisions that rely on legal error, incomplete review, or unsupported findings are arbitrary, capricious, and do not stand.

The Wells Draw Solar Facility was approved as a standalone conditional use permit in the A-5 Agricultural Zone. That approval is legally flawed because it rests on improper project

segmentation. The applicant has expressly stated that this solar facility exists solely to supply electricity to the adjacent 9-megawatt data centers and has no independent utility or market. Utah law requires the land use authority to evaluate the proposal based on its actual operational realities, not on how it is actually divided. Where facilities are functionally and operationally interdependent, they must be reviewed as an integrated land use.

By approving the solar facility in isolation, the Commission failed to evaluate the true nature and intensity of its use. This was not a minor informational omission. It goes to the core of the conditional use analysis required by Duchesne County Code Section 8-13-4, including compatibility with the zone, impacts to surrounding land uses, and protection of the public health, safety, and welfare. Utah courts have repeatedly held that segmentation to avoid full land use review constitutes legal error. The findings report also relies on conditional approval to defer review of essential components of this project.

The record acknowledges that transmission infrastructure, substations, and electrical interconnections were not disclosed or analyzed and were instead deferred to future proceedings. Duchesne County Code Section 8-9-15 requires disclosure of those connection routes and related infrastructure as part of a conditional use application. Utah law does not permit land use authorities to approve a conditional use permit based on incomplete information and postpone mandatory review to a later date. A conditional use permit is a final discretionary approval, not a placeholder. Once issued, it confers vested rights and limits the county's ability to reconsider impacts that should have been evaluated at the outset.

Deferral of the required analysis is a procedural defect that renders the approval unlawful. The findings further fail the substantial evidence standard. Utah courts require findings to be specific and to demonstrate reasoned decision-making tied to evidence on the record. Here, the findings repeatedly conclude that the project is not functionally detrimental, is of adequate size, and complies with the code if conditions are met, without analyzing the facility's exclusive role empowering an industrial data center, the cumulative impacts of associated infrastructure, or the long-term operational consequences of the use. Conclusory statements are not substantial evidence, and conditions cannot substitute for the required findings.

The Commission also relied heavily on the distance from the nearest residents to justify approving. That is not the legal standard under the Duchesne County Code for considering adverse effects on surrounding lands, agricultural operations, transportation corridors, emergency access, and the rural character of the area. The use does not become compatible simply because it is located far enough from the dwelling. When a land use authority applies the wrong legal framework, defers required review, and issues findings unsupported by substantial evidence, the resulting decision is arbitrary and capricious as a matter of law. This is the circumstance presented here. For these reasons, the Planning Commission reversed the conditional use permit for Wells Draw Energy LLC's solar power facility. In the alternative, the application must be remanded with instructions that the solar facility be reviewed as a part of the integrated project it was proposed to serve, that all required infrastructure be disclosed and noticed, and that new findings be issued based on complete information and substantial evidence. This appeal respectfully asks the commission to correct legal error and apply its own ordinances as written. That correction

is necessary to protect the integrity of the county's land-use process and to comply with the law requirements.

ReWater LLC, Appellant Diana Meacham Davies

(12:57 p.m.)

Speaking on behalf of Diana Meacham Davis is Andrea Glade (Annie). She said: Members of the Commission, again, thank you for the opportunity to speak. I want to address an additional and critically important legal deficiency in the April 2nd approval of the ReWater wastewater recycling facility expansion proposal. That deficiency is the failure to evaluate the environmental risks inherent in large-scale, long-term wastewater storage and to make the findings required by the code before approving that type of use. Under Duchesne County Code, County Zoning Ordinance Section 8-13-4, the commission is required to make an affirmative determination based on evidence in the record that this expanded produced wastewater facility will not be detrimental to public health, safety, or general welfare. That determination must be grounded in the foreseeable risks associated with the type and scale of use being. It is not enough to conclude that a project proposes mitigation measures or complies with other regulatory programs.

Produce water recycling and disposal facilities are widely recognized by state and federal agencies as posing elevated risk to surface water, groundwater, air quality, and wildlife, particularly when they involve long-term storage in lagoons. Those risks increase as the number of ponds increases. As storage capacity grows, the physical footprint expands, and the operational lifespan lengthens; those are precisely the elements that were expanded by the April 2nd approval. The findings acknowledge that this approval authorizes the storage of almost 1.8 billion additional barrels of produced water. They also acknowledge reliance on multiple large lined ponds for long-term containment, the use of stormwater diversion systems, and the installation of leak-detection sumps to capture fluid that leaks beneath the liners.

What is missing is any finding evaluating how well understood risk pathways, such as liner failure, overtopping, extreme storm events, seepage, or operational upset, affect public welfare when the facility expands from 2 to 5 ponds. Instead, the findings rely on generalized assurances that the ponds are designed to regulatory standards, that automation and monitoring systems are in place, and that compliance with state rules will continue. Utah law is clear that a conditional use permit cannot be approved based solely on engineering descriptions. The commission was required to make a land-use determination that the expanded risk profile associated with the Five Pond Industrial Wastewater Facility is acceptable for this specific location. That includes evaluating whether such a use is appropriate in an A-5 agricultural district that also functions as a recreation corridor and wildlife use area, not merely whether the facility can be technically engineered to operate.

The same deficiency appears in the treatment of watershed and stormwater impacts. The findings conclude that federal Section 404 permitting does not apply because no discharge is occurring. Section 404 of the Clean Water Act regulates the placement of dredged or fill material into waters of the United States, including wetlands, and it applies to construction activities such as pond excavation, berms, stormwater diversion structures, and emergency spillways, regardless of whether wastewater is retained. Federal guidance confirms that creation or expansion of stormwater management facilities and water impoundments may require Section 404 authorization where they intersect jurisdictional waters or wetlands.

Here, the administrative record establishes that the facility diverts stormwater, relies on construction containment infrastructure, manages emergency overflow scenarios, and is located within a broader watershed draining towards shared public lands and downstream resources. Yet the findings contain no jurisdictional determination and no analysis of whether these activities or foreseeable failure scenarios interact with waters of the United States. Equating the absence of routine discharge with the absence of Section 404 applicability leaves a threshold land use issue unresolved. The Commission made no findings that jurisdictional waters or wetlands are present, and it did not evaluate whether storm events, liner failure, or emergency pumping could result in interaction with surface waters under foreseeable conditions.

Instead, the findings equate the absence of routine discharges with the absence of watershed risk. That conclusion is not supported by- is not supported by the record. Air quality analysis suffers from the same deficiency. The findings state that odor is minimal and that enforcement relies on complaints. Produced water facilities are known sources of volatile organic compounds, hydrogen sulfide, and other emissions associated with oil and field wastewater handling and storage, especially where water is held in open ponds for extended periods.

The record contains no air dispersion modeling, no measurable odor thresholds, no enforceable performance standard, and no analysis of how tripling storage capacity increases exposure. Exposure duration and emissions potential, under Section 8-13-4, the county's obligation is preventative. It must be determined at the time of the approval that the use will not degrade public health or quality of life. Relying on complaints after impacts occur does not meet that standard, particularly in an area used for agriculture, hunting, and outdoor recreation.

The findings also failed to address risks to migratory birds and wildlife. Large open-water impoundments, including produced-water ponds, are well-documented hazards to migratory birds and waterfowl. Yet the findings contain no assessment of bird use in the region, no analysis of how expanding from 2 to 5 ponds increases exposure risk, and no findings linking wildlife impacts to land-use compatibility or public welfare. Wildlife resources are central to this region's economy and cultural identity, and failing to evaluate those impacts is failing to address a core public welfare concern. I also want to address a closely related defect in the April 2nd approval.

The findings do not assess the economic and long-term public welfare risks associated with expanding this facility from 2 to 5 ponds. Section 8-13-4 does not limit the county's analysis to immediate operational impacts. It actually requires a forward-looking determination based on evidence that the approved use will not be detrimental to public welfare over time. The record shows that the existing business arrangement supporting the facility is nearing the end of its permit term.

The findings contain no analysis of renewal risk, market demand, or the realistic duration of use associated with expanding long-term produced water storage from 2 homes to 5 with a 200-acre wastewater footprint. This omission matters. Large industrial wastewater facilities are not easily reversible uses, particularly in rural areas. When drought- when throughput declines, or contracts change, it is often the county and surrounding community

that bear the long-term consequences in the form of stranded infrastructure, degraded land, and ongoing enforcement operations.

Approving a major expansion without addressing those foreseeable risks fails to satisfy the preventative public welfare standard imposed by the code. The economic risks also intersect directly with county capacity. A substantially larger facility increases the scope, frequency, and duration of county oversight related to liner integrity, leak detection systems, stormwater controls, odor management, and spill response. Yet the findings do not analyze whether those ongoing burdens are compatible with rural use. With rural service capacity or with the stated purpose of the A-5 Agricultural Zoning District, which is intended to preserve agricultural land rather than host long-term scale industrial wastewater operations.

Finally, none of these environmental and economic risks were evaluated cumulatively. The record shows that this facility operates in direct support of regional oil and gas development and alongside other energy-related uses in the same portion. Even if individual facilities comply with separate regulatory regimes, land use compatibility analysis requires examining how these uses function together on the ground. For these reasons, the Commission failed to meet specific evidence-based findings required to address the known risks inherent to large-scale produced water storage. It failed to evaluate how those risks increase with approved expansion. These defects, taken together, render the April 2nd approval unlawful and require reversal or, at a minimum, remand for proper findings. And what brings us here now is how these uses are being permitted and whether the county has complied with its legal duties under Duchenne County Code and Utah's Land Use Development and Management Act.

Since roughly 2018, the county's use of conditional use permits for oil and gas operations, energy generation, and large-scale mining has drifted away from lawful land-use decision-making and toward a pattern of negligent approvals, procedural shortcuts, and failures to protect public health, public land, and property values. This pattern did not develop in a vacuum. Over the same period, Duchesne County has experienced increasing pressure on Utah School and Institutional Trust lands. Other Utah public lands and landscapes that historically defined the county's agricultural and environmental character. As trust lands have been sold, auctioned, or positioned for intensified industrial use, and as access to public lands has become more constrained or effectively privatized in practice, the county's role as a steward of shared resources has steadily eroded over the years.

Historically, Utah said the trust lands and surrounding public lands were managed as working landscapes. They supported grazing, hunting, recreation, watershed protection, and agriculture alongside carefully limited development. Federal public lands generated payments in lieu of taxes, grazing revenues, mineral revenue sharing, and other federal program funding that flowed directly to counties like Duchesne and just supported roads, emergency services, law enforcement, and schooling. Utah School and Institutional Trust Lands likewise produced recurring revenue through grazing, service leases, and mineral development while maintaining a stable land base that supported local ranching operations and agricultural economies and generated predictable funding and revenue for Utah schools and institutions. Publicly accessible lands are also anchored in recreation, hunting, tourism, and outfitting economies that keep money circulating within local communities through

lodging, fuel, equipment, guidance services, and small businesses.

These revenues were renewable, community-based, and tied to continued public access and long-term stewardship rather than one-time land disposition. The record reflects a departure from that balanced model toward a development-first approach, in which land disposition and industrial compatibility questions are addressed incrementally, parcel by parcel, rather than through comprehensive land-use planning. As publicly accessible lands have been fragmented and converted, the long-term fiscal and community benefits associated with public trust ownership have declined or shifted away from the county. One-time land transactions and privatization do not replace the sustained economic value of public trust funds, which generate annual revenue, preserve agricultural viability, and support rural economies year after year. As stable revenue sources diminished, pressure increased to industrialize adjacent private and agricultural lands through conditional-use permits.

That pressure has coincided with reduced scrutiny, segmented review, and growing public concern about the county's land-use governance. The result has been a slow degradation of accountable leadership and stewardship, in which long-term public benefits are subordinated to short-term approvals, and in which land use, once central to Duchesne County's agricultural economy and environmental identity, is increasingly treated as expendable. This context is key as conditional use permits are among the last remaining tools available to ensure development proceeds in a manner consistent with the County's general plan and public obligations.

When those permits are issued without rigorous findings or integrated review, the consequences extend beyond individual projects. They accelerate the loss of public land values, agricultural stability, and stewardship responsibilities entrusted to this commission. The South Myton Bench and, by extension, the Nine Mile Anthropogenic hunting corridor reflect this shift in real time. Where lands that once contributed to sustained public revenue, supported agriculture, and anchored recreation through public trust management are now bearing the cumulative burdens of privatization and industrial decisions made without the careful stewardship and integrated review the County's own code requires. Under Duchesne County Code Section 8-13-4, these broader stewardship and fiscal consequences are not abstract policy concerns.

But required considerations in determining whether conditional use, as approved and actually operating, is materially detrimental to public health, safety, and welfare, and to the long-term compatibility of the area. The approvals issued on April 2nd did not create that problem. Rather, they exposed it. The Nine Mile LLC data center and associated projects, including the wastewater facility and the 2 power plants, are not isolated errors or technical oversights. The record shows it is the culmination of a longstanding pattern of failed duties in industrial permitting all across Duchesne County.

For several years, the county has relied on conditional use permits as a default approval mechanism for projects that historically were not appropriate for conditional approval under local land-use law. These include oil and gas drilling, production, and compression facilities. Standard produced water disposal and recycling operations, industrial-scale sand and gravel mining spanning hundreds of acres, and heavy-haul industrial corridors cut

through agricultural and rural land. That reliance is legally significant. Under the Duchesne County Code and most county municipal legislation, a conditional use permit is a limited tool.

It is intended to allow uses that may be appropriate only in specific locations and only where their reasonably anticipated detrimental effects can be mitigated through enforceable conditions supported by substantial evidence on the record and in the original findings reports. Conditional use permits were never intended to serve as blanket authorizations for large-scale extractive industries, continuous energy generation facilities, or industrial operations whose core impacts include air emissions, noise, heavy truck traffic, land consumption, and water risks that are inherent to the use itself and not meaningfully mitigable through conditions of those uses are approved without rigorous evidence-based findings, the CUP framework is not managing impact. It is blatantly avoiding scrutiny. At the same time, Duchesne County has formally recognized through its own zoning amendments that industrial development has damaged County Roads, threatened rural infrastructure, and raised public health, safety, and welfare concerns.

Once harms are known and foreseeable, Utah law requires heightened diligence, not relaxed standards. Yet the record reflects the opposite approach. Hearings are compressed, incomplete or fragmented applications are accepted, critical impact analysis is deferred to future permits or other agencies, and promises of later compliance are substituted for present evidence. This is not lawful discretion; it's negligence. Even in that broader context, the Nine Mile LLC data center did not arise in isolation.

It represents a permitting system that has drifted from its legal foundation and now treats conditional use permits as shortcuts for industrial approval rather than safeguards for the public. Enforcement has effectively been shifted onto residents with reliance on complaint-driven responses. Even when approvals involve continuous impacts to air quality, noise, traffic, and public safety that require proactive county oversight. Under Utah law and Duchesne County Code, that approach is unlawful. Conditional use permits must include enforceable conditions supported by substantial evidence, and the county has an affirmative duty to monitor and enforce compliance. Residents are not regulators; it is an undue burden on us to be responsible for that.

Residents are not paid, inspectors. They lack the authority to access sites, measure emissions, monitor noise or light, or enforce environmental standards. The law does not permit the county to approve high-impact industrial uses on the assumption that neighbors will report violations after harm has already occurred.

This pattern has also produced economic harm that is largely ignored by the findings, or in the findings. While these projects are framed as economic development, the record does not show sustained local employment proportional to their impact. Many of these facilities generate few long-term jobs while imposing substantial long-term costs on infrastructure, public services, and adjacent land. Large data centers and energy generation facilities illustrate this clearly. They require extensive land consumption, enormous energy inputs, and continuous industrial operation, yet employ relatively small permanent workforces. The economic benefits are narrow and concentrated, while the burdens are broad, cumulative, and long-lasting.

At the same time, industrialization of agricultural and rural areas depresses property values, disrupts farming and ranching operations, and displaces locally rooted economic activity that has historically sustained this county. These impacts are foreseeable and documented, yet they receive little meaningful analysis in the findings. This appeal, therefore, turns on a central legal issue: did the April 2nd approval lawfully evaluate what the administrative record establishes as a single integrated industrial project on the South Myton Bench, or did the county approve that project in disconnected pieces without making the findings required by its own code? It was unfortunately the latter. Under Duchesne County Code Section 8-13-4, conditional use may be approved only if the commission makes specific evidence-based findings that the use will not be materially detrimental to public health, safety, or public welfare, and that it complies with the General Plan, and that the site is adequate to support the use in a manner compatible with surrounding land uses.

Those findings must be made at the time of approval and address how the project will actually function, exist, and operate on the ground in real time. Here, the administrative record demonstrates functional integration. The data center and related facilities are energy-intensive, continuously operational industrial facilities. The natural gas plant and solar facility proposed, sized, and sited to supply that demand. The ReWater expansion intensifies industrial activity in the same corridor.

None of these uses stands alone in practice. They are interdependent, coordinated, and designed to operate together, imposing combined impacts on a single landscape, the South Myton Bench. The South Myton Bench is not an isolated industrial zone. It is a transitional area used by residents, ranchers, hunters, recreationists, and visitors accessing Nine Mile Canyon and the surrounding public lands. It functions as a gateway corridor reliant on shared roads, open views, quiet recreation, and limited emergency services.

The public does not experience these projects one permit at a time. We will experience them together as cumulative traffic, continuous industrial noise, nighttime lighting visible across open terrain, and combined demands on fire, medical, and enforcement services. By segmenting and piecemealing each review, the county understated those impacts. Each approval evaluates traffic, air emissions, noise, light, visual disturbance, wildlife impacts, and service demands as if only one facility were present. As approved and designed, these uses will operate simultaneously and share the same project number, except for the rewater wastewater facility, which has a separate project number.

Their impacts do not merely coexist; they compound. Segmenting review prevents the Commission from answering the central statutory question of whether the project as a whole will be materially detrimental to the public welfare. The same defect appears repeatedly throughout the findings themselves. Rather than making threshold determinations, the findings rely on conditional language stating that impacts will be acceptable if future conditions are met, infrastructure will be addressed later, or compliance will be achieved through future permits. Conditions cannot substitute for findings.

Utah Land Use Law does not permit an approval now, analyze later approach, particularly in quasi-judicial decisions. The solar approval clearly illustrates that defect. It was granted without complete transmission or substation plans, even though those facilities determine land use disturbance, access roads, and visual impacts. Approving the use without that

information prevented meaningful evaluation, and the natural gas plan approval similarly reduced general plan consistency through a generalized reference to economic development. Without reconciling conflicts with recreation, scenic values, access routes, rural character, or property values.

Acreage alone does not establish compatibility in the land use defined by open space and shared corridors. The ReWater expansion raises the issue most directly. Expanding from 2 ponds to 5 materially intensifies industrial use on agricultural land, yet the findings treat the expansion as functionally equivalent to what existed without analyzing increased risks, traffic enforcement demands, or emergency response burden.

Each of these failures leads to the same conclusion: the Commission never made the findings required for the integrated industrial project actually being built. Because these defects are both procedural and substantive, the April 2nd approvals cannot stand. This pattern is further compounded by the County's increasing reliance on annexation into special service and utility districts to support industrial development, most notably the East Duchesne Culinary Water Improvement District. As reflected in the record, annexation into this district has facilitated industrial development in areas that remain otherwise unincorporated, rural, and agriculturally zoned. While service districts serve legitimate and limited purposes, utility availability cannot lawfully substitute for land use, and process and reliance on annexation do not relieve the county of its obligation to make the findings required to establish compatibility to protect public health, local residents' safety, and welfare under its zoning authority.

While service districts serve legitimate and limited purposes, they are not general-purpose governments. Their boards are not elected by the full population affected by land-use decisions, and their mandate is infrastructure delivery, not the protection of public health, land-use compatibility, or cumulative impacts. Yet the practical effect of annexation here has been to shift fundamental decisions about growth and long-term land use away from forums where residents have a meaningful voice. For residents 5 minutes north, east, or west of the project proposal, participation in this project has already been limited or nonexistent. When major infrastructure and service decisions are then made through improvement districts rather than through county land use processes, subject to fair and in advance public notice, hearings, and appeal rights, residents are effectively stripped of meaningful participation in decisions that shape how land is used where they live.

The legal issue arises when utility availability is used to justify or normalize land use approvals that have not undergone a full zoning analysis. Under Utah law, land use authority remains with the county. Access to water or utilities does not equate to land-use compatibility, and service district annexation does not substitute for the conditional use findings required by the County code. The administrative record reflects that in practice, these mechanisms operate together. Conditional use permits are issued based on fragmented reviews, and the cumulative effect is a system in which residents experience the impacts of industrial development without a meaningful opportunity to shape, challenge, or influence the decisions that allow those.

Utah law does not permit land use governance to be outsourced in this way. When permitting decisions affect public health, safety, welfare, and long-term land use, those

decisions must remain subject to accountable county processes supported by evidence and open to meaningful public participation. Dust and air pollution provide an additional well-documented example of negligent permitting. Dust is a regulated public health issue. County standards require near dust-free conditions and documented water sources for suppression.

Yet enforcement is effectively absent. Utah air quality rules prohibit regulated activities unless approved dust-control mitigation plans are in place. Approving large-scale industrial uses while deferring dust control violates this requirement. This is occurring in a basin designated as an ozone nonattainment area since 2018, with documented exceedances driven by oil and gas emissions and inversion conditions.

At the same time, particulate pollution from haul roads, excavation, and industrial traffic remains a persistent concern. Approving additional combustion sources, heavy trucking, and dust-generating activity without enforceable safeguards entrenches non-attainment conditions that agencies are already struggling to mitigate out here. Drought magnifies this failure. Dust suppression depends on water, precisely when water resources are the most constrained. Approving dust-intensive industrial buildout without front-loaded proof of water sourcing, monitoring, and enforceable standards externalizes drought-era impacts onto us as residents.

That is not balance, it's abdication. The Nine Mile Data Center is not the first problematic permit. It is the approval where years of negligent, CUP-based permitting since 2018 converged into a single, unavoidable record. Had the county required a unified review, complete applications and findings reports, set some enforceable standards, and followed lawful process, this appeal would not be necessary. Instead, the system doubled down.

This appeal is not about opposing development. It's about restoring the rule of law and giving a voice to locals who have been shipped away after several years. Conditional use permits were never meant to be rubber stamps for industrialization at any cost. They exist to protect the public when the stakes are high. From 2018 forward, that protection failed.

April 2nd is when that failure became unmistakable. We respectfully ask this commission to reverse or remand all 4 approvals, require unified lawful review, and restore a permitting system that complies with the County's own code and Utah law while protecting public health, public land, revenue, property values, and long-term community welfare.

Commissioner Killian made a motion to deny the appeal because of a lack of standing. Commissioner Chugg seconded the motion. Commissioner Killian voted aye, Commissioner Chugg voted aye, and Commissioner Miles voted aye. The motion passed.

Adjournment

(1:35 p.m.)

Commissioner Chugg made a motion to adjourn the meeting at 1:35 p.m. Commissioner Miles stated that the end of the agenda had been reached, and the forum adjourned.

Read and approved this on the 4th day of May 2026.

Greg Miles
Commission Chairman

Chelise Curtis
Clerk-Auditor

Minutes of the meeting prepared by Commission Executive Assistant Melissa Hughes

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