



July 10, 2019
Kane County Planning Commission
Land Use Authority
Kanab High School Auditorium
59 Cowboy Dr., Kanab, Utah 84741

Agenda

Facilitator: Chairman, Tony Chelewski

Attendees: Planning Commission, County Staff, Interested Citizens

5:00 PM Pledge of Allegiance

Prayer

Approval of Minutes

Chairman, Tony Chelewski

Announcements

Chairman, Tony Chelewski

Public Comment

Chairman, Tony Chelewski

**Legislative
Public Hearing**

(1.) Zone Change: Cox-Ordinance 2019-16

A proposed zone change from C-1 to R-1, 1.31 acres, located at E. Mountain View Dr., Vermilion Cliff Estates, Parcel # 6-72. Submitted by Don Cox.

**Legislative
Public Hearing**

(2.) Lot Joinder: Edwards

Application to amend the subdivision plat for a lot joinder, on behalf of Robert Brian Edwards, lots 415 & 416, becoming new lot 416, Swains Creek Pines, Unit 3. Submitted by Brent Carter, New Horizon Engineering.

**Legislative
Public Hearing**

(3.) Lot Joinder with vacation of six (6) utility easements: Farney-Ordinance 2019-15

Applicant to amend the subdivision plat for a lot joinder, on behalf of Judith Farney, Trustee of the Milton R. & Judith E. Farney Trust Dated 5-19-2000, amended lot 47 & lot 50, becoming new lot 47, and vacating (6) 7.5 foot utility easements, Strawberry Valley Estates, Unit 4. Submitted by Brent Carter. New Horizon Engineering.

**Legislative
Public Hearing**

(4.) Road Dedication with splitting of two (2) Parcels-Ordinance 2019 14

Application to split Parcel #3-6-36-4D-1 on behalf of UVX Mongini Cattle Company 50%, and Suisse Family Ranches 50%, and Parcel #3-6-36-3, on behalf of Selna & Mongini Investments, dedicate a 66 foot right-of-way, being 33 feet on both sides, becoming Rodeo Drive

and Plateau Road, and renaming a portion of Plateau Road to Red Plateau Road. Submitted by Tome Avant, Iron Rock Engineering.

**Administrative
Public Meeting**

(5.) Discussion of Utah Code 4-41a-(101-801) Cannabis Production Establishments

**Discussion of regulations for Cannabis Production Establishments.
Presented by Attorney Rob Van Dyke.**

**Legislative
Public Hearing**

(6.) Conditional Use Permit: Southern Red Sands

**Application for a Conditional Use Permit for a Sand Mine Operation
on SITLA land off of Red Knoll Road, Section 16, Township 42 South,
Range 7 West, Salt Lake Base & Meridian, Kane County, Utah.**

Land Use Ordinances: kane.utah.gov; government; ordinances; title 9

Information Packets: kane.utah.gov; government; departments; planning commission; documents; general

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

Planning Commission Meetings Statutory Authority, Rules & Procedures can be found online at kane.utah.gov; Departments; Planning Commission; General; Land Use Ordinance 9-2-1 through 10.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Shannon McBride at (435) 644-4966 or Wendy Allan at (435)644-4364.

Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate.

Definitions:

“Public Hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. “Public Meeting” means a meeting that is required to be open to the public pursuant to the requirements of Title 52, Chapter 4 Open and Public Meetings; the public may or may not be invited to participate. “Legislative” means an action taken by the County Commission or Land Use Authority; amending ordinances, adopting general plan, annexations, zoning and rezoning; a reasonable debatable action that could promote the general welfare of the community. “Administrative” means an action taken by the Land Use Authority Commission, staff, County Commission interpreting ordinances and regulations, conditional uses, approving subdivision site plans, issuing building permits; an administrative decision must satisfy the requirements prescribed under state law or the County Land Use Code (LUC), whichever is stricter.



KANE COUNTY LAND USE AUTHORITY

ADE' NELSON
LAND USE AUTHORITY
ZONING ADMINISTRATOR

DRAFT Staff Report

DATE: June 25, 2019

To: Planning Commission
From: Ade' Nelson, Zoning Administrator
Subject: Project # 19019: Zone Change Application, C-1 to R-1 & Ordinance O-2019-16
Vermilion Cliff Estates, Parcel # 6-72; consisting of 1.31 +/- acres

HEARING NOTICE: *This item has been noticed to property owners within **500** feet of the subject area, on public websites, and in the Southern Utah Newspaper. A Zone change sign was placed at the front of the property that included a copy of the public notice.*

REQUEST: On June 13th, 2019, Don Cox, the recorded owner submitted a zone change application for lot 72 located in Vermilion Cliff Estates (parcel ID # 6-72); requesting to rezone from Commercial 1 (C-1) to Residential 1 acre (R-1).

BACKGROUND: Kane County Land Use ordinance currently allows property owners to build a single family dwelling on a commercially zoned properties such as the subject parcel. The applicant has requested the zone change from Commercial to Residential to satisfy the requirements to qualify for a USDA home loan. If the zone change is not approved by the Kane County Commissioners, the applicants will not be able to secure affordable funding to purchase/finance the building of a home in Kane County.

LEGAL DESCRIPTION:

ALL OF NEW LOT 72 VERMILION CLIFF ESTATES.

FACTS & FINDINGS:

- Lot meets the minimum acreage requirement to be zone Residential 1 acre (R-1). The lot is currently zoned Commercial 1 (C-1).
- A Zone Change is required for parcel to qualify for USDA loans.
- Parcel to the South is zoned AG, abutting lot to the East and West are zoned C-1. The Northern boundary lot line abuts HWY 89.
- Lot gains its' access E Mountain View Dr.
- All property owners within 500 ft. of lot 6-72 have been mailed a public notice, no concerns have been voiced by the public.
- Kane County Land Use Ordinance states that properties that meet or exceed one (1) acre qualify for Residential 1 Acre (R-1) zoning designation.



CONCLUSION:

The Applicant's request to rezone lot 72 from C-1 to R-1 would remain consistent with previous zoning amendments to the Vermilion Cliff Estates subdivision plat. This zone change is in accordance with the purposes of the 2018 Amended Kane County General plan that in order to assure present and future residents of Kane County to have access to affordable housing, Kane County will allow for the mix of housing types and respond to emerging housing industry trends and markets. (2018 Amended KCGP pg. 49)

The Planning Commission should vote based on behalf of Kane County's best interest, including; future planning efforts, private property owner's rights, protecting existing zones, rights of surrounding property owners, and also maintaining the purposes of the Land Use Ordinance and General Plan.

If the zone change amendment is adopted, the regulations of the new zone of Residential 1 acre (R-1) can be found in the Kane County Land Use Ordinance, Chapter 6: Residential Zones.

MOTION: I, _____ make a motion to _____ approval of the zone change application from C-1 to R-1 & Ordinance O-2019-16, submitted by owner Don Cox for lot 6-72 to the Kane County Commissioners based on the facts and findings as documented in the Staff Report.

KANE COUNTY ORDINANCE NO. O 2019-16

**AN ORDINANCE AMENDING THE ZONING OF LOT # 6-72 FROM
COMMERCIAL 1 (C-1) TO RESIDENTIAL 1 ACRE (R-1)**

WHEREAS, the purpose of this ordinance is to rezone lot # 6-72 from Commercial (C-1) to Residential 1 acre (R-1), on behalf of Don Cox, the recorded owner of Lot # 6-72; lot consisting of 1.31 +/- acres.

WHEREAS, Kane County Land Use ordinance currently allows property owners to build a single family dwelling on a commercially zoned properties such as the subject parcel. The applicant has requested the zone change from Commercial to Residential to satisfy the requirements to qualify for a USDA home loan. If the zone change is not approved by the Kane County Commissioners, the applicants will not be able to secure affordable funding to purchase/finance the building of a home in Kane County.

WHEREAS, Lot # 6-72 meets the minimum acreage required to be zoned Residential (R-1). The lot is currently zoned Commercial (C-1). The applicants intend to utilize the 1.31 +/- acres for the placement of a dwelling. The lot is undeveloped at this time.

WHEREAS, the Kane County Board of Commissioner's find that said zone change is in accordance with the purposes of the 2018 Amended Kane County General plan that in order to assure present and future residents of Kane County to have access to affordable housing, Kane County will allow for the mix of housing types and respond to emerging housing industry trends and markets. (2018 Amended KCGP pg. 49)

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make the recommended zone change to Lot # 6-72.

WHEREAS, the Kane County Board of Commissioners desire to implement the recommended zone change; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended zone change and desires to enact the following recommendations;

WHEREAS, the statutory authority for enacting this ordinance is Utah State Code Sections 17-27a-201- 205, 17-27a-308, and 17-27a-505.

**NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY,
STATE OF UTAH, ORDAINS AS FOLLOWS:**

Lot # 6-72 more fully described by their respective legal description as given below is hereby rezoned from Commercial (C-1) to Residential 1 acre (R-1) and shall from here forth be zoned Residential 1 acre (R-1).

LEGAL DESCRIPTION:

ALL OF NEW LOT 72 VERMILION CLIFF ESTATES.

---- END OF ORDINANCE ----

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ____ day of _____, 2019.

ATTEST:

Lamont Smith, Chair
Board of Commissioners
Kane County

KARLA JOHNSON
Kane County Clerk

Commissioner Smith voted _____
Commissioner Gant voted _____
Commissioner Chamberlain voted _____

#19019

Date Received:	6/13/19
Check Number:	0013 \$350
Received By:	USA



Land Use Authority
76 North Main Street
Kanab, Utah 84741
Phone (435) 644-4966
planning@kane.utah.gov

REQUEST FOR ZONE CHANGE

Owner Name: Don Cox Date: 5-24-2019
Address: [REDACTED] Phone: [REDACTED]
City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

LOCATION AND LEGAL DESCRIPTION AND PARCEL # OF SUBJECT PROPERTY:
ALL of lot 72 Vermilion Cliff Estates.
East Mountain View Dr
Parcel # 6-72

Current Zone: C-1
Proposed Zone: R-1

INTENDED USE AND REASON FOR ZONE CHANGE: Single Family
Residence. To meet guidelines for U.S.D.A
Loan.

I (we) certify that the proposed Zone Change will conform to the Kane County Zoning Ordinance and that no changes will be made without prior approval.

X Signature of owner or authorized Representative: [REDACTED]

PLANNING COMMISSION ACTION: APPROVE _____ DENY _____

COMMENTS: _____

PLANNING COMMISSION CHAIRMAN _____ Date _____



STAFF REPORT

DATE: 06/27/2019

PROJECT: A complete application for Vacating and Amending a Subdivision Plat for a Lot Joinder, on behalf of Robert Brian Edwards, Swains Creek Pines, Unit 3, Amended, lots 415 & 416, becoming new lot 416, containing 1.99 acres within the NW ¼ SE1/4 Section 27, T38S, R7W, S.L.B. & M., has been submitted by Brent Carter with New Horizon Engineering (holding Power of Attorney. Both lots and all surrounding lots are zoned Residential 1/2.

The reason for the lot joinder request is the owners want to save on taxes.

FINDINGS: Amending (joining) the above stated lots conform to the standards in the Kane County Land Use Ordinance, 9-21E-9, A-F. Utah Code Sections §17-27a-201, 202, 206 & §17-27a-608 & 609 requirements have all been met. The project has been posted in two public places, noticed in the local newspaper, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project. Combining these lots is in compliance with all state and local ordinances.

STAFF RECOMMENDATIONS: Kane County (Alternate) Engineer, Travis Sanders reviewed this project and recommends approval. Kane County Land Use Administrator, Shannon McBride, recommends approval.

This does NOT have to go to the Commissioners as no easements are being vacated.

MOTION to approve: I move to recommend amending the Swains Creek Pines, Unit 3, Amended, lots 415 & 416, becoming new lot 416, on behalf of Robert Brian Edwards, based on the findings documented in the staff report.

MOTION to deny: I move to deny amending the Swains Creek Pines, Unit 3, Amended, lots 415 & 416, becoming new lot 416, on behalf of Robert Brian Edwards, based on

Thank you.

WITHIN NW1/4 SE1/4 SECTION 27, T38S-R7W, S.L.B.&M.

I, Neville Brent Carter, do hereby certify that I am a registered land surveyor, and that I hold Certificate No. 354372. As prescribed under the laws of the state of Utah, I further certify that I have made this plat of "AMENDED PLAT OF LOTS 415 & 416, SWANS CREEK PINES, UNIT 3", located in Kane County, Utah. As shown hereon and described as follows:

NEW LOT 410, LOTS 415 & 416, SHAWNS CREEK PINES, UNIT 3, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NW CORNER LOT 415, SHAWNS CREEK PINES, UN RUNNING THENCE S70°42'35" E 409.35 FEET TO THE ORIGINAL NE CORNER OF LOT 410; THENCE S00°58'15" E 412.12 FEET TO THE ORIGINAL PC OF LOT 415; SAIL POINT BEING THE PC OF A CURVE TO THE RIGHT, CURVE DATA: DELTA= 36°40', RADIUS= 10228', CHORD= 5719.80 FEET; THENCE ALONG THE ARC OF SAID CURVE 64.87 FEET TO THE PC; SAID POINT ALSO BEING THE ORIGINAL NE CORNER OF LOT 416; THENCE N72°18'10" W 100.83 FEET TO THE ORIGINAL SE CORNER OF LOT 416; THENCE N10°32'15" W 403.39 FEET TO THE ORIGINAL SW CORNER OF LOT 416; RUNNING THENCE N10°27'19" W 253.66 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.39 ACRES.



Robert Brian Edwards 2008 Buckeye Reef street. Henderson, Nevada 89002

THIS SURVEY WAS DONE AT THE REQUEST OF Robert Brian Edwards "TO ESTABLISH THE BOUNDARY AND MONUMENT" THE CORNERS OF THE LOTS SHOWN HEREON, AND TO PROVIDE A RECORD OF SAID SURVEY.

THE BASIS OF BEARING IS N180°28'E BETWEEN THE SW CORNER LOT #17 (1/2' REBAR) AND THE NW CORNER LOT #14 (NHS 1/2' REBAR) SWAINS CREEK PINES, UNIT 3, AS PER THE OFFICIAL PLAT THEREOF.

2-THERE IS AN EXISTING WATER SYSTEM IN PLACE INCLUDING FIRE HYDRANTS AND WATER METERS.

I, _____ COUNTY RECORDER OF KANE COUNTY, UTAH DO HEREBY CERTIFY THAT
THE ABOVE SUBDIVISION AMENDMENT PLAT WAS FILED FOR RECORD IN MY OFFICE ON THIS THE ____
DAY OF _____ 20____.

BOOK _____ PAGE _____ FEE _____ KANE COUNTY RECORDER
ENTRY NO.: _____ DATE _____ TIME _____
RECORDED AT THE REQUEST OF: _____

AMENDED PLAT OF LOTS 415 & 416,
SWAINS CREEK PINES, UNIT 3

PREPARED FOR: Robert Brian Edwards

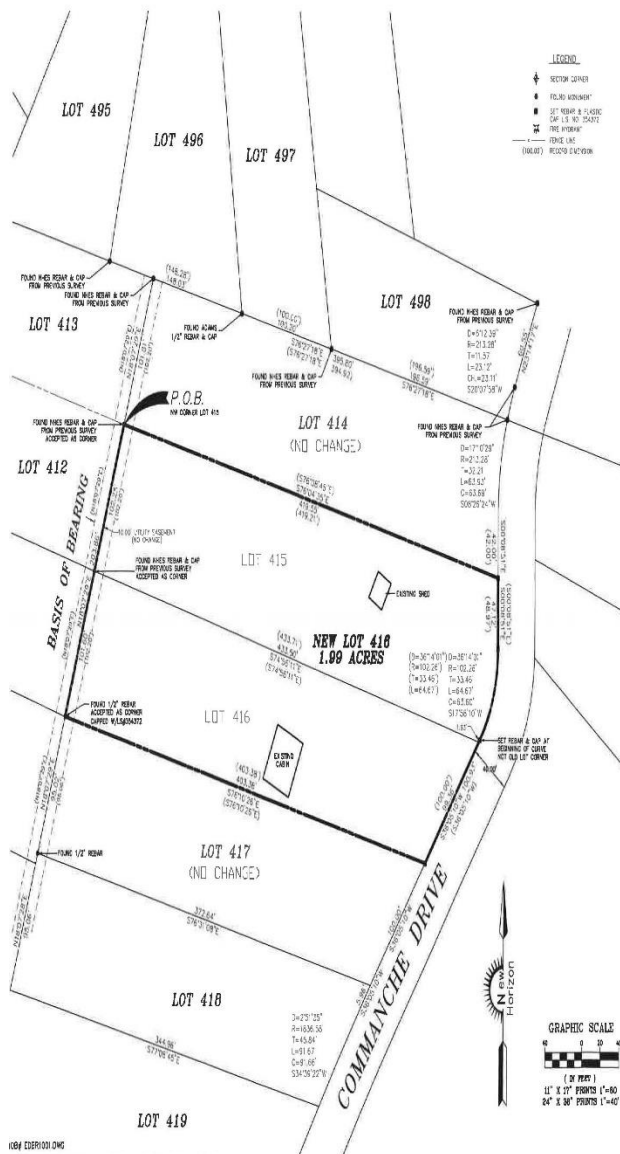
LOCATION: SE1/4 SECTION 27, T38S-R7W, S.L.B.&M.
SWAINS CREEK PINES, UNIT 3

DATE: 9/10/2018	REVISION #0 DATE: 9/10/2018
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4103 N. Morgan Drive (435) 586-8897
Enoch UT, 84721 (435) 559-4104

4103 N. Morgan Drive (435) 586-8897
Enoch UT, 84721 (435) 559-4104



108/EDR1001.DWG

I, _____, the Kane County Surveyor, do hereby certify that this office has examined the above subdivision amendment plat, and have determined that it is correct and in accordance with information on file in this office and recommend it for approval this _____ day of _____, 20____.

KANE COUNTY SURVEYOR

I, _____, Attorney for Kane County, do hereby certify that I have examined the above subdivision amendment plat and said plat meets the requirements of Kane County and is hereby recommended for approval this _____ day of _____, 20____.

KANE COUNTY ATTORNEY

On this the _____ day of _____, 20____, the Land Use Authority of Kane County, Utah, having reviewed the above subdivision amendment plot, and having found that it complies with the requirements of the Kane County's Land Use Ordinance, and by authorization of said Land Use Authority hereby approve said plot for acceptance by Kane County, Utah.

LAND USE AUTHORITY CHAIRMAN - KANE COUNTY

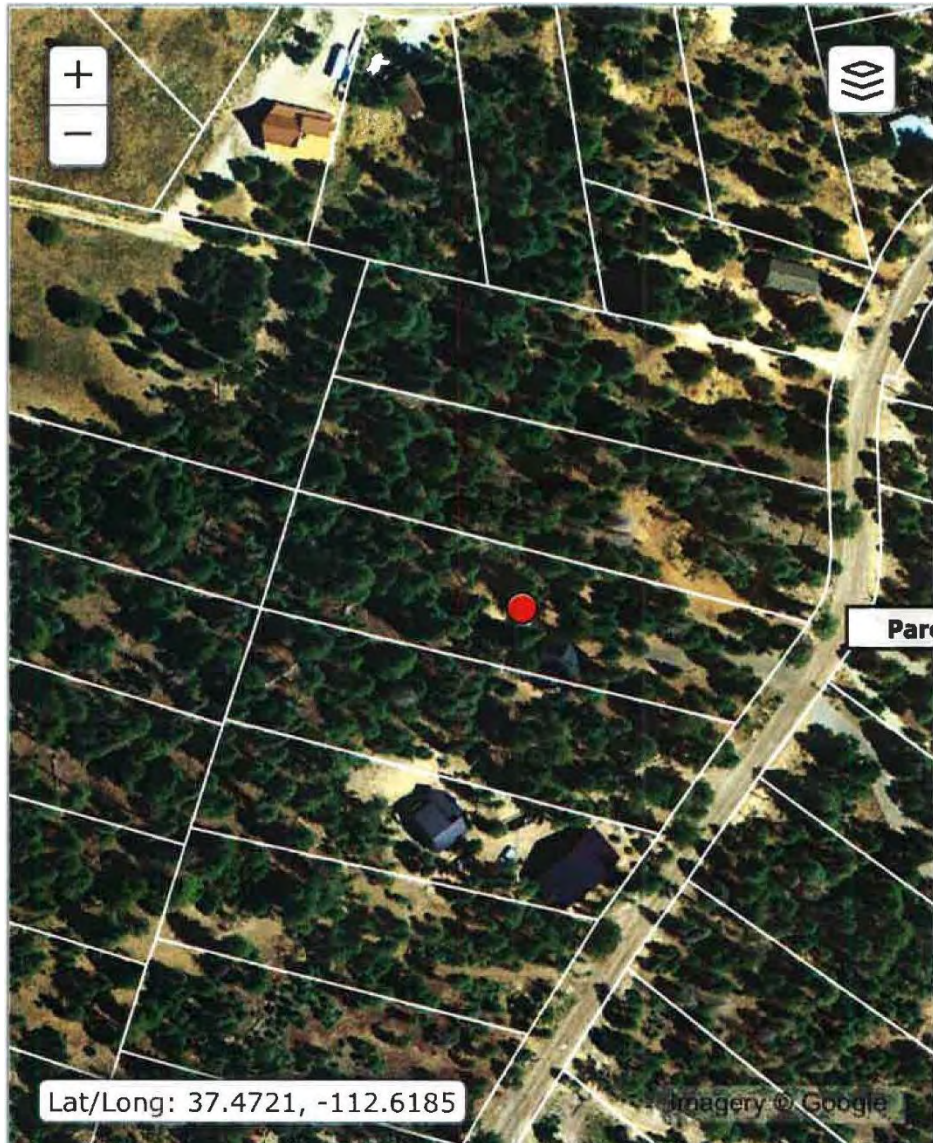
IN WITNESS we have hereunto set our hands this _____ day of _____, 20____.

Robert Brian Edwards

STATE OF _____ }
COUNTY OF _____ }

ON THE _____ DAY OF _____, 20____ PERSONALLY APPEARED BEFORE ME,
Robert Brian Edwards, THE SIGNER(S) OF THE OWNERS DECLARATION WHO BEING BY ME DULY SWORN
DO SAY THAT HE IS THE OWNER OF THE ABOVE DESCRIBED PROPERTY.

NOTARY PUBLIC
RESIDING IN _____ COUNTY
MY COMMISSION EXPIRES _____



76 North Main Street, Kanab, Utah 84741

#19018

Fee: [REDACTED]

Paid: [REDACTED]

List of Prop. Owners: [REDACTED] #18

REQUEST FOR **LOT JOINDER** WITHIN A SUBDIVISION PLAT

Property Owner's Name: Robert Brian Edwards

Address: [REDACTED]

Home Phone: [REDACTED]

Cell or Other Phone: [REDACTED]

Location and Legal Description of Subdivision Plat: _____

, Lots 415 & 416, Swains Creek Pines, unit 3

Reason for Parcel Joinder Request:

Join these 2 Lots to save on Taxes

I (We) certify that the proposed subdivision plat will conform to the Kane County
Subdivision Ordinance and that no changes will be made without prior approval.

[REDACTED]
Robert Brian Edwards

7-31-18
Date:

Note: Once parcels are Joined they may not be re subdivided

Planning Commission Action:

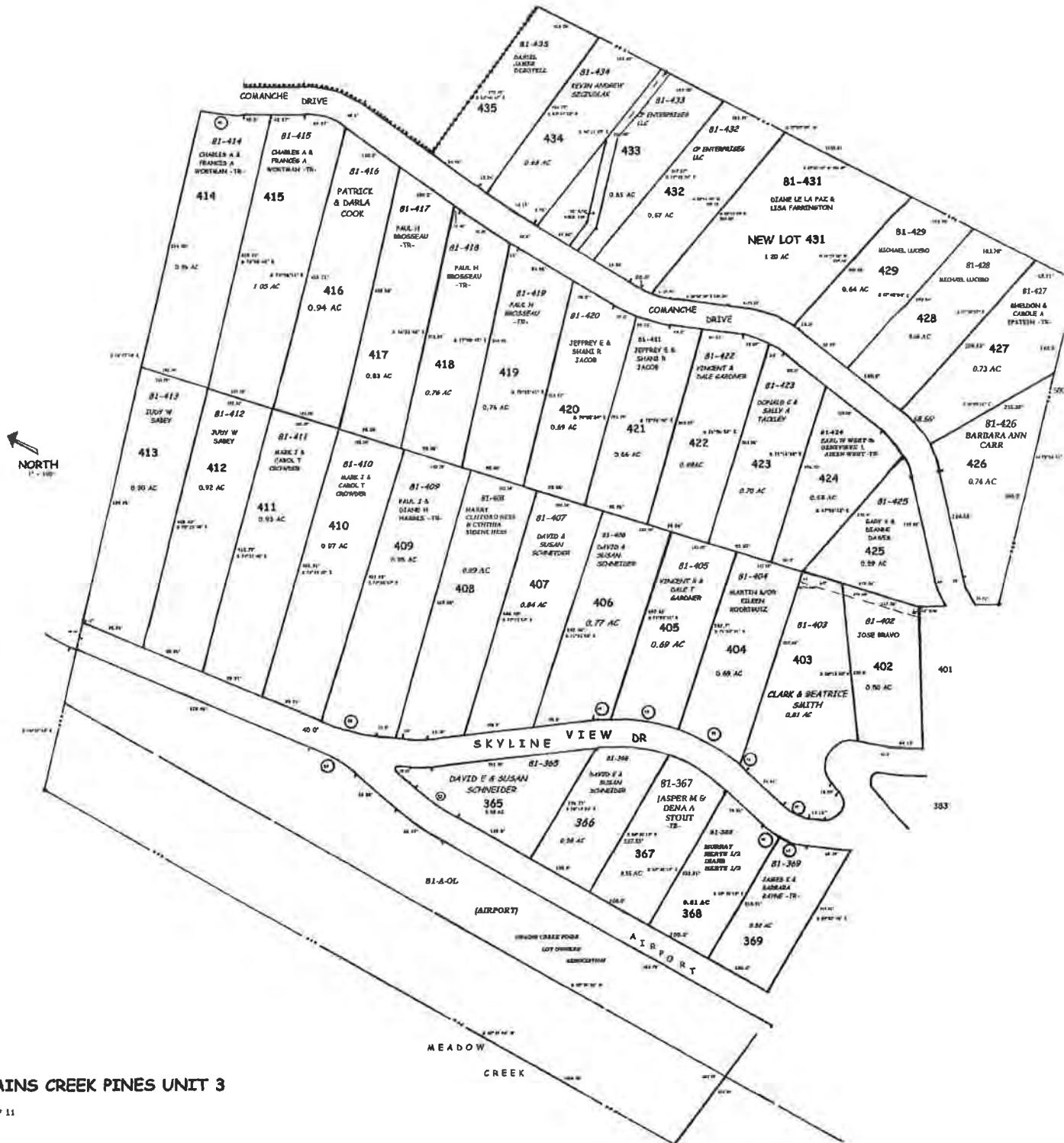
Approve _____

Deny _____

Comments: _____

Planning Commission Chairman _____

Date: _____



81: SWAINS CREEK PINES UNIT 3



STAFF REPORT

DATE: 07/02/2019

PROJECT: A complete application for Amending a Subdivision Plat for a Lot Joinder, and vacating six (6) 7.5 foot utility easements, on behalf of Milton R. & Judith E. Farney Trust, Dated 5-19-2000, in the Strawberry Valley Estates Subdivision, Unit 4, making 2 lots into 1, consisting of lots 47 & 50, and vacating lot 50, becoming new lot 47, within in the NW ¼ Section 20, T38S, R7W SLB & M, has been submitted by Brent Carter with New Horizon Engineering (holding power of Attorney).

The reason for the lot joinder request is the owners want to save on taxes.

FINDINGS: Amending (joining) the above stated lots conform to the standards in the Kane County Land Use Ordinance, 9-21E-9, (A-F). Utah Code Sections §17-27a-201, 202, 206, 208 & §17-27a-608 & 609 and 609.5 requirements have all been met. The project has been posted in two public places, noticed in the local newspaper, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project. A sign was posted on or near the easement in a manner that is calculated to alert the public. Good cause exists for vacating the utility easements and combining these lots; neither the public interest nor any person will be materially injured by the proposed vacation. The lot will retain the Residential ½ zoning (R-1/2). Combining these lots and vacating the utility easements is in compliance with all state and local ordinances. Termination agreements are in place from Garkane, South Central and the Kane County Water Conservancy District.

STAFF RECOMMENDATIONS: Kane County Alternate Engineer, Civil Science, Travis Sanders has reviewed this project and recommends approval. Kane County Land Use Administrator, Shannon McBride, has reviewed the application and supporting documents and recommends approval due to the project complying with County and State Ordinances and process.



76 North Main Street, Kanab, Utah 84741

MOTION: I move to **recommend** approval to the Kane County Commission for Vacating and Amending a Subdivision Plat for a Lot Joinder, and vacating six (6) utility easements on behalf of Milton R. & Judith E. Farney Trust, Dated 5-19-2000, Strawberry Valley Estates Subdivision, Unit 4, making 2 lots into 1, consisting of lots 47 & 50, and vacating lot 50, becoming new lot 47, and vacating six, 7.5 foot utility easements, and approving Ordinance O-2019-15, based on the findings documented in the staff report.

MOTION: I _____ move to **deny** approval to the Kane County Commission for Vacating and Amending a Subdivision Plat for a Lot Joinder, and vacating six (6) utility easements on behalf of Milton R. & Judith E. Farney Trust Dated 5-19-2000, Strawberry Valley Estates subdivision, Unit 4, making 2 lots into 1, consisting of lots 47 & 50, and vacating lot 50, becoming new lot 47, and vacating six, 7.5 foot utility easements, and Ordinance O-2019-15, based on the findings documented in the staff report.

THANK YOU.

KANE COUNTY ORDINANCE NO. O 2019 - 15

AN ORDINANCE VACATING SIX SEVEN AND A HALF FOOT PUBLIC UTILITY EASEMENTS IN STRAWBERRY VALLEY ESTATES SUBDIVISION, UNIT4, LOTS 47 & 50, BECOMING NEW LOT 47

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners have reviewed the Judith E. Farney Trustee of the Milton R. & Judith E. Farney Trust, Dated 5-19-2000 lot joinder project, vacating six (6) 7.5 foot utility easements existing on and between lots 47 & 50 in the Strawberry Valley Estates Subdivision, Unit 4, consisting of lots 47 & 50, vacating lot 50, becoming new lot 47;

AND WHEREAS, the private property owners have six dedicated public utility easements and six termination agreements from local utility providers which allows for utilities;

AND WHEREAS, the Kane County Board of Commissioners desires to implement the recommended vacating of the utility easements on and between lots 47 & 50; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended amendments for the vacation;

AND WHEREAS, the Kane County Board of Commissioners desires to vacate and abandon the six utility easements on and between lots 47 & 50;

AND WHEREAS, the purpose of this ordinance is to vacate six 7.5 foot utility easements on and between lots 47 & 50 as set forth in Utah State Code Unannotated, §17-27a-108, and § 17-27a-608 (3) and 609.5, (1-5) which authorizes the Kane County Commission to vacate a street, right-of-way, or easement upon recommendation by the Kane County Planning Commission;

AND WHEREAS, a public hearing was held on July 23, 2019 at 5:00 p.m. in the Kane County Commission chambers located at 76 North Main Street, Kanab, UT.

AND WHEREAS, the County Commission finds that good cause exists for the vacation and neither the public interest nor any person will be materially injured by the proposed vacation.

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH, ORDAINS AS FOLLOWS:

Vacating six (6), 7.5 foot public utility easement described as a 7.5 feet along both sides of the lot line between lots 47 & 50 and on lot 47, Strawberry Valley Estates Subdivision, Unit 4, lots 47 & 50. These public utility easements are hereby vacated between the above stated lots.

The vacating of the above six utility easements are set forth more fully on the maps attached as a plat map.

---- END OF ORDINANCE ----

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least four publications in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ____ day of ____, 2019.

ATTEST:

Lamont Smith, Chair
Board of Commissioners
Kane County

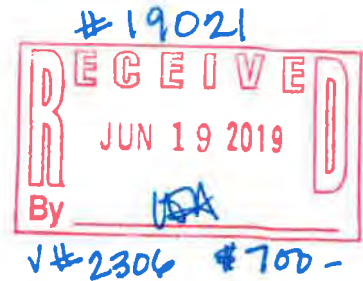
KARLA JOHNSON
Kane County Clerk

Commissioner Smith voted _____
Commissioner Gant voted _____
Commissioner Chamberlain voted _____



**Kane County
Land Use Authority**

76 North Main Street
Kanab, Utah 84741
Phone (435) 644-4966
planning@kane.utah.gov



**Lot Joinder within a Subdivision Plat
Application Fee \$700.00**

Property Owner's Name: JUDITH E. FARNEY - TRUSTEE OF THE MILTON R. & JUDITH E. FARNEY TRUST DATED 5-19-2000
Date: 6/4/19 Address: [REDACTED]
City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]
Phone: [REDACTED] Email: [REDACTED]

Location and Legal Description of Subdivision Plat:

LOT 50 & AMENDED LOT 47, STRAWBERRY VALLEY ESTATES, UNIT 4.

Reason for Lot Joinder Request: JOIN THESE 2 LOTS TO SAVE ON TAXES.

I (We) certify that the proposed subdivision plat will conform to the Kane County Subdivision Ordinance and that no changes will be made without prior approval.

[REDACTED]
Signature of Owner / Trustee

Signature of Owner / Trustee

Once lots are joined they may not be subdivided again.

Taxes will not be affected until the year following the project (plat) being recorded.

***Application must be received in office 21 days prior to the scheduled
Land Use Authority Meeting.**

***Fee is non-refundable after engineer's review**

AMENDED PLAT OF LOT 50 & AMENDED LOT 47, STRAWBERRY VALLEY ESTATES, UNIT 4

COUNTY ATTORNEY CERTIFICATE

I, _____ Attorney for Kane County, do hereby certify that I have examined the above subdivision amendment plat and said plat meets the requirements of Kane County and its hereby recommended for approval this _____ day of _____, 20____.

DMITRIY N. POZDNYAKOV - TRUSTEE OF THE MILLTON R. & ALICIA E. FARNLEY TRUST, Date May 19, 2000.
17481 NORWOOD PARK PL.
TUSTIN, CALI 92780

KANE COUNTY ATTORNEY

LAND USE AUTHORITY APPROVAL

On this the ____ day of _____, 20____, the Land Use Authority of Kane County, Utah, having reviewed the above Subdivision amendment plat, and having found that it complies with the requirements of the Land Use Ordinances. Do hereby recommend for approval by Kane County Commissioners.

LAND USE AUTHORITY CHAIRMAN – KANE COUNTY

PORTION OF STRAWBERRY VALLEY ESTATES, UNIT 4

OWNERS INFO:
JUDITH E. FARNEY - TRUSTEE OF THE MILTON
R. & JUDITH E. FARNEY TRUST, Date May 19, 2000.
17461 NORWOOD PARK PL.
TUSTIN, CALI 92780

GENERAL NOTES:
1-THERE ARE NO FENCES ON THE SUBJECT LOTS.
2-WATER IS PROVIDED BY WKCWCO.

GRAPHIC SCALE

(IN FEET)

50 0 25 50

11" X 17" PRINTS 1"=100
24" X 36" PRINTS 1"=50'



I, Newell Brent Peterson, Do hereby certify that I am a registered land surveyor, and that I hold Certificate No. 3543372. As prescribed under the laws of the state of Utah, I further certify that I have made this plot of "AMENDED PLAT OF LOT 50 & AMENDED LOT 47, STRAWBERRY VALLEY ESTATES, UNIT #4," Located in Kane County, Utah. As shown hereon and described as follows:

LEGAL DESCRIPTION OF THAT PORTION OF STRAWBERRY VALLEY ESTATES, UNIT 4 EFFECTED BY THIS AMENDMENT: LOTS 50 & AMENDED LOT 47 STRAWBERRY VALLEY ESTATES, UNIT 4, MORE FULLY AND COMPLETELY DESCRIBED AS FOLLOWS: BEGINNING AT THE ORIGINAL NORTH CORNER OF PARTIAL LOT 47, STRAWBERRY VALLEY ESTATES, UNIT 4, RUNNING THENCE S66°06'20"E 302.69 FEET TO THE ORIGINAL EAST CORNER OF LOT 47; THENCE S48°36'23"W 136.69 FEET TO THE ORIGINAL ANGLE POINT OF LOT 48; THENCE S68°20'16"W 93.50 FEET TO ORIGINAL SOUTH CORNER OF SAID LOT 48; THENCE S86°20'16"W 156.08 FEET TO THE ORIGINAL SOUTH CORNER OF LOT 48; THENCE S56°05'42"W 127.66 FEET TO THE ORIGINAL ANGLE POINT OF LOT 50; THENCE S56°36'25"W 36.65 FEET TO THE ORIGINAL SOUTH CORNER OF LOT 50; THENCE N26°17'38"W 138.57 FEET TO THE ORIGINAL WEST CORNER OF LOT 50; THENCE N87°26'04"E 114.25 FEET TO THE ORIGINAL WEST CORNER OF LOT 49; THENCE N38°26'04"E 125.45 FEET TO THE ORIGINAL ANGLE POINT ON THE WEST LINE OF LOT 49; THENCE N43°56'15"E 241.58 TO THE POINT OF BEGINNING AND CONTAINING 2.68 AC.

SURVEYOR'S CERTIFICATE

COUNTY SURVEYOR CERTIFICATE

I, _____, the Kane County Surveyor, do hereby certify that this office has examined the above subdivision amendment plat, and have determined that it is correct and in accordance with information on file in this office and recommend it for approval this _____ day of _____, 20____.

KANE COUNTY SURVEYOR

COUNTY COMMISSION APPROVAL

I, _____ CHAIRMAN OF THE COUNTY COMMISSION OF KANE COUNTY, DO HEREBY CERTIFY THAT THIS PLAT OF "AMENDED PLAT OF LOTS 50 & 4 AMENDED LOT 47, STRAWBERRY VALLEY ESTATES UNIT #4" WAS ACCEPTED AND APPROVED BY THE KANE COUNTY COMMISSION ON THIS _____ DAY OF _____ AND IS HEREBY ORDERED FILED FOR RECORD IN THE OFFICE OF THE KANE COUNTY RECORDER, IN WITNESS WHEREOF, I HAVE SET MY HAND BY AUTHORITY OF A RESOLUTION OF THE COUNTY COMMISSION,

ATTEST:

OWNERS CONSENT

The Owner(s) of the Property described in the Boundary Description, consent to the preparation and recording of this Amended Plat and also to the abandoning of lot 50, adding that area to Amended lot 47, as per this plat.

IN WITNESS, I have hereunto set our hands this _____ day of _____, 20____.

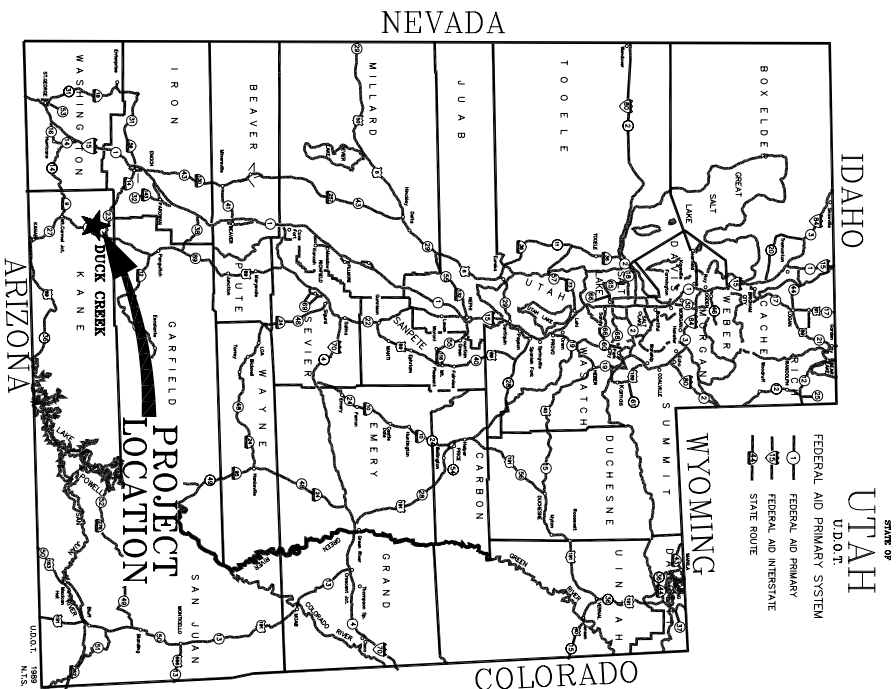
JUDITH E. FARNEY TRUSTEE OF THE MILTON R. & JUDITH E. FARNEY TRUST, Date May 19, 2000.

ACKNOWLEDGEMENT

ON THE _____ DAY OF _____, 20____ PERSONALLY APPEARED BEFORE ME, JUDITH E. FARNEY, THE SIGNER OF THE OWNERS DEDICATION WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS THE OWNERS OF THE ABOVE DESCRIBED PROPERTY.

NOTARY PUBLIC

RESIDING IN _____ COUNTY
MY COMMISSION EXPIRES _____



SURVEY NARRATIVE

THIS SURVEY WAS DONE AT THE REQUEST OF JUDITH E. FARNLEY TO ESTABLISH THE BOUNDARY AND MONUMENT THE CORNERS OF THE LOTS SHOWN HEREON, AND TO PROVIDE A RECORD OF SAID SURVEY.

THE BASIS OF BEARING IS S22.49'52" W BETWEEN THE NE CORNER LOT 60 (JAMES REBAR & CAP) AND THE PC NEAR THE SE CORNER LOT 60 (JAMES REBAR & CAP) STRAWBERRY VALLEY STATES, UNIT 4, AS PER A PREVIOUS PLAT AMENDMENT OF SAID SUBDIVISION.

CERTIFICATE OF RECORDING

I, _____, COUNTY RECORDER OF KANE COUNTY, UTAH DO HEREBY CERTIFY THAT THE ABOVE SUBDIVISION AMENDMENT PLAT WAS FILED FOR RECORD IN MY OFFICE ON THIS THE ____ DAY OF _____, 20____.

BOOK _____ PAGE _____ FEE _____

KANE COUNTY RECORDER

ENTRY NO.: _____ DATE _____ TIME _____

RECORDED AT THE REQUEST OF:

KANE COUNTY

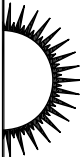
AMENDED PLAT OF LOT 50 & AMENDED LOT 47,
STRAWBERRY VALLEY ESTATES, UNIT 4

PREPARED FOR: JUDITH E. FARNEY – TRUSTEE
OF THE MILTON R. & JUDITH E.
FARNEY TRUST, Date May 19, 2000

LOCATION: WITHIN SE1/4 SECTION 20, T38S-R7W, S.

STRAWBERRY VALLEY ESTATES, UNIT 4

DATE: 6/18/2019 REVISION #1: 7/2/2019

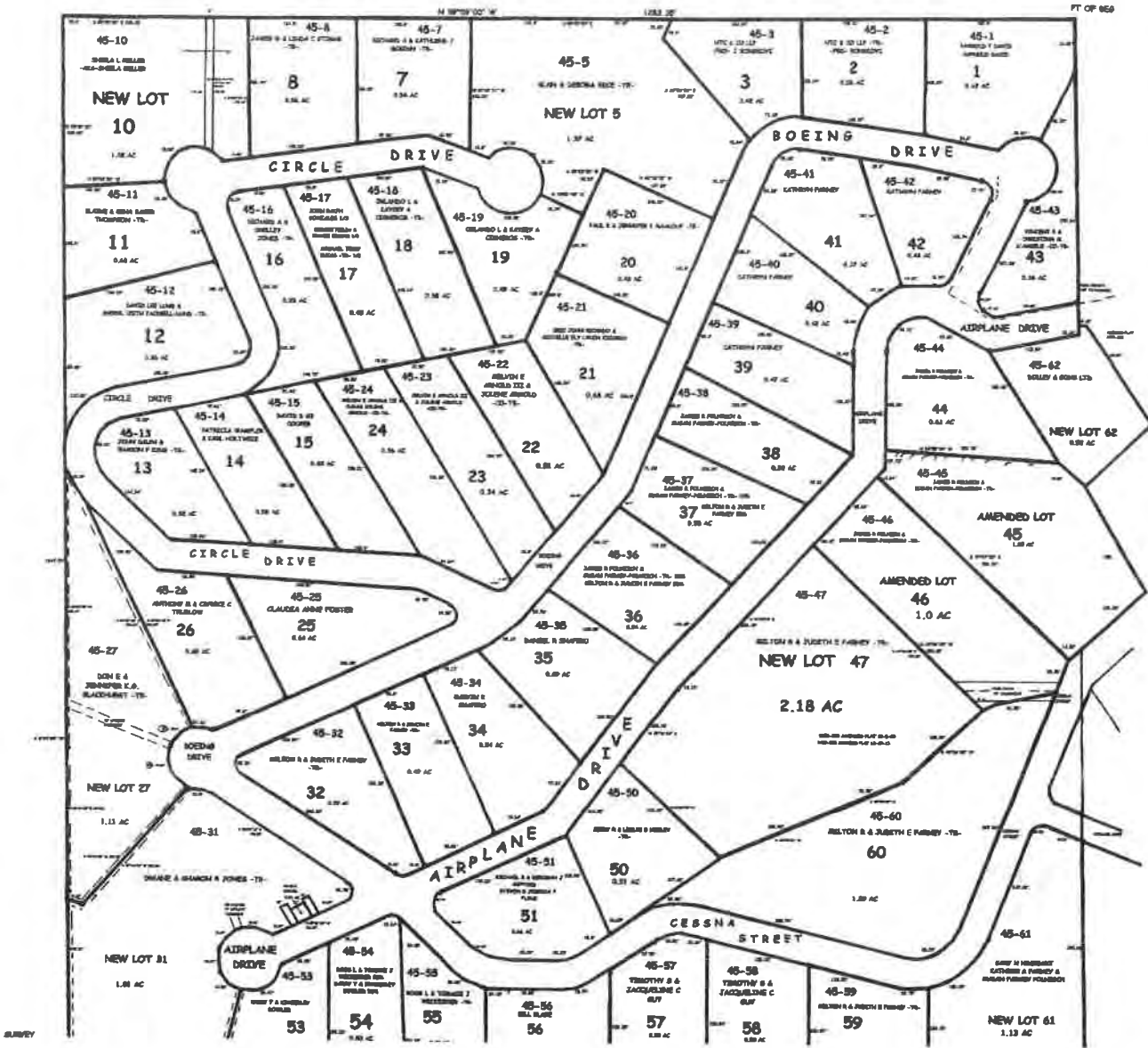


NEW HORIZON

Engineering & Surveying LLC

4103 N. Morgan Drive

Enoch UT, 84721 (435) 559-4104





STAFF REPORT

DATE: 06/27/2019

PROJECT: A complete application for a ROAD DEDICATION for Red Plateau Rd., Plateau Rd., & Rodeo Drive Road, consisting of the required 66' road width, the right-of-way being 33 feet on both sides, has been submitted on behalf of parcel owners, UVX Mongini Cattle Company 50% and Suisse Family Ranches LP 50%, and Selna and Mongini Investments, and the Emil Mongini Descendant Trust as to an undivided 50% interest, parcel 3-6-36-4D-1, and 3-6-36-3 and subdividing parcel 3-6-36-4D-1 into 3-6-36-4D-1A, and parcel 3-6-36-3 into parcel 3-6-36-3A. The project was submitted by Tom Avant, Iron Rock Engineering, (holding power of Attorney).

The reason for the road **DEDICATION** is to have the County maintain the roads.

FINDINGS: Dedicating a road conforms to the standards in the Kane County Land Use Ordinance, 9-21F-1-6. Utah Code Sections §17-27a-201, 202, 206, 208, 308 & §17-27a-607 & 608 & 609 requirements have all been met. The project has been posted and noticed in the local newspaper, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project and those properties that are accessed by the Public Street, right-of-way, or easement. A notice was sent to Kanab City in behalf of their Annexation Plan. A sign was posted on or near the easement in a manner that is calculated to alert the public. Good cause exists for dedicating the right-of-way; neither the public interest nor any person will be materially injured by the proposed dedication of the above right-of-way/easement. Dedicating the Red Plateau Rd., Plateau Rd., & Rodeo Drive Road, right-of-way is in compliance with all state and local ordinances. Barbara Hansen, building official, checked the roads for duplicate names and has passed off the road names. Lou Pratt, GIS, is in support of continuing this road in behalf of the Kane County US-89 Corridor Access Management Plan (East Transportation Plan).

ARTICLE F. DEDICATION AND ACCEPTANCE OF STREETS AND PUBLIC IMPROVEMENTS

9-21F-1: DEDICATION OF SUBDIVISION ROADS:

9-21F-2: TIMELINESS FOR ACTING ON ACCEPTANCE:

9-21F-3: DEDICATION OF NONSUBDIVISION RIGHTS-OF-WAY AND ROADWAYS:

9-21F-4: REQUIRED RIGHT-OF-WAY AND ROADWAY WIDTHS:

9-21F-5: ROADWAYS DIVIDING A PARCEL:

9-21F-6: RIGHT-OF-WAY AND ROADWAY IMPROVEMENTS:

9-21F-7: RIGHT-OF-WAY IMPROVEMENTS FOR COMMERCIAL DEVELOPMENTS:

9-21F-3: DEDICATION OF NONSUBDIVISION RIGHTS-OF-WAY AND ROADWAYS:

The Kane County Commission, on recommendation from the Kane County Land Use Authority, may accept Master Transportation Plans for areas in Kane County. Once a Master Transportation Plan is in place for an area the property owner(s) within the Master Transportation Plan area may dedicate the

planned road(s) to Kane County. Kane County Land Use Authority and Kane County Commission may accept the dedicated roads by the recording of a road dedication plat. (Ord. O-2019-2, 1-14-2019)

9-21F-4: REQUIRED RIGHT-OF-WAY AND ROADWAY WIDTHS:

Rights-of-way/roadways that are dedicated will be dedicated to the required width of the Master Transportation Plan. If the right-of-way/roadway is planned to be centered on the boundary line between two (2) properties, both property owners will be required to dedicate their respective half of the right-of-way/roadway for the right-of-way/roadway to be accepted. If both of the property owners do not agree to the dedication, one of the property owners may dedicate the right-of-way/roadway wholly on their property. The rights-of-way/roadway will be required to be dedicated to provide continuity with adjacent dedicated rights-of-way/roadway.

Notwithstanding this provision, or any other provisions to the contrary in this title, upon application for subdivision or any plat amendment, the County may accept dedication, or may require dedication, of any existing road that is currently listed as a Class B or D road on the official records of the County Road or GIS Department, regardless of the condition or width of the road. (Ord. O-2019-2, 1-14-2019)

9-21F-5: ROADWAYS DIVIDING A PARCEL:

When an action initiated by the County for a dedicated roadway which roadway is deeded and accepted by the County, extends through a parcel, dividing said parcel into two (2) or more portions, the owner of the parcel may apply for a division of the parcel, without having to comply with the requirements of this chapter; and if the resulting divided parcel is smaller than required by this title, the parcel shall remain in that zone as a smaller non-conforming parcel. (Ord. O-2018-1, 1-12-2018)

9-21F-6: RIGHT-OF-WAY AND ROADWAY IMPROVEMENTS:

Dedicated rights-of-way/roadways not located within a platted subdivision do not have to be improved at the time of dedication. A dedicated right-of-way/roadway will be required to be improved to the standards set forth by the Utah Wildland Urban Interface Code (current edition) prior to a building permit being issued to any parcel required to be served by an all-weather surface right-of-way/roadway. The right-of-way/roadway will have to be improved to a minimum twenty eight feet (28') wide improved all weather travel surface, prior to a second building permit being issued on a parcel being served by the right-of-way/roadway. The owner will be required to submit all invoices associated with the cost of building the road to the County. Any building permits issued within ten (10) years of the date of completion of improvements of the right-of-way/roadway will require the property owner to pay a proportionate share of the road construction cost to the property owner who paid the original cost of improvements. The road will be required to be asphalted prior to a development of five (5) acre density, or less, being approved or prior to a building permit being issued which will cause the average daily traffic (ADT) to be above four hundred (400) trips per day or then current standard for very low volume local road as defined by the American Association of State Highway and Transportation Officials (AASHTO) standards. The improvements may be completed with the development construction. (Ord. O-2019-2, 1-14-2019)

AVERAGE DAILY TRAFFIC USAGE TABLE

Land Uses	Units	Daily (Weekday) Average Rate
Single family home	Dwelling units	9.52

(Ord. O-2018-2, 4-9-2018)

17-27a-607 Dedication of streets and other public places.

- (1) A plat that is signed, dedicated, and acknowledged by each owner of record, and approved according to the procedures specified in this part, operates, when recorded, as a dedication of all streets and other public places, and vests the fee of those parcels of land in the county for the public for the uses named or intended in the plat.
- (2) The dedication established by this section does not impose liability upon the county for streets and other public places that are dedicated in this manner but are unimproved.

STAFF RECOMMENDATIONS: Kane County Alternate Engineer, Travis Sanders, Civil Science, has reviewed this project and recommends approval. Kane County Land Use Administrator, Shannon McBride, recommends approval to the Kane County Planning Commission based on the findings as stated in the staff report.

This project needs to be recommended to the Commissioners due to the road dedication requiring dedication to the County for acceptance.

MOTION: I move to recommend approval of O-2019-10 to the Kane County Commission, for a ROAD DEDICATION, for Red Plateau Rd., Plateau Rd., & Rodeo Drive Road, consisting of the required 66' road width, the right-of-way being 33 feet on both sides, submitted on behalf of parcel owners, UVX Mongini Cattle Company 50% and Suisse Family Ranches LP 50%, and Selna and Mongini Investments, parcels 3-6-36-4D-1 into an additional parcel, dividing 3-6-36-4D-1 to become new parcel 3-6-36-4D-1A; and 3-6-36-3; based on the findings documented in the staff report. Road Maintenance will not be accepted by the County until the road is improved to Kane County standards. (This road dedication DOES/DOES NOT include maintenance by the County.)

Thank you.

9-21F-3: DEDICATION OF NONSUBDIVISION RIGHTS-OF-WAY:

The Kane County Commission, on recommendation from the Kane County Land Use Authority, may accept Master Transportation Plans for areas in Kane County. Once a Master Transportation Plan is in place for an area the property owner(s) within the Master Transportation Plan area may dedicate the planned road(s) to Kane County. Kane County Land Use Authority and Kane County Commission may accept the dedicated roads by the recording of a road dedication plat. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21F-4: REQUIRED RIGHT-OF-WAY WIDTHS:

Rights-of-way that are dedicated will be dedicated to the required width of the Master Transportation Plan. If the right-of-way is planned to be centered on the boundary line between two (2) properties, both property owners will be required to dedicate their respective half of the right-of-way for the right-of-way

to be accepted. If both of the property owners do not agree to the dedication, one of the property owners may dedicate the right-of-way wholly on their property. The rights-of-way will be required to be dedicated to provide continuity with adjacent dedicated rights-of-way.

Notwithstanding this provision, or any other provisions to the contrary in the Kane County land use ordinance, upon application for subdivision or any plat amendment, the County may accept dedication, or may require dedication, of any existing road that is currently listed as a Class B or D road on the official records of the County Road or GIS Department, regardless of the condition or width of the road. (Ord. 2014-5, 4-28-2014, eff. 5-6-2014)

9-21F-6: RIGHT-OF-WAY IMPROVEMENTS:

Dedicated rights-of-way not located within a platted subdivision do not have to be improved at the time of dedication. A dedicated right-of-way will be required to be improved to the standards set forth by the Utah Wildland Urban Interface Code (current edition) prior to a building permit being issued to any parcel required to be served by an all weather surface right-of-way. The right-of-way will have to be improved to a minimum twenty eight feet (28') wide improved all weather travel surface, prior to a second building permit being issued on a parcel being served by the right-of-way. The owner will be required to submit all invoices associated with the cost of building the road to the County. Any building permits issued within ten (10) years of the date of completion of improvements of the right-of-way will require the property owner to pay a proportionate share of the road construction cost to the property owner who paid the original cost of improvements. The road will be required to be asphalted prior to a development of five (5) acre density, or less, being approved or prior to a building permit being issued which will cause the average daily traffic (ADT) to be above four hundred (400) trips per day or then current standard for very low volume local road as defined by the American Association of State Highway and Transportation Officials (AASHTO) standards. The improvements may be completed with the development construction. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21G-3: STREETS:

B. Stub streets shall be provided where needed to connect to adjacent undeveloped land and new streets must be provided where needed to connect to existing stub streets in adjacent subdivision. Not more than three (3) lots shall front stub streets, except where a temporary cul-de-sac turnaround side is provided.

E. Dead end streets, including stub streets, shall be permitted or required by the Kane County engineer only to provide future access to adjoining property, except for dead end street systems in cluster subdivisions, planned unit developments, condominium developments, or similar special projects.

F. Permanent cul-de-sac streets serving no more than six (6) lots, and not more than eight hundred feet (800') long, whichever is more restrictive, may be permitted and shall be provided with a right of way at the turnaround of fifty five and one-half feet ($55\frac{1}{2}'$) radius or more, and the outside curb or pavement edge radius shall be forty eight feet (48') or more.

H. Streets should intersect at ninety degrees (90°). All others may be designed only with approval of the Kane County engineer.

I. Two (2) subordinate streets meeting a through street from opposite sides shall meet at the same point, or their centerlines shall be offset at least two hundred feet (200').

J. Streets shall have the names of existing streets which are in alignment. There shall be no duplication of street names within the area. All street names shall be approved by the Kane County building official.

Permanent signs shall be installed by developer at his expense at time of installation of other offsite improvements with locations approved by Kane County.

K. Where a residential subdivision abuts a major highway, frontage roads may be required. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21G-5: BLOCK AND CUL-DE-SAC STANDARDS:

Block lengths shall be one thousand feet (1,000') or less. Cul-de-sac shall be no longer than eight hundred feet (800'). (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21G-7: EASEMENT STANDARDS:

A. Utility easements shall follow front lot lines wherever possible. (See design standards drawing RD02.)

B. Where front line easements are not possible, easements shall follow rear and side lot lines and shall have a minimum total width of fifteen feet (15') apportioned equally on abutting properties.

C. All easements shall be designed so as to provide efficient installation of utilities.

D. All power lines, telephone lines, and other normally overhead utility lines shall be placed underground by the subdivider unless the Kane County engineer determines it is not feasible to do so. This determination would be based upon application by a subdivider, supported by recommendation of the county engineer, and approved by the Kane County Land Use Authority and Kane County Commission. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-22-3: PERFORMANCE STANDARDS PROCEDURE:

The building official or county engineer may require performance standards review for compliance of any use in any zone when there is reason to believe that such use or the manner of its operation will not or may not conform to the performance standards adopted by Kane County, to include, but not limited to, "Kane County Standard Specifications And Drawing Details For Design And Construction", federal, state and local EPA standards, ICC codes, etc. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)



76 North Main Street, Kanab, Utah 84741



76 North Main Street, Kanab, Utah 84741

KANE COUNTY ORDINANCE NO. O-2019-14

AN ORDINANCE DEDICATING PLATEAU ROAD, RED PLATEAU ROAD, & RODEO DRIVE ROAD

WHEREAS, A complete application for amending a subdivision plat/road dedication for Plateau Road, Red Plateau Road, and Rodeo Drive Road consisting of the required 66' road width, the right-of-way being 33 feet on both sides, submitted by lot owners, UVX Mongini Cattle Company 50% and Suisse Family Ranches LP 50%, and Selna and Mongini Investments, and the Emil Mongini Descendant Trust as to an undivided 50% interest, parcel 3-6-36-4D-1, and 3-6-36-3 and subdividing parcel 3-6-36-4D-1 into 3-6-36-4D-1A, and parcel 3-6-36-3 into parcel 3-6-36-3A.

WHEREAS, these lot owners intend to dedicate Red Plateau Rd., Plateau Rd., & Rodeo Drive Road as well as having Kane County take responsibility for maintaining the roads, and

WHEREAS, dedicating the roads conforms to the standards in the Kane County Land Use Ordinance, 9-21F-1-6. Utah Code Sections §17-27a-201, 202, 206, 208, 308 & §17-27a-607 & 608 & 609 requirements have all been met. The project has been posted and noticed in the local newspaper, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project and those properties that are accessed by the Public Street, right-of-way, or easement. A notice was mailed to Kanab City in compliance with their annexation plan. A sign was posted on or near the easement in a manner that is calculated to alert the public. Good cause exists for dedicating the right-of-way; neither the public interest nor any person will be materially injured by the proposed dedication of the above right-of-way/easement. Dedicating the Plateau Road, Rodeo Drive Road and Red Plateau Road, right-of-way is in compliance with all state and local ordinances.

WHEREAS, good cause to amend and dedicate the above roads exists, and by dedicating the right-of-way; neither the public interest nor any person will be materially injured by the proposed dedication of the above public right-of-way/easement, and the U.S. 89 Corridor Access Plan (East Transportation System) will be extended, and

WHEREAS, authority is granted to Kane County by virtue of Utah Code Sections §17-27a-207, §17-27a-607 & 608, and the Kane County Planning Commission, after a duly noticed public hearing desire to implement this Ordinance and therefore recommended its approval, and the Kane County Board of Commissioners, in a duly noticed public hearing, received the Planning Commission recommendation and likewise desires to enact this Ordinance.

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH, ORDAINS AS FOLLOWS:

Amending a Subdivision/Road dedication for road dedication for Plateau Road, Red Plateau Road and Rodeo Drive Roads consisting of the required 66' road width, the right-of-way being 33 feet on both sides, submitted by lot owners, UVX Mongini Cattle Company 50% and Suisse Family Ranches LP 50%, and Selna and Mongini Investments, and the Emil Mongini Descendant Trust as to an undivided 50% interest, parcels 3-6-36-4D-1A, 3-6-36-4D-1 and 3-6-36-3, 3-6-36-3A are hereby DEDICATED to, and ACCEPTED by, Kane County.

This dedication and acceptance **SHALL NOT** impose liability upon Kane County for maintaining the Plateau Road, Red Plateau Road and Rodeo Drive Road.

The amended plat and dedicated road is described and set forth more fully on the plat map attached hereto.

//

End of Ordinance

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ____ day of July 23, 2019.

ATTEST:

Lamont Smith, Chair
Board of Commissioners
Kane County

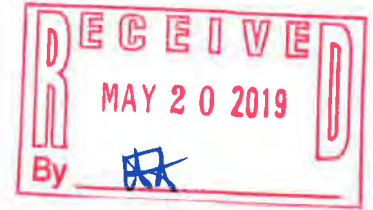
KARLA JOHNSON
Kane County Clerk

Commissioner Smith voted _____
Commissioner Chamberlain voted _____
Commissioner Gant voted _____



**Kane County
Land Use Authority**

76 North Main Street, Kanab, Utah 84741
(435) 644-4966 or (435) 644-4964
planning@kanab.utah.gov



#19012

**AMENDING, EXTENDING OR VACATING
A SUBDIVISION PLAT**

Application Fee \$300

+ \$10 per notice mailed to neighboring property owners

Engineering Deposit \$500

Owner/Applicant: UVX Mongini Cattle Company 50% Suisse Family Ranches LP 50% **Date:** 05/14/2019
Address: [REDACTED] **Fax:** [REDACTED]
City: [REDACTED] **State:** [REDACTED] **Zip:** [REDACTED]
Phone: [REDACTED] **E-Mail:** [REDACTED]

Registered Engineer or Surveyor: Tom Avant, Iron Rock Engineering
Address: 460 East 300 South Suite 1
City: Kanab **State:** UT **Zip:** 84741
Phone: 435-644-2031 **Email:** tom@ireng.net

Location and Legal Description of Subdivision Plat: [REDACTED]

See attached

Reason for Amendment: Road Dedication

I certify that the proposed subdivision plat will conform to the Kane County Subdivision Ordinance and that no changes will be made without prior approval.

Signature: [REDACTED]

Date: 5-14-19



**Kane County
Land Use Authority**

76 North Main Street, Kanab, Utah 84741
(435) 644-4966 or (435) 644-4964
planning@kanab.utah.gov

**AMENDING, EXTENDING OR VACATING
A SUBDIVISION PLAT**

Application Fee \$300

+ \$10 per notice mailed to neighboring property owners

Engineering Deposit \$500

Owner/Applicant: Selna & Mongini Investments **Date:** 05/14/2019
Address: [REDACTED] **Fax:** _____
City: [REDACTED] **State:** [REDACTED] **Zip:** [REDACTED]
Phone: [REDACTED] **E-Mail:** [REDACTED]

Registered Engineer or Surveyor: Tom Avant, Iron Rock Engineering
Address: 460 East 300 South Suite 1
City: Kanab **State:** UT **Zip:** 84741
Phone: 435-644-2031 **Email:** tom@ireng.net

Location and Legal Description of Subdivision Plat: _____

See attached

Reason for Amendment: Road Dedication

I certify that the proposed subdivision plat will conform to the Kane County Subdivision Ordinance and that no changes will be made without prior approval.

Signature: [REDACTED] **Date:** 5-14-19

Effective 12/3/2018

Chapter 41a Cannabis Production Establishments

Part 1 General Provisions

4-41a-101 Title.

This chapter is known as "Cannabis Production Establishments."

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-102 Definitions.

As used in this chapter:

- (1) "Cannabis" means the same as that term is defined in Section 26-61a-102.
- (2) "Cannabis cultivation facility" means a person that:
 - (a) possesses cannabis;
 - (b) grows or intends to grow cannabis; and
 - (c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.
- (3) "Cannabis cultivation facility agent" means an individual who:
 - (a) is an employee of a cannabis cultivation facility; and
 - (b) holds a valid cannabis production establishment agent registration card.
- (4) "Cannabis processing facility" means a person that:
 - (a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;
 - (b) possesses cannabis with the intent to manufacture a cannabis product;
 - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.
- (5) "Cannabis processing facility agent" means an individual who:
 - (a) is an employee of a cannabis processing facility; and
 - (b) holds a valid cannabis production establishment agent registration card.
- (6) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- (7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- (9) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
 - (a) authorizes an individual to act as a cannabis production establishment agent; and
 - (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- (10) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.

- (11) "Department" means the Department of Agriculture and Food.
- (12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- (13) "Independent cannabis testing laboratory" means a person that:
 - (a) conducts a chemical or other analysis of cannabis or a cannabis product; or
 - (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.
- (14) "Independent cannabis testing laboratory agent" means an individual who:
 - (a) is an employee of an independent cannabis testing laboratory; and
 - (b) holds a valid cannabis production establishment agent registration card.
- (15) "Inventory control system" means a system described in Section 4-41a-103.
- (16) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- (17) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.
- (18) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.
- (19) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.
- (20) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.
- (21) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.
- (22) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.
- (23) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.
- (24) "State central fill agent" means the same as that term is defined in Section 26-61a-102.
- (25) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.
- (26) "State central fill shipment" means the same as that term is defined in Section 26-61a-102.
- (27) "State electronic verification system" means the system described in Section 26-61a-103.
- (28) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).
- (29) "Total composite tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-103 Inventory control system.

- (1) Each cannabis production establishment, each medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.
- (2) A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall ensure that the inventory control system maintained by the establishment or pharmacy:
 - (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;
 - (b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;
 - (c) includes a video recording system that:
 - (i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

- (ii) is tamper proof; and
 - (iii) stores a video record for at least 45 days; and
- (d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.
- (3) A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall allow the department or the Department of Health access to the cannabis production establishment's, medical cannabis pharmacy's, or state central fill medical cannabis pharmacy's inventory control system at any time.
- (4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5)
 - (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.
 - (b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

Amended by Chapter 136, 2019 General Session

4-41a-104 Qualified Production Enterprise Fund -- Creation -- Revenue neutrality.

- (1) There is created an enterprise fund known as the "Qualified Production Enterprise Fund."
- (2) The fund created in this section is funded from:
 - (a) money the department deposits into the fund under this chapter;
 - (b) appropriations the Legislature makes to the fund; and
 - (c) the interest described in Subsection (3).
- (3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.
- (4) The department may only use money in the fund to fund the department's implementation of this chapter.
- (5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Enacted by Chapter 1, 2018 Special Session 3

4-41a-105 Agreement with a tribe.

- (1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.
- (2)
 - (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment on tribal land located within the state.
 - (b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.
 - (c) The governor shall ensure that an agreement described in Subsection (2)(a):
 - (i) is in writing;
 - (ii) is signed by:
 - (A) the governor; and

- (B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;
- (iii) states the effective date of the agreement;
- (iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and
- (v) includes any accommodation that the tribe makes:
 - (A) to which the tribe agrees; and
 - (B) that is reasonably related to the agreement.
- (d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.
- (e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:
 - (i) the chairs of the Native American Legislative Liaison Committee; and
 - (ii) the Office of Legislative Research and General Counsel.

Enacted by Chapter 1, 2018 Special Session 3

4-41a-106 Severability clause.

- (1) If a final decision of a court of competent jurisdiction holds invalid any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.
- (2) The provisions of this title and this bill are severable.

Enacted by Chapter 1, 2018 Special Session 3

4-41a-107 Notice to prospective and current public employees.

- (1)
 - (a) A state employer or a political subdivision employer shall take the action described in Subsection (1)(b) before:
 - (i) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or
 - (ii) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.
 - (b) The employer described in Subsection (1)(a) shall give the employee or prospective employee described in Subsection (1)(a) a written notice that notifies the employee or prospective employee:
 - (i) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and
 - (ii) that in accepting a job or undertaking a duty described in Subsection (1)(a), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (2) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (1).

- (3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (1) may not:
 - (a) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or
 - (b) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (4) An employer of an employee who has signed the notice described in Subsection (1) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (1).

Enacted by Chapter 341, 2019 General Session

Part 2

Cannabis Production Establishment

4-41a-201 Cannabis production establishment -- License.

- (1) A person may not operate a cannabis production establishment without a license that the department issues under this chapter.
- (2)
 - (a) Subject to Subsections (6), (7), and (8), and to Section 4-41a-205, the department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a cannabis production establishment to an applicant who is eligible for a license under this section.
 - (b) An applicant is eligible for a license under this section if the applicant submits to the department:
 - (i) a proposed name and address, located in a zone described in Subsection 4-41a-406(1) (a) or (b), where the applicant will operate the cannabis production establishment that is not within 1,000 feet of a community location or within 600 feet of an area zoned primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit;
 - (ii) the name and address of any individual who has:
 - (A) a financial or voting interest of 2% or greater in the proposed cannabis production establishment; or
 - (B) the power to direct or cause the management or control of a proposed cannabis production establishment;
 - (iii) an operating plan that:
 - (A) complies with Section 4-41a-204;
 - (B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and
 - (C) the department approves;
 - (iv) evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

- (A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or
 - (B) \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;
 - (v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit, a copy of the applicant's approved application for the local land use permit; and
 - (vi) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
- (3) If the department approves an application for a license under this section:
- (a) the applicant shall pay the department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).
- (4)
- (a) Except as provided in Subsection (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.
 - (b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.
- (5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.
- (6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:
- (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;
 - (b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or
 - (c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.
- (7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):
- (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution; or
 - (b) is younger than 21 years old.
- (8) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:
- (a) shall consult with the Department of Health regarding the applicant if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and
 - (b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8).
- (9) The department may revoke a license under this part:

- (a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the department issues the initial license;
- (b) after the cannabis production establishment makes the same violation of this chapter three times; or
- (c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution.
- (10) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.
- (11) The department shall begin accepting applications under this part on or before January 1, 2020.
- (12) The department's authority to issue a license under this section is plenary and is not subject to review.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-202 Cannabis production establishment owners and directors -- Criminal background checks.

- (1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
 - (a) a fingerprint card in a form acceptable to the Department of Public Safety;
 - (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (c) consent to a fingerprint background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
 - (a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (b) report the results of the background check to the department;
 - (c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (3) The department shall:
 - (a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-203 Renewal.

The department shall renew a license issued under Section 4-41a-201 every year if, at the time of renewal:

- (1) the licensee meets the requirements of Section 4-41a-201;
- (2) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
- (3) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-204 Operating plan.

- (1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:
 - (a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;
 - (b) a description of the credentials and experience of:
 - (i) each officer, director, and owner of the proposed cannabis production establishment; and
 - (ii) any highly skilled or experienced prospective employee;
 - (c) the cannabis production establishment's employee training standards;
 - (d) a security plan;
 - (e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;
 - (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;
 - (g) for a cannabis cultivation facility, the information described in Subsection (2);
 - (h) for a cannabis processing facility, the information described in Subsection (3); and
 - (i) for an independent cannabis testing laboratory, the information described in Subsection (4).
- (2)
 - (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:
 - (i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and
 - (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.
 - (b) Except as provided in Subsection (2)(c) or (d):
 - (i) a cannabis cultivation facility that cultivates cannabis indoors may not:
 - (A) use more than 100,000 square feet for cultivation; or
 - (B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space; and

- (ii) a cannabis cultivation facility that cultivates cannabis outdoors may not use more than four acres for cultivation.
- (c)
 - (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.
 - (ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).
- (d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):
 - (i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and
 - (ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.
- (3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:
 - (a) offered variety of cannabis product;
 - (b) cannabinoid extraction method;
 - (c) cannabinoid extraction equipment;
 - (d) processing equipment;
 - (e) processing techniques; and
 - (f) sanitation and manufacturing safety procedures for items for human consumption.
- (4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:
 - (a) cannabis and cannabis product testing capability;
 - (b) cannabis and cannabis product testing equipment; and
 - (c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-205 Number of licenses -- Cannabis cultivation facilities.

- (1) Except as provided in Subsection (2)(a), the department may not issue more than 10 licenses to operate a cannabis cultivation facility.
- (2)
 - (a) The department may issue up to five licenses to operate a cannabis cultivation facility in addition to the 10 licenses described in Subsection (1) if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for cannabis in a medicinal dosage form and cannabis products in a medicinal dosage form, that each additional license is necessary to provide an adequate supply, quality, or variety of cannabis in a medicinal dosage form and cannabis products in a medicinal dosage form to medical cannabis cardholders.
 - (b) If the recipient of one of the initial 10 licenses described in Subsection (1) ceases operations or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).
- (3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

- (a) experience with establishing and successfully operating a business that involves:
 - (i) complying with a regulatory environment;
 - (ii) tracking inventory; and
 - (iii) training, evaluating, and monitoring employees;
 - (b) an operating plan that will best ensure the safety and security of patrons and the community;
 - (c) positive connections to the local community; and
 - (d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products in a medicinal dosage form.
- (4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 3

Cannabis Production Establishments Agents

4-41a-301 Cannabis production establishment agent -- Registration.

- (1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent.
- (2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:
 - (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.
- (4)
 - (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:
 - (i) provides to the department:
 - (A) the prospective agent's name and address;
 - (B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and
 - (C) the submission required under Subsection (4)(b); and
 - (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.
 - (b) Each prospective agent described in Subsection (4)(a) shall:

- (i) submit to the department:
 - (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
 - (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
- (ii) consent to a fingerprint background check by:
 - (A) the Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
- (c) The Bureau of Criminal Identification shall:
 - (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (ii) report the results of the background check to the department;
 - (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;
 - (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
 - (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (d) The department shall:
 - (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.
- (5) The department shall designate, on an individual's cannabis production establishment agent registration card:
 - (a) the name of the cannabis production establishment where the individual is registered as an agent; and
 - (b) the type of cannabis production establishment for which the individual is authorized to act as an agent.
- (6) A cannabis production establishment agent shall comply with:
 - (a) a certification standard that the department develops; or
 - (b) a third-party certification standard that the department designates by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (7) The department shall ensure that the certification standard described in Subsection (6) includes training:
 - (a) in Utah medical cannabis law;
 - (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;
 - (c) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and
 - (d) for an independent cannabis testing laboratory agent, in cannabis testing best practices.
- (8) For an individual who holds or applies for a cannabis production establishment agent registration card:

- (a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and
 - (b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution.
- (9)
- (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.
 - (b) A cannabis production establishment agent may renew the agent's registration card if the agent:
 - (i) is eligible for a cannabis production establishment registration card under this section;
 - (ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and
 - (iii) pays to the department a renewal fee in an amount that:
 - (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
 - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Amended by Chapter 136, 2019 General Session

4-41a-302 Cannabis production establishment agent registration card -- Rebuttable presumption.

- (1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:
 - (a) the agent is on the premises of a cannabis production establishment where the agent is registered;
 - (b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:
 - (i) two cannabis production establishments; or
 - (ii) a cannabis production establishment and:
 - (A) a medical cannabis pharmacy; or
 - (B) the state central fill medical cannabis pharmacy; and
 - (c) if the cannabis production establishment agent is an agent of a cannabis cultivating facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.
- (2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
 - (a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage

form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

- (3)
- (a) A cannabis production establishment agent who fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:
 - (i) for a first or second offense in a two-year period:
 - (A) guilty of an infraction; and
 - (B) subject to a \$100 fine; or
 - (ii) for a third or subsequent offense in a two-year period:
 - (A) guilty of a class C misdemeanor; and
 - (B) subject to a \$750 fine.
 - (b)
 - (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).
 - (ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 4

General Cannabis Production Establishment Operating Requirements

4-41a-401 Cannabis production establishment -- General operating requirements.

- (1)
- (a) A cannabis production establishment shall operate in accordance with the operating plan described in Sections 4-41a-201 and 4-41a-204.
 - (b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.
 - (c)
 - (i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.
 - (ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:
 - (A) review a change notification described in Subsection (1)(b);
 - (B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;
 - (C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and
 - (D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.

- (2) A cannabis production establishment shall operate:
 - (a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41a-301; and
 - (b) at the physical address provided to the department under Section 4-41a-201.
- (3) A cannabis production establishment may not employ an individual who is younger than 21 years old.
- (4) A cannabis production establishment may not employ an individual who has been convicted, under state or federal law, of:
 - (a) a felony; or
 - (b) after the effective date of this bill, a misdemeanor for drug distribution.
- (5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:
 - (a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and
 - (b) maintains a record of the individual's access, including arrival and departure.
- (6) A cannabis production establishment shall operate in a facility that has:
 - (a) a single, secure public entrance;
 - (b) a security system with a backup power source that:
 - (i) detects and records entry into the cannabis production establishment; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and
 - (c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-402 Inspections.

- (1) The department may inspect the records and facility of a cannabis production establishment at any time during business hours to determine if the cannabis production establishment complies with this chapter.
- (2)
 - (a) An inspection under this section may include:
 - (i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;
 - (ii) questioning of any relevant individual;
 - (iii) observation of an independent cannabis testing laboratory's methods, standards, practices, and procedures;
 - (iv) the taking of a specimen of cannabis or cannabis products sufficient for testing purposes; or
 - (v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.
 - (b) Notwithstanding Section 4-41a-404, an authorized department employee may possess and transport a specimen of cannabis or cannabis products for testing described in Subsection (2)(a).
- (3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

- (4) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:
- (a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b) license or registration suspension or revocation; or
 - (c) an immediate cessation of operations under a cease and desist order that the department issues.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-403 Advertising.

- (1) A cannabis production establishment may not advertise to the general public in any medium.
- (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise an employment opportunity at the cannabis production facility.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-404 Cannabis, cannabis product, or medical cannabis device transportation.

- (1)
- (a) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:
 - (i) a registered cannabis production establishment agent; or
 - (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.
 - (b) Only an agent of a cannabis cultivating facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.
- (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:
- (a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;
 - (b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device that the individual is transporting; and
 - (c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.
- (3)
- (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.
 - (b) The transportation described in Subsection (3)(a) is limited to transportation:
 - (i) between a cannabis cultivation facility and:
 - (A) another cannabis cultivation facility; or
 - (B) a cannabis processing facility; and
 - (ii) between a cannabis processing facility and:
 - (A) another cannabis processing facility;

- (B) an independent cannabis testing laboratory;
- (C) a medical cannabis pharmacy; or
- (D) the state central fill medical cannabis pharmacy.

- (4)
 - (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.
 - (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).
 - (d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:
 - (i) the penalty described in Subsection (4)(b) does not apply; and
 - (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.
- (5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

Amended by Chapter 341, 2019 General Session

4-41a-405 Excess and disposal.

- (1) As used in this section, "medical cannabis waste" means waste and unused material from the cultivation and production of medical cannabis.
- (2) A cannabis production establishment shall:
 - (a) render medical cannabis waste unusable and unrecognizable before transporting the medical cannabis waste from the cannabis production establishment; and
 - (b) dispose of medical cannabis waste in accordance with:
 - (i) federal and state laws, rules, and regulations related to hazardous waste;
 - (ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
 - (iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
 - (iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) An individual may not transport or dispose of medical cannabis waste other than as provided in this section.

Enacted by Chapter 1, 2018 Special Session 3

4-41a-406 Local control.

- (1)
 - (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.
 - (b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.

(2)

- (a) A municipality or county may not deny or revoke a land use permit to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis.
- (b) A municipality or county may not deny or revoke a business license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 5

Cannabis Cultivation Facility Operating Requirements

4-41a-501 Cannabis cultivation facility -- Operating requirements.

- (1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.
- (2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system to identify:
 - (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;
 - (b) each unique harvest of cannabis plants;
 - (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and
 - (d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-502 Cannabis -- Labeling and child-resistant packaging.

For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and subsequently ships to another cannabis production establishment, the facility shall:

- (1) label the cannabis with a label that has a unique batch identification number that is connected to the inventory control system; and
- (2) package the cannabis in a container that is:
 - (a) tamper evident; and
 - (b) not appealing to children.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 6

Cannabis Processing Facility Operating Requirements

4-41a-601 Cannabis processing facility -- Operating requirements -- General.

A cannabis processing facility shall ensure that a cannabis product the cannabis processing facility sells complies with the requirements of this part.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-602 Cannabis product -- Labeling and child-resistant packaging.

- (1) For any cannabis product that a cannabis processing facility processes or produces, the facility shall:
 - (a) label the cannabis product with a label that:
 - (i) clearly and unambiguously states that the cannabis product contains cannabis;
 - (ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;
 - (iii) has a unique identification number that:
 - (A) is connected to the inventory control system; and
 - (B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;
 - (iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;
 - (v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and
 - (vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and
 - (b) package the cannabis product in a medicinal dosage form in a container that:
 - (i) except for a blister pack, is tamper evident and tamper resistant;
 - (ii) does not appeal to children;
 - (iii) does not mimic a candy container;
 - (iv) except for a blister pack, is opaque;
 - (v) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and
 - (vi) includes a warning label that states: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."
- (2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:
 - (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and
 - (b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.
- (3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a standard labeling format that:
 - (a) complies with the requirements of this section; and
 - (b) ensures inclusion of a pharmacy label.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-603 Cannabis product -- Product quality.

- (1) A cannabis processing facility may not produce a cannabis product in a physical form that:
 - (a) the facility knows or should know appeals to children;
 - (b) is designed to mimic or could be mistaken for a candy product; or
 - (c) for a product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children.
- (2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.
- (3) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 7

Independent Cannabis Testing Laboratories

4-41a-701 Cannabis and cannabis product testing.

- (1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption.
- (2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine:
 - (a)
 - (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and
 - (ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;
 - (b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and
 - (c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that is not safe for human consumption.
- (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:
 - (a) may determine the amount of any substance described in Subsections (2)(b) and (c) that is safe for human consumption; and
 - (b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment.
- (4) The department may require testing for a toxin if:
 - (a) the department receives information indicating the potential presence of a toxin; or

- (b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.
- (5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.
- (6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Amended by Chapter 341, 2019 General Session

4-41a-702 Reporting -- Inspections -- Seizure by the department.

- (1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human use:
 - (a) the independent cannabis testing laboratory shall:
 - (i) report the results and the cannabis or cannabis product batch to:
 - (A) the department; and
 - (B) the cannabis production establishment that prepared the cannabis or cannabis product batch; and
 - (ii) retain possession of the cannabis or cannabis product batch for two weeks in order to investigate the cause of the defective batch and to make a determination; and
 - (b) the cannabis production establishment that prepared the cannabis or cannabis product batch may appeal the determination described in Subsection (1)(a)(ii) to the department.
- (2) If the department determines, under Subsection (1)(a)(ii) or following an appeal under Subsection (1)(b), that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as a cannabis production establishment under Section 4-41a-405, the cannabis or cannabis product batch.
- (3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Part 8
Enforcement and Report

4-41a-801 Enforcement -- Fine -- Citation.

- (1) If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:
 - (a) revoke the person's license or cannabis production establishment agent registration card;
 - (b) decline to renew the person's license or cannabis production establishment agent registration card; or

- (c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The department shall deposit an administrative penalty imposed under this section into the General Fund.
- (3)
 - (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:
 - (i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or
 - (ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.
 - (b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:
 - (i) issue the person a written administrative citation;
 - (ii) attempt to negotiate a stipulated settlement;
 - (iii) seize, embargo, or destroy the cannabis or cannabis product batch;
 - (iv) order the person to cease and desist from the action that creates a violation; and
 - (v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person, who is not an individual, a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) The department may not revoke a cannabis production establishment's license without first directing the cannabis production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- (6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.
- (7) The department may, for a person who fails to comply with a citation under this section:
 - (a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or
 - (b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.
- (8)
 - (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual:
 - (i) violates a provision of this chapter, the individual is:
 - (A) guilty of an infraction; and
 - (B) subject to a \$100 fine; or
 - (ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:
 - (A) guilty of a class B misdemeanor; and
 - (B) subject to a \$1,000 fine.

- (b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).
- (9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

Renumbered and Amended by Chapter 1, 2018 Special Session 3

4-41a-802 Report.

- (1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:
 - (a) the number of applications and renewal applications that the department receives under this chapter;
 - (b) the number of each type of cannabis production facility that the department licenses in each county;
 - (c) the amount of cannabis that licensees grow;
 - (d) the amount of cannabis that licensees manufacture into cannabis products;
 - (e) the number of licenses the department revokes under this chapter; and
 - (f) the expenses incurred and revenues generated under this chapter.
- (2) The department may not include personally identifying information in the report described in this section.

Renumbered and Amended by Chapter 1, 2018 Special Session 3



Kane County Planning Commission Staff Report

MEETING DATE: July 10, 2019
PROJECT NUMBER: 19020
REQUEST: Conditional Use Permit for Southern Red Sands, LLC (SRS) Land Development Project, Mining Sand and (2) 120' silos
PREPARED BY: Shannon McBride, Land Use Authority Administrator

SYNOPSIS: The applicant, Southern Red Sands, LLC is seeking approval for a conditional use permit to construct and operate a sand mine operation and development on School and Institutional Trust Lands (SITLA) property, about 10.3 miles northwest of Kanab, mile post 76, for a full section of 640 acres, located in Section 16, Township 42 South (T42S), Range 7 West (R7W), Salt Lake Base & Meridian (SLB&M). The project will have a sand processing plant on the Section 16 property. The project site will have two (2) 120 foot silos. The conditional use permit requests an additional height from 40 feet to 120 feet height extension in a C-2 zone.

Kane County Land Use Ordinance (KCLUO) Title 9-15A-1-7 requires a conditional use permit subject to the Planning Commission's approval for underground mining, including underground and surface mining and transporting of minerals and for processing such minerals for sale or use in a commercial zone. All uses listed in the residential and agricultural uses table are allowed in the C-2 Zone with their appropriate designation of permitted or conditional unless otherwise changed in the commercial uses table.

KCLUO 9-5-5 (J) State Institutional Trust Lands Administration (SITLA) will be regulated under Chapter 7, "Commercial Zones", of this title. (Ord. O-2018-5, 7-9-2018; amd. Ord. O-2018-6, 7-9-2018)

KCLUO 9-7B-5: USES TABLE:

Material sales yard, outside, with sale of rock, sand, gravel, and the like as an incidental part of the main business but excluding concrete mixing	C
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KCLUO 9-5-3: USES TABLE:

Underground mining, including underground and surface for mining and transporting of minerals and for processing such minerals for sale or use	C
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9-7B-1: PURPOSE:

The purpose of the C-2 Zone is to provide for heavy commercial areas not appropriate near or in Residential Zones to meet larger commercial uses. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-7B-2: DEVELOPMENT RESTRICTIONS IN A COMMERCIAL ZONE:

- A. Setbacks: No commercial building shall be located closer than fifty feet (50') to any Residential Zone boundary or to any street line which continues into a Residential Zone, and no such building shall encroach on any easement. Any commercial lots abutting commercial lots shall have a front setback of no less than twenty five feet (25'), a side setback of no less than five feet (5') and a rear setback of no less than twenty feet (20'). (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- B. Residential And Agricultural Uses: All uses listed in the residential and agricultural uses table are allowed in the C-2 Zone with their appropriate designation of permitted or conditional unless otherwise changed in the commercial uses table. (Ord. O-2019-2, 1-14-2019)
- C. Vehicle Access Requirements: Adequate ingress and egress must be in place for all developments in Kane County. Commercial businesses such as, service stations, roadside stands, public parking lots and other businesses requiring motor vehicle access shall meet the requirements as prescribed in the Utah State Department of Transportation's manual entitled "Regulations for the Control and Protection of State Highway Rights-of-Way" where such access is on a Utah Department of Transportation right-of-way.
- D. Vehicle Access Improvements: All improvements for commercial motor vehicle access will be at the developer's expense. Kane County does not improve roads, easements or right-of-ways for development projects. (Ord. O-2019-4, 3-25-2019)

9-7B-3: MAXIMUM BUILDING HEIGHTS:

C-2 Zones: Four (4) stories and/or a maximum building height of forty feet (40') allowed with no limit on height for roof line and architectural features. (Ord. O-2019-2, 1-14-2019)

Hearing: A public hearing need not be held; however, a hearing may be held when the Land Use Authority shall deem a hearing to be necessary to serve the public interest.

Existing Zoning	Proposed Silo tower Height	Size of Property	Surrounding Properties Zones
C-2	120'	640 acres (A full Section)	BLM SITLA C-2 AG

SUMMARY:

- The applicant is proposing a sand/aggregate production facility.
- The proposed project would be designed to produce monocrystalline quartz derived from the Navajo Sandstone formation in Southern Utah.
- The project includes material handling equipment, hauling, silos, retention ponds, storing, dryers and generators.
- A Utah Department of Air Quality full report and compliance approval has been submitted as required in the Utah Air Conservation Act (Title 19, Chapter 2 of Utah Code).
- There will be (2) 120' silo's built onsite. These require additional approval within this conditional use permit for an extension of height restrictions from the allowed 40 foot high in Commercial Zones.
- A BLM Red Knoll Road Environmental Assessment has been initiated and is in process.

GENERAL INFORMATION & PICTURES OF THE PROJECT



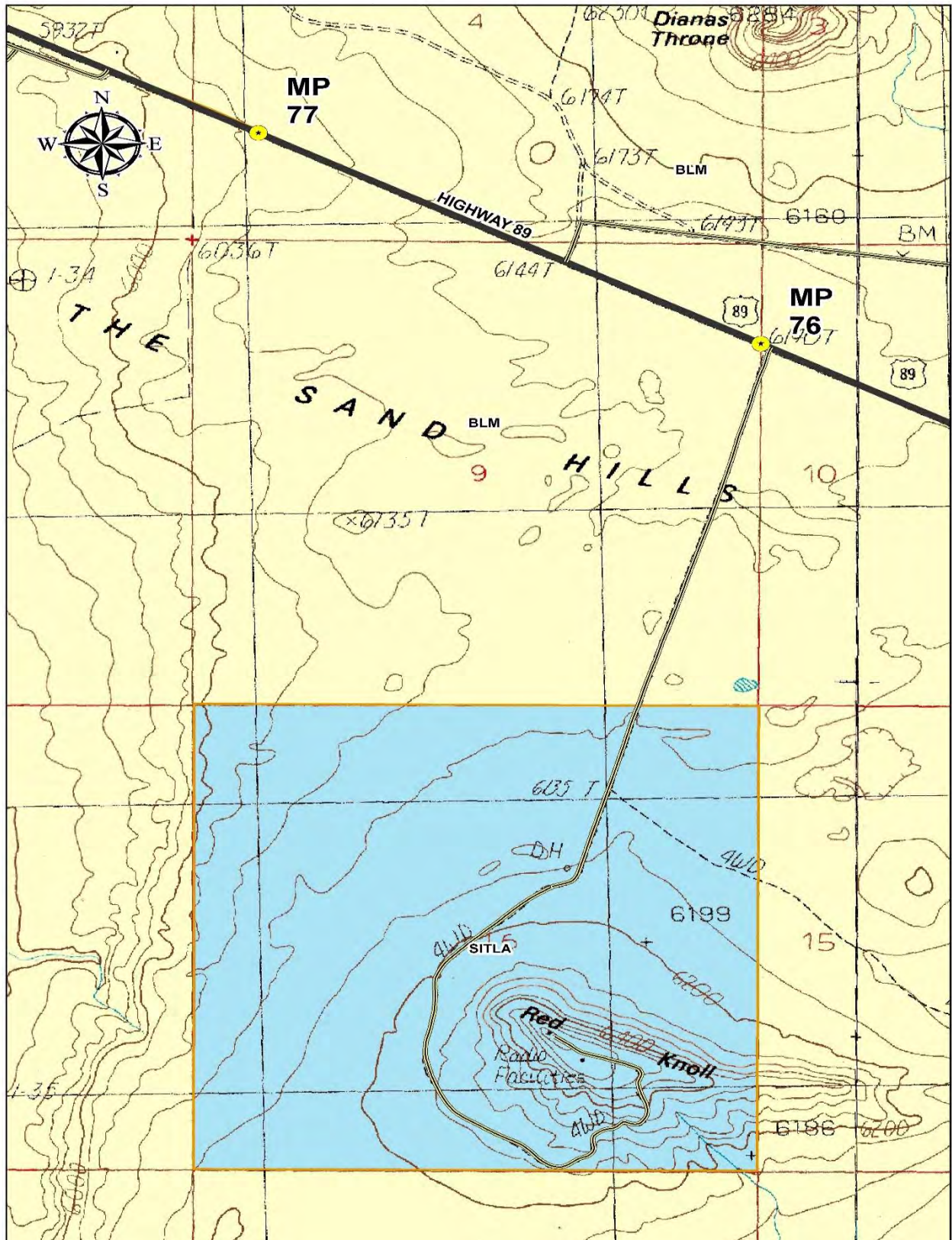
Highway 89 View Ingress & Egress
SRS Project

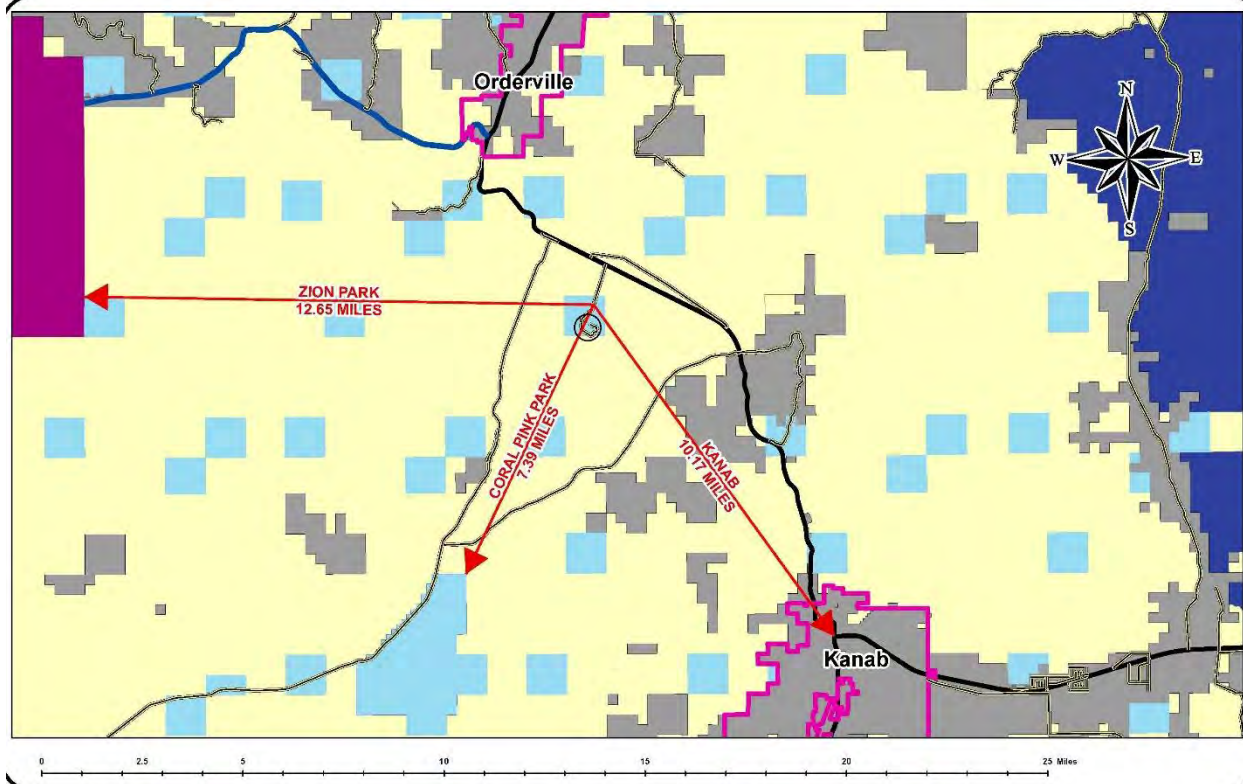


RS2477

This is an Acknowledgment and Notice of Acknowledgment made under Utah Code Sections 72-5-309 through 310 inclusive, that the grant of the United States of America of "the right of way for the construction of highways over public lands, not reserved for public uses" under United States Revised Statutes 2477 (43 U.S.C. Section 932 (repealed October 21, 1976, with provision recognizing the validity of rights-of-way already established) was accepted for and on behalf of the State of Utah and its political subdivision Kane County as it pertains to the highway located in Kane County known as Red Knoll Road; County Road Number: K1200; State Geographic Information Database (SGID) Road







STAFF RECOMMENDATIONS:

Kane County Land Use Authority Administrator, recommends approval of the Conditional Use Permit application in behalf of Southern Red Sands, LLC for a proposed Sand Mine Development on SITLA land, which is zoned C-2, located on Township 42, Range 7 West, Section 16, Salt Lake Base and Meridian, (SITLA 641.43), and the required ground equipment, and the 120 foot height extension, for two (2) silo's, based on the findings as found and regulated in KCLUO Chapter 15 Conditional Uses and the findings as documented in this staff report. All conditions have been stated and will be mitigated, and all detrimental effects have Federal, State and local laws and regulations in place to mitigate such proposed detrimental effects, as required by Utah State Code §17-27a-506 and the Kane County Land Use Ordinance, 9-15A-1-7. All conditions will be met and SRS will work in close association with the appropriate Kane County Development Committee during the mining development process to ensure all procedures and conditions are implemented.

Findings and Conditions: In approving a conditional use permit, the Land Use Authority **shall** find:

1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community;
2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity;

3. That the proposed use is in harmony with the intent of the General Plan and the zone in which it is located. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

FINDINGS: “Conditional Use” means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. This project is in compliance with:

Utah State Code §17-27a-304. Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a county jurisdiction over property owned by the state or the United States.

Utah State Code §17-27a-102. (1a-1b): Purposes -- General land use authority

- (1)(a) The purposes of this chapter are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of each county and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.
- (b) To accomplish the purposes of this chapter, counties may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the unincorporated area of the county, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, fundamental fairness in land use regulation, considerations of surrounding land uses and the balance of the foregoing purposes with a landowner's private property interests, height and location of vegetation, trees, and landscaping, unless expressly prohibited by law.

Utah State Code §17-27a-308. Land use authority requirements -- Nature of land use decision.

- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

§17-27a-506. Land Use Development Management Act; Conditional Uses.

- (1) (a) A county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.
- (b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

- (2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- (ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.
- (b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.
- (c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.
- (3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.
- (4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Utah Administrative Code: Rule R647-1. Minerals Regulatory Program. Subsections 63G-3-102 (5); also Sections 63G-3-701 and 702. These Rules and all subsequent revisions as approved and promulgated by the Board of Oil, Gas, and Mining of the State of Utah, are developed pursuant to the requirements of the Utah Mined Land Reclamation Act of 1975, Title 40, Chapter 8 of the Utah Code Annotated as amended (the Act). Section 40-8-2 of the Act states the findings of the Legislature. Each operator who conducts mining operations on any lands within the state of Utah is responsible for compliance with the following rules: (1) The Division shall provide guidelines to aid the operator in complying with the rules. (2) Cooperative Agreements/Memoranda of Understanding: The Division of Oil, Gas and Mining (DOGM) will cooperate with other state agencies, local governmental bodies, agencies of the federal government, and private interests in the furtherance of the purposes of the Utah Mined Land Reclamation Act. The Division is authorized to enter into cooperative agreements and develop memoranda of understanding with agencies in furtherance of the purposes of the Act. The objective is to minimize the need for operator to undertake duplicative, overlapping, excessive, or conflicting procedures. (3) Operator Responsibilities, Compliance with other Local, State and Federal Law as: The approval or acceptance of a complete Notice of Intention shall not relieve an operator from his responsibility to comply with the applicable statutes, rules, regulations, and ordinances of all local, state and federal agencies with jurisdiction over any aspect of the operator's mining operations, including, but not limited to: Utah State Division of Water Rights, the Utah Department of Business Regulation, the Utah State Industrial Commission, The Utah Department of Environmental Quality, the Utah Division of State History, the Division of Forestry, Fire and State Lands. The School and Institutional Trust Lands Administration, the Utah Division of Wildlife Resources, the U.C. Fish and Wildlife Service, the United States Bureau of Land Management, the United States Forest Service, the United States Environmental Protection Agency and local county or municipal governments. (4) Each operator who conducts mining operation on any lands within the state of Utah is responsible for compliance with these requirements.

This project is in compliance with the following Kane County General Plan guidelines: (Attachment #1) Pages 3, 4, 6, 7, 8, 10, 13, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, 45, 48, and 50.

This project is in compliance with the following Kane County Land Use Ordinance regulations: (Attachment #1) 9-1-2-3-(8-9), 9-5-5, 9-7A-3, 9-10-(10-14), 9-13-(10-14), 9-14-(1-2), 9-15A-(1-7), Conditional Uses, 9-19-1, 9-22-(1-3), 9-26-(1-11).

CHAPTER 15 CONDITIONAL USES:

Review Criteria: In reviewing an application for a conditional use permit, the land use authority **shall** consider whether the application: substantially mitigates the adverse impacts that are reasonable anticipated from the magnitude and intensity of the development and use, as proposed.

Development Plan: The applicant for a conditional use permit shall prepare a site plan of the proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the Land Use Authority may deem necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Land Use Authority Action: The Land Use Authority **shall** approve a conditional use permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. In approving any conditional use permit, the Land Use Authority **may** impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions **may** include the following:

CONDITIONS - FINDINGS – MITIGATION SRS DEVELOPMENT FOR SAND MINE KCLUO 9-15-1-7 CONDITIONAL USES

1. Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity.

Findings:

- A.) **Health:** All Federal, State and local permits will be in place before construction can begin.
- B.) **Safety:** All Federal, State and local permits will be in place before construction can begin on roads and infrastructure for the project.
- C.) **Comfort:** The Kane County Land Use Authority held a public hearing to hear any comments pertaining to the SRS project. (Comfort as defined: the easing or alleviation of a person's feelings of grief or distress.)
- D.) **Order:** The SRS development will comply with pertinent *Kane County Land Use Ordinance* and *General Plan* requirements. (Attachment #1)
- E.) **General Welfare:** No public funds will be allocated for this project. Kane County has a private land base of 10.3% private land and 3.8% SITLA lands. For the General Welfare of the citizens of Kane County all SITLA lands and private lands need to be used for the highest benefit for a balanced economic base. "Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the

subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.”
(Kane County General Plan, page 10)

<i>Jurisdiction</i>	<i>Acres</i>	<i>Percentage</i>
Bureau of Land Management	1,653,394	62.9%
Grand Staircase-Escalante National Monument	763,100*	29.0%
Kanab Resource Area (Non-Monument)	890,294*	33.9%
National Park Service	469,026	17.9%
Glen Canyon National Recreation Area	450,698	17.2%
Bryce Canyon National Park	8,910	0.3%
Zion National Park	9,418	0.4%
U.S. Forest Service (Dixie National Forest)	123,482	4.7%
Total Federal Land Base	2,245,902	85.5%
Dept. of Natural Resources	4,086	0.2%
School and Institutional Trust Lands	99,864	3.8%
Coral Pink Sand Dunes State Park	3,727	0.1%
Kodachrome State Park	3,148	0.1%
Total State Land Base	110,825	4.2%
Alton Town	1,506	0.06%
Big Water Town	3,904	0.15%
Glendale Town	4,992	0.19%
Kanab City	9,362	0.36%
Orderville Town	1,024	0.04%
Unincorporated	249,936	9.5%
Total Private Land Base	270,724	10.3%
Total Land Base	2,627,409	100%

Source: 1) *An Analysis of Long-Term Economic Growth in Southwestern Utah*; Bureau of Economic and Business Research; June 2008. 2) 2010 U.S. Census. 3) *Utah State Geographic Information Database (SGID, May 2011)*. 4) *Kane County Recorder*. Columns may not total due to rounding. *Reflects new monument boundaries.

APPLICANTS MITIGATION:

Health & Safety: SRS will be regulated by the Mine Safety and Health Administration (MSHA), and Occupational Safety and Health Administration (OSHA), which will review and approve the “Mine Plan” once it is completed. The Mine Plan will be a set of procedures and policies which will be implemented prior to the start of mining operations. The Mine Plan will cover all aspects of safety on the mine site regulated under Federal Regulations 30 CFR Parts 1-199. All employees and on-site workers will be required to be certified miners, which requires a

40-hour minimum training and a minimum of 8 hours of continuing training each year, as well as weekly and daily safety meetings and trainings.

“MSHA is required to inspect each...surface mine twice a year for health and safety compliance. Inspections are also conducted in response to complaints of hazardous conditions. On finding any violation of health or safety standard, an inspector will write a citation that specifies the standard violated and evaluates the gravity of the violation by several factors, including likelihood of injury. An inspector may also issue an order to withdraw due to imminent danger, failure to correct a violation within the appropriate time period, inadequate training of miners, or an unwarrantable failure to comply.” (<https://www.msha.gov/compliance-enforcement/mine-inspections>) MSHA has unrestricted access to the mine site and can perform random inspections in addition to the regular inspections performed twice a year.

SRS will comply with Utah Administrative Code R647. The rules apply to all lands within the state of Utah lawfully subject to its police power, regardless of surface or mineral ownership, and regardless of the type of mining operation conducted. Therefore, all permitting will go through Division of Gas and Mining (DOGM) and ensure compliance with all health, safety standards for this mining development and operation. An “Approved Notice of Intention” shall be formally filed to commence mining operations, including any amendments or revisions thereto that is determined to be complete and contains a mining and reclamation plan, which has been approved by the Division.

R647-1-104. “If ... a violation of the Act, these rules, a notice of intention, or a Board or Division order has occurred, the Board may take any enforcement action authorized by law including requiring: compliance, abatement, mitigation, cessation of operations, a civil suit, forfeiture of surety, reclamation, or any other lawful action.

SRS has initiated a Notice of Intent (NOI) with the Utah Division of Air Quality (UDAQ) for its proposed operations in Kane County, Utah. The Utah Air Conservation Act and Utah Administrative Code includes requirements for state permitting of new or modified emission sources which will list all criteria pollutants, hazardous Air Pollutants and Greenhouse Gas emissions and Best Available Control Technology, Air Quality Modeling. SRS has tested the soil/sand in the proposed mine area and has found that the smallest soil particulate size in the mined material is above 170 mesh size (88 microns). 29 CFR 1910.1053 regulates exposure “respirable crystalline silica”. Respirable particles generally refers to particles small enough to reach the alveolar spaces in the lung, which are particles smaller than 10 microns (OSHA Docket OSHA-2010-0034). As per 29 CFR 1910.1053, the material in the proposed mining area is not small enough to be inhaled and does not pose a respiratory risk.

When equipment is refueled, maintained, or repaired outside the shops, special care must be taken to prevent spills and to quickly contain and collect accidental spills. The employees at each site will be trained under a spill control plan. Used oil, lubricants, antifreeze, paint, solvents, vehicle cleaning waste, and shop wastes will be properly contained, stored, and recycled or disposed of in compliance with state and federal requirements.

(SITLA Lease: Page ML 53492-MP Page No. 3 (14)) Hazardous Substances and Waste Certification. Hazardous substances and waste used in conjunction with or generated by Permittee’s operation upon the Permitted Property shall be subject to the following provision.

- (a) Hazardous Substances. Permittee [or other occupant pursuant to any agreement authorizing mining] shall not keep on or about the premises any hazardous substances, as defined under

42 U. S. C. §960 (14) or any other Federal environmental law, any regulated substance contained in or released from any underground storage tank, as defined by the Resource Conservation and Recovery Act, 42 U. S. C. §6991], et. Seq, or any substances defined and regulated as Substances”) unless such substances are reasonably necessary in Permittee’s mining or processing operations, and the use of such substances or tanks is noted and approved in the Permittee’s mining plan, and unless Permittee fully complies with all Federal, State and local laws, regulations, statutes, and ordinances, now in existence or as subsequently enacted or amended, governing Hazardous Substances. Permittee shall immediately notify Permitter, the surface management agency, and any other Federal, State and local agency with jurisdiction over the Permitted Property or operations therein, or contaminate thereon, of (i) all reportable spills or releases of any Hazardous Substance affecting the Permitted Property, (ii) all failures to comply with any applicable Federal state or local law regulation or ordinance governing Hazardous Substances, as now enacted or as subsequently enacted or amended, (iii) all inspections of the Permitted Property by, or any correspondence, order, citation, or notifications from any regulatory entity concerning Hazardous Substances affecting the Permitted Property, (iv) all regulatory orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private Party concerning the Permitted Property.

Safety: A safety data sheet in accordance to Federal Regulation 29 CFR 1910.1200 has been initiated.

Order: SRS agreed to go through the Kane County Conditional Use Permit process, as required per SITLA lease. The SITLA lease requires Federal, State and local requirements to be met.

General Welfare: SRS will provide all funding for infrastructure and improvements and will not rely on public funds for their development.

“Six percent of the land within Utah’s borders is trust land and set aside to provide a continual source of funding for K-12 public education and 11 other trust land beneficiaries. SITLA is tasked with managing Utah’s 3.4 million acres of trust land and working with private business to generate revenue from energy and mineral royalties, and real estate and surface development.

STEWARDSHIP

In addition to generating substantial revenue, the Administration has been involved in numerous transactions and projects that have preserved and protected more than 560,000 acres of land in Utah, an area equivalent to the combined acreage of Arches, Bryce Canyon, Capitol Reef, and Zion National Parks.

LAND EXCHANGE DISTRIBUTION ACCOUNT (LEDA)

The agency also administers the Land Exchange Distribution Account, managing the complex disbursement of development royalties from federal lands, which serve as compensation to the 27 counties that acquired or exchanged lands at the time of the Grand Staircase Escalante National Monument designation. This responsibility will continue to grow as the Administration collaborates on several land exchanges with the federal government.

MISSION: Administering trust lands prudently and profitably for Utah’s schoolchildren and other trust beneficiaries.”

BLM Manual: How to Obtain Mineral Materials from BLM-Administered Federal Lands, Including Stone, Sand and Gravel, Clay and Other Materials states, “Mineral materials are among

our most basic natural resources. These materials are in everyday construction, agriculture, and decorative applications. The United States uses about 2 billion tons of crushed stone, dimensions stone, and sand and gravel every year. Our highways, bridges, power plants, dams, high-rise buildings, railroad beds, and airport runways, along with their foundations and sidewalks, all use mineral materials of one type or another. Separating naturally occurring mineral materials from the earth is neither easy nor inexpensive. The sheer weight of materials like stone makes their transportation costs high. Therefore, adequate local supplies of these basic resources are vital to the economic life of every community. It is the BLM's policy to make these materials available to the public and local governmental agencies whenever possible and wherever it is environmentally acceptable."

Kane County, the State of Utah, and our nation require sand materials as one of our most basic natural resources and is essential for the general welfare of our citizens.

2. Assurance the use will:

a. Comply with the intent, spirit and regulations of the Kane County Land Use Ordinance and Kane County General Plan.

Ordinance Findings: *Kane County General Plan:* Pages 3, 4, 6, 7, 8, 10, 13, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, 45, 48, 50. (Attachment #1)

This project is in compliance with the following *Kane County Land Use Ordinance* (KCLUO) regulations: 9-1-2-3-(8-9), 9-5-5, 9-7A-3, 9-10-(10-14), 9-13-(10-14), 9-14-(1-2), 9-15A-(1-7): Conditional Uses, 9-19-1, 9-22-(1-3), 9-26-(1-11). (Attachment #1)

APPLICANTS MITIGATION: SRS will comply with all Federal, State, and local permits and the signed lease/agreement with SITLA to mitigate any detrimental conditions.

3. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations:

Findings: *KCLUO Conditional and Temporary Uses: 9-15A-1-7* all mitigating factors must be in place before permits are acquired.

Findings: The CUP application requests additional height limits. The proposed height exceeds the height allowed per *KCLUO 9-7A-3: Maximum Building Heights: C-2 Zones: Four (4) stories and/or a maximum building height of 40 feet* allowed with no limit on height for roof line and architectural features.

Findings: A thorough Development Plan needs to be submitted as required per *KCLUO 9-15A-2-(B) Development Plan:* The applicant for a conditional use permit shall prepare a site plan of the proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the Land Use Authority may deem necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

APPLICANTS MITIGATION:

Site size: Property 640 acres; processing plant: 15 acres; mining area: 40 acres of mining during first 5-10 years of operation.

Dimensions: See attached site plan.

Location: SITLA, Section 16, zoned C-2.

Topography: See attached site plan.

Access: UDOT traffic plans will be approved and a letter of feasibility will be submitted to Kane County Land Use Administrator and Lou Pratt, GIS.

Parking: Will be approved by the Kane County Land Use Administrator and be in compliance with Kane County Land Use Ordinance 9-13-(1-14).

Noise: MSHA 30 CFR and Kane County Nuisance Ordinance will be adhered to. The processing plant is located a minimum of 3,800 feet from U.S. Highway 89. The existing vegetation and terrain will mitigate the noise produced by the project. All the property surrounding the project is undeveloped BLM property. The closest private property is located more than 3 miles from the project site. The plant will be under continuous operation, but the mining operation will cease operation by 11 p.m. and not restart prior to sunrise.

Traffic: Access to the Project Site will be provided via U.S. Highway 89, Milepost 76 (refer to Exhibit C1, *Site Plan*). To ensure the project does not impact the local circulation network or cause significant traffic on U.S. Highway 89, SRS will develop and implement a Transportation Management Plan (TMP) in coordination with the Kane County Engineer and UDOT prior to construction and issuance of a building permit. The TMP will identify potential hazards associated with the Project, outline safety and traffic calming measures, and provide guidelines for accessing the Project Site during construction and emergency situations. The TMP will designate specific routes for employees, delivery trucks, and emergency vehicles, and will specify design features and upgrades needed for safe and adequate ingress/egress and internal service roads. Internal service roads will be unpaved and maintained throughout construction of the Project.

As part of the highway access permitting process, UDOT is requiring SRS to construct turning and acceleration lanes in both directions. In addition to the turning and acceleration lanes, UDOT is requiring additional stacking area in the turning lanes to allow for multiple trucks to be in the turning lanes without impeding the highway traffic. This will minimize the impact of the haul trucks on the existing traffic on U.S. Highway 89. The highway improvement plans have been prepared and submitted to UDOT. UDOT has reviewed the plans and SRS is waiting on the final permit to be issued for construction.

Vibration: No blasting is planned and thus no vibration will be produced.

Exhaust/Emissions: All permits will be obtained as listed in previous conditions to eliminate the exhaust/emissions, and erosion. Emissions will meet all local and Federal EPA requirements. A water truck will be used to wet down the job site and access road so as to minimize dust during construction. The access roads will be paved to mitigate traffic dust.

Light: SRS will comply with all lighting measures in the *Kane County Land Use Ordinance 9-10-14: LIGHTING*: The concerns of safety, utility, dark sky protection and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. Careful attention to when, where, and how much nighttime lighting is needed results in better lighting practices, darker skies and reduced energy use and costs. Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. Any and all new and major addition to land uses, developments and buildings or structures are encouraged to use hooded lighting practices. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Glare: SRS will comply with all lighting measures in the *Kane County Land Use Ordinance 9-10-14: LIGHTING*. The two silos will be color matched painted to blend in and avoid glare.

Erosion: Project Construction: The construction of the access road, highway improvements, mine facility construction and mine operations will require a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP will require measures to prevent the erosion and transportation of material. The SWPPP will require the use of Best Management Practices (BMPs). The following BMPs will be applied: worker's facilities, roads and erosion control will be employed during site preparation and water truck refilling stations (if required) for Air Quality compliance through the Department of Air Quality for dust control. All the sites are very close to Highway 89, which has a lot of tourist traffic, and safety needs to be of utmost importance. This final BMP is required for Grading Activities. The disturbed, unpaved portions of the developed project site must have some type of ground cover to prevent the blowing of excess dust and dirt. Fugitive dust impacts from the project site shall be closely monitored during construction, and dust control methods shall be utilized as necessary to minimize fugitive dust from the project site.

The final mining operations will require 100% on-site runoff retention. All on-site storm water will be diverted to an on-site, membrane-lined retention pond. The storm water will then be eliminated through evaporation, leaving all solids in the pond.

Odor: A feasibility letter for solid waste during construction and during the day-to-day operations of the SRS project is required.

Dust: Fugitive Dust Control Plan: The Utah Department of Environmental Quality regulates fugitive dust emissions via Rule R307-309, requiring development of a Fugitive Dust Control Plan (R307-309-6). SRS will develop and submit a Fugitive Dust Control Plan to the Utah Division of Air Quality prior to the start of construction. SRS will closely monitor fugitive dust at the Project Site, ensuring that all construction activities comply with R307-309, and adhere to the measures outlined in the approved Fugitive Dust Control Plan.

Visibility: All permits will be obtained and submitted to the KCLUA as listed in previous conditions to eliminate the exhaust/emissions, and erosion. Emissions will meet all local and Federal EPA and MSHA requirements. All heavy equipment will use Tier 4 emission systems. A water truck will be used to wet down the job site so as to minimize dust during construction. The roads will be paved to mitigate traffic dust. The processing plant is located a minimum of

3,800 feet from U.S. Highway 89. The existing vegetation and terrain will mitigate the noise produced by the project. All the property surrounding the project is undeveloped BLM property. The closest private property is located more than 3 miles from the project site. The plant will be under continuous operation, but the mining operation will cease operation by 11 pm and not restart prior to sunrise.

The silos and other visible portions of the plant will be color match painted to blend into the background of the existing site.

Safety: A safety data sheet in accordance to Federal Regulation 29 CFR 1910.1200 has been initiated. The Mine Safety Plan is being prepared in accordance with MSHA requirements of 30 CFR. MSHA will be required to review and approve the Mine Safety Plan. SRS will employ a Safety Officer to ensure that the plan is followed. MSHA will do inspections as previously listed to ensure the plan is followed.

Aesthetic consideration: SRS has signed a lease with SITLA that requires a Reclamation Plan after any surface-disturbing activity. The reclamation of disturbed sites is important to be sure that the land can later be used productively for other purposes. Reclamation includes removing all surface debris, recontouring, reducing steep slopes, and planting and growing vegetation. All reclamation proposals must conform to State agency requirements and must be approved by the appropriate agencies.

Reclamation. Permittee agrees to perform, following the completion of excavations, such reclamation measures as may be required by Permitter and by the Utah Division of Oil, Gas & Mining to stabilize and restore natural surface conditions. Such reclamation measures will generally consist of, but not necessarily be limited to, elimination of surface high walls, contouring of slopes at a ratio not less than three feet horizontal for each one foot vertical, elimination of access roads, replacement of natural top soils, revegetation using such seed mixture and concentration of application as may be specified by Permitter, removal of all trash and debris, and removal of all equipment, buildings and structures owned by the Permittee or Permittee's agents.

SITLA requires Performance and Reclamation Bonds and Reclamation Plans on all projects through their lease agreements. (SITLA LEASE ML 53492-MP Page No. 3) Permittee agrees to furnish Permitter a performance and reclamation bond in such type and amount and by such date as Permitter may request. Further, it is expressly agreed that Permitter may at any time, upon 30 days' notice by certified mail, require Permittee to furnish Permitter such additional performance and reclamation bond as Permitter may deem to be in the best interest of the State of Utah. Permittee also agrees to comply with all requirements of the Utah Division of Oil, Gas & Mining with respect to bonding of mining operations and to post such bonds as may legally be required by the Division of Oil, Gas & Mining.

The proposed Mining Plan will mine the project in 5 acre sections. Each section will be mined and reclaimed prior to mining the next section. This is possible, due to the fact that the useable deposits have limited to no overburden.

4. Evidence that all required public facilities have adequate capacity to serve the proposed conditional use:

Findings: All necessary facilities will obtain required permits from State, Federal and County Entities, i.e., Building Department, Southwest Utah Health Department, UDOT, Garkane, Water Conservancy District, Kanab City, Fire Warden, Law Enforcement, Garbage Disposal (land fill needs and solid waste) approval, etc.

KCLUO 9-22-1-3 PERFORMANCE STANDARDS, 9-22-1: PURPOSE: To permit potential nuisances from industrial or other uses to be measured factually and objectively in terms of the potential nuisance itself; to ensure that all uses will provide necessary control methods for protection from hazards and nuisances which can be prevented by modern processes of control and nuisance elimination; to protect any use from arbitrary exclusion based solely on the characteristics of uncontrolled production in this type of use in the past. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-22-2: GENERAL PROVISIONS:

No land or building in any zone shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard; noise or vibration, smoke, dust, odor, or other form of air pollution; heat, cold, dampness, glare, electrical or other disturbance; liquid or solid refuse or wastes; or other substance, condition or element in such a manner or in such an amount as to affect adversely the surrounding area or adjoining premises. The foregoing is hereinafter referred to as "dangerous or objectionable elements". No use shall be undertaken or maintained unless it conforms to the regulations of this chapter in addition to the regulations set forth for the district in which such use is situated. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-22-3: PERFORMANCE STANDARDS PROCEDURE:

The Building Official or County Engineer may require performance standards review for compliance of any use in any zone when there is reason to believe that such use or the manner of its operation will not or may not conform to the performance standards adopted by Kane County, to include, but not limited to, "Kane County Standard Specifications and Drawing Details for Design and Construction", Federal, State and local EPA standards, ICC Codes, etc. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Wildland Fire Protection: The project shall comply with the defensible space requirements of the Utah Wildland-Urban Interface Code throughout construction and operation of the facility. Ongoing maintenance must be provided to ensure removal of grass, weeds, and other flammable materials from the defensible space area. Any vegetation control at the site shall use materials and methods that ensure protection of the groundwater. The Applicant shall offer to facilitate training for the appropriate fire departments(s) with training relating to the specific hazards of the sand development project (e.g. transformer fires, shock hazards).

Emergency and Shutdown Procedures: To ensure the safety of all employees working on the Project during construction, an Emergency Response Plan needs to be developed and implemented for the Project in accordance with 3 CFR established by MSHA. Key personnel will be designated to train all employees working on the project and will be responsible for administering emergency and shutdown procedures in the event of an emergency. Emergency and shutdown procedures will be clearly displayed in all construction trailers, along with contact

information for emergency service providers and treatment facilities. Appropriate warning signage will be placed on all towers, electrical equipment, and project site ingress and egress points.

Key personnel designated to train all employees working on the Project will need to contact local emergency agency staff and inform them of the emergency shutdown procedures including who needs to be contacted in the case of an emergency. To ensure the safety of all employees working on the Project during construction, SRS will adhere to the Emergency and Shutdown Procedures.

APPLICANTS MITIGATION: The emergency response plan will be developed and in place as established by MSHA and submitted to the county. SRS agrees to have all feasibility letters in place before any improvements to the project area can move forward to provide that adequate public facilities are available to sustain this project.

5. Limiting the hours, days, place and/or manner of operation:

Findings: *Kane County Health and Safety Ordinance 4-3-3-25: Nuisances Defined and Enumerated:*

Noise Related Nuisances: It shall be unlawful for any person in the county in a public or private place to make, cause to be made or allow the making of any noise which is inconsistent with the zoning area between the hours of eleven o'clock (11:00) P.M. and sunrise which is unnecessary or unusual, which noise annoys, disturbs or affects the comfort, repose, health or peace of others. Any such noise hereinbefore described, heard outside the limits of the real estate from which said noise has its source and heard by another person, shall be a noise as is hereby prohibited, which noise constitutes the basis of the violation of this section.

APPLICANTS MITIGATION: The mining operations will comply with no operations during the hours of eleven o'clock p.m. and sunrise. SRS is requesting that the Processing Plant be allowed to operate with unrestricted hours. The processing operations will consist of the operation of the plant, the operation of 3 front end loaders and the loading of haul trucks.

6. Requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust:

Findings: SRS will be required to comply with MSHA 30 CFR requirements as to mitigating noise, vibration, exhaust/emissions, erosion and dust. SRS will be required to paint match the silos with a matte paint to reduce glare. The final processing plant design will be submitted to the County for approval once they are finalized.

KCLUO 9-10-14 LIGHTING: Light and Glare: All lighting measures will reduce the amount of light trespass falling outside the Project Site boundaries. The concerns of safety, utility, dark sky protection and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. Careful attention to when, where, and how much nighttime lighting is needed results in better lighting practices, darker skies and reduced energy use and costs. Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. Any and all new and major addition to land uses, developments and buildings or structures are encouraged to use hooded lighting practices. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

APPLICANTS MITIGATION: All permits will be obtained as listed in previous conditions to eliminate the exhaust/emissions, and erosion. Emissions will meet all local and Federal EPA and MSHA requirements. All heavy equipment will use Tier 4 emission systems. A water truck will be used to wet down the job site so as to minimize dust during construction. The roads will be paved to mitigate traffic dust.

7. Requiring larger setback areas, lot area, and/or lot depth or width;

Findings: The setback requirements for the commercial zone have been met; however, the height requirements could not be acquired. Therefore, the conditional use permit includes the application request for a height extension of 120 feet.

APPLICANTS MITIGATION: The 120 feet tall silos will be constructed of pre-manufactured metal which is a non-combustible type construction. The silos will only contain dried sorted sand. The silos will only have an employee occasionally access the upper section of the silos. When not being accessed as stated the access to the upper silos will be restricted. This will eliminate the fire and hazard risk associated with the height of the silos.

As previously stated, the silos will be color match painted to blend into the background of the existing site.

View shed cross sections will be provided prior to the meeting for the Planning Commission to review. The view shed sections will be from the processing plant location and extend both towards the highway and towards the Best Friends property.

8. Limiting the building height size or lot coverage, and/or location on the site;

Findings: *KCLUO 9-7B-3: MAXIMUM BUILDING HEIGHTS: C-2 Zones: Four (4) stories and/or a maximum building height of forty feet (40') allowed with no limit on height for roof line and architectural features. (Ord. O-2019-2, 1-14-2019)*

The two (2) silos will be 120 feet in height. It would be recommended to ensure the view shed is protected to paint the silos a color of the surrounding landscape.

APPLICANTS MITIGATION: The 120 feet tall silos will be constructed of pre-manufactured metal which is a non-combustible type construction. The silos will only contain dried sorted sand. The silos will only have an employee occasionally access the upper section of the silos. When not being accessed as stated the access to the upper silos will be restricted. This will eliminate the fire and hazard risk associated with the height of the silos.

9. Designating the size, number, location and/or design of vehicle access points or parking areas;

Findings: The applicant is developing a final parking and vehicle circulation plan which will need to be reviewed and approved by the KC Development Committee prior to the start of construction.

APPLICANTS MITIGATION: All vehicular access will be from U.S. Highway 89 via the proposed access road. The proposed access road will consist of an asphalted surface with 12 feet wide lanes in each direction and 5 feet wide shoulders on each side. This will provide adequate access to and from the project site and will allow for emergency vehicle access as needed.

The on-site parking and traffic circulation plan will be submitted to the County for review and approval when completed.

When equipment is refueled, maintained, or repaired outside the shops, special care will be taken to prevent spills and to quickly contain and collect accidental spills. The employees at each site will be trained under a spill control plan. Used oil, lubricants, antifreeze, paint, solvents, vehicle cleaning waste, and shop wastes will be properly contained, stored, and recycled or disposed of in compliance with state and federal requirements.

10. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved.

Findings: This project will need Utah Department of Transportation's approval. Additional turn lanes will be required to and from the project off of Highway 89.

APPLICANTS MITIGATION: The access road from the highway to the mine site will be upgraded with an asphalt surface and required drainage and will continue to provide access to the existing dirt trail which are currently being accessed via this road.

No curb, gutter or sidewalk will be installed.

11. Requiring landscaping, screening, drainage, water quality facilities and/or improvements of parking and loading areas;

Findings: A construction storm water runoff at a pit or quarry will require a drainage plan for intimal construction phases of operation. Construction activities, such as building roads, berms, containment devices, and grading at a new pit or quarry that involves one or more acres, may trigger the requirement to obtain a construction storm water permit, and to stabilize these initial disruptions before terminating the permit. A site with runoff tends to have a good Pollution Prevention Plan implemented for the operations at the project site. Good Management Practices such as vegetative buffer, detention ponds, covered bulk containers, and hazardous material storage area, as well as the skillful placement of stockpile sand equipment can greatly improve storm water management and erosion control at aggregate sites.

APPLICANTS MITIGATION:

Landscaping: The 50-foot setback utilizes existing vegetation and topography to shield views from traffic along U.S. Highway 89. No habitable structures are located within the immediate vicinity of the Project Site.

Screening: The existing vegetation will be used to screen the mine site from the surrounding areas.

Drainage: The drainage plan for the access road improvements will be evaluated as part of the NEPA approval process. A drainage plan for the mine site will be completed as part of the design process and will be submitted to the County for review and approval. As required by State and Federal agencies, all on-site storm water will be retained on-site in a lined evaporation pond.

Water: A Groundwater feasibility and Well Siting Study has been initiated.

Loading Areas/Parking: The parking plan will be submitted for review and approval by the County prior to construction.

Parking and Staging Areas: SRS will ensure adequate parking is provided for construction workers at the Project Site and prohibit parking along U.S. Highway 89. Refer to Exhibit C1, *Site Plan*, for a depiction of the temporary parking and staging areas.

12. Limiting the number, size, location, height and/or lighting of signs;

Findings: N/A. No signs were proposed for this project.

APPLICANTS MITIGATION: Signage requirements will be developed as part of the Mine Plan and design. All signage will be submitted to the County for review and approval as part of the building permit process.

13. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

Findings: (Refer to Condition #6) Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. New and major additions to land-uses, developments and buildings or structures are encouraged to use hooded lighting practice. (KCGP pg. 24)

APPLICANTS MITIGATION: SRS will comply with the Kane County requirements for night lighting. SRS will comply with the night sky ordinance of Kanab City (Kanab City Land Use Ordinance Chapter 22) as allowed by MSHA safety requirements (30 CFR) and the Illuminating Engineering Society (IES).

14. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

Findings: Surrounded by BLM and located on SITLA section, no residential land abutting this SITLA section.

APPLICANTS MITIGATION: The proposed site is located a minimum of 3800 feet from U.S. Highway 89. The existing vegetation will be used as screening from the highway. As previously stated, the silos will be painted to match the existing background.

15. Requiring and designating the size, height, location and/or materials for fences;

Findings: KCLUO 9-10-5 (A & B): WALL, FENCE, OR HEDGE:

A. No fence or wall or other similar structure associated with residential, commercial or manufacturing uses shall be erected in any required front, rear or side yard to a height as stated in the Building Code without first obtaining a building permit. Where there is a difference in the grade of the properties on either side of a fence or wall, the height of the fence or wall shall be measured from average elevation of finished grades of the adjoining properties in question at the fence line, except that no fence need be less than forty two inches (42") in height. No fence shall be constructed that in any way obstructs the view of traffic.

B. Kane County reaffirms Utah State Code 4-25-205 in as much as the owner of livestock including dairy animals, poultry, cattle, sheep, swine, horses, ponies, mules or goats, that trespass upon the premises of another person is not liable in a civil action to the owner or occupant of the premises for damage inflicted if the premises that was trespassed is not enclosed by a legal fence at the time the trespass occurs. (Ord. O-2017-4, 6-26-2017)

APPLICANTS MITIGATION: SRS will fence approximately 55 acres with an 8 feet high chain-link fence. The fencing plan will be submitted as part of the final design.

16. Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

Findings: The silos are in the scenic view shed. As much of the existing vegetation will be preserved for scenic values. Preservation of natural features including existing trees, soils, vegetation, watercourses, habitat area, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands need to be submitted with the CUP application.

APPLICANTS MITIGATION: A reclamation plan per SITLA lease will be in place and a performance bond to ensure the project is protected and preserved after the life of the mine.

An archaeological Review has been initiated Under 36 Code of Federal Register (CFR) § 800- the regulations implementing Section 106 of the National Historic Preservation Act.

SITLA LEASE: ML 53492-MP Page No. 4

(15) Plan of Operations. Permittee does not have the right to conduct surface disturbing operations, or any operations that have the potential to affect historic properties, without first obtaining Permitter's approval pursuant to Utah Administrative Code R850-24-700. Permittee must submit to Permitter a detailed plan of operations, not less than 60 days prior to the commencement of such operations. The detailed plan of operations shall include such information and maps as may be required by Permitter to evaluate the impact of the proposed mining operation and surface disturbances upon the Permitted Property and upon other natural and cultural resources. Permitter may request additional information or modification of Permittee's plan of operations. Permittee shall not proceed with an excavations or new mining in the Permitted Property without first receiving from Permitter a written approval of its plan of operation. Permittee shall also provide notice of new operations to the Utah Division of Oil Gas & Mining and obtain any necessary Permits as required by law. Permittee shall also give notice to all owners, lessees and permittees of record of the surface estate and the mineral estate prior to entering upon the Permitted Property to conduct any excavations or mining operations of any kind. Permittee shall submit to Permitter a report of all excavations, surface disturbances, production, and reclamation work performed upon the Permitted Property each year or fraction of a year that this permit is in effect. Such report shall be submitted at least 30 days prior to each anniversary date that this permit is in effect and within at least 30 days following the termination or expiration of this permit.

(16) No Unnecessary Damage. Permittee shall take reasonable precautions to protect, in place, all public land survey monuments, and private property corner. Permittee shall conduct all operations under this permit in a lawful prudent and good workmanlike manner, shall avoid unnecessary damage and injury to the surface or underlying estate, and shall not commit damage and wastage of other natural resources not covered by this permit.

(17) Cultural Resources. Prior to commencing any surface, disturbing operations or any operations that have the potential to affect historic properties, Permittee, must contract for, and pay the costs of, a cultural resource inventory prepared in accordance with applicable laws and regulations, or otherwise provide Lessor with evidence of compliance with Utah Administrative Code R850-60-800. It is hereby understood and agreed that all treasure trove and all articles of antiquity in or upon the Permitted Property are and shall remain the property of the State of Utah. Permittee shall report any discovery of a "site" or "specimen" to the Division of State History in

compliance with the provisions in compliance with the provision of Section 63-18-27, Utah Code Annotate (1953), as amended.

17. Requiring the protection and preservation of groundwater recharge areas;

Findings: SRS has applied for a Ground Water Feasibility and Well Siting Study for groundwater capable of producing about 600 gpm for dust control, sand processing, and culinary water supply from one to two wells. SRS will go through the Utah Division of Drinking Water (DDW) and Utah Division of Oil, Gas and Mining (DOGM) for permitting and feasibility studies for the wells in this section for the Project. All culinary (drinking) water will need to meet Utah Drinking Water Standards. SRS will comply with R317-4 and be permitted by Southwest Utah Public Health Department.

APPLICANTS MITIGATION: SRS has initiated a ground water feasibility well siting study. They are working with Kanab City for water feasibility. The current initial mine plan will require 250 gpm for the operation of the project.

18. Limiting noise generation;

Findings: Construction Noise: Health and Public Safety Ordinance 4-3-3-B-25 prohibits noise that is inconsistent with a zoning area between the hours of 11:00 p.m. and sunrise. As the Project Site is located on SITLA lands and is zoned (C-2), the County does not have adopted standards for noise on SITLA lands. Surrounding lands are primarily SITLA & BLM with the exception of a few, sparsely populated private parcels close to the Project Site which are zoned AG.

APPLICANTS MITIGATION: The processing plant is located a minimum of 3,800 feet from U.S. Highway 89. The existing vegetation and terrain will mitigate the noise produced by the project. All the property surrounding the project is undeveloped BLM property. The closest private property is located more than 3 miles from the project site. The plant will be under continuous operation, but the mining operation will cease operation by 11 p.m. and not restart prior to sunrise.

19. Minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;

Findings: The project has potential to impact scenic qualities, wildlife qualities, wildlife habitat. No wetlands were found on this section.

APPLICANTS MITIGATION: The access road is currently undergoing a NEPA study and Environmental Assessment. The results of the NEPA study will be required to be followed for the construction of the access road. The mining operations will be required to follow all air quality, NEPA and cultural resource requirements for all State, Federal and MSHA agencies. The Utah Mined Land Reclamation Act of 1975, Title 40, Chapter 8 of the Utah Code Annotated as amended (the Act). Section 40-8-2 of the Act states the findings of the Legislature. Each operator who conducts mining operations on any lands within the state of Utah is responsible for compliance with the following rule: Operator Responsibilities, Compliance with other Local, State and Federal Law as: The approval or acceptance of a complete Notice of Intention shall not relieve an operator from his responsibility to comply with the applicable statutes, rules, regulations, and ordinances of all local, state and federal agencies with jurisdiction over any aspect of the operator's mining operations, including, but not limited to: Utah State Division of Water Rights, the Utah Department of Business Regulation, the Utah State Industrial Commission, The Utah Department of Environmental Quality, the Utah Division of State History,

the Division of Forestry, Fire and State Lands. The School and Institutional Trust Lands Administration, the Utah Division of Wildlife Resources, the U.C. Fish and Wildlife Service, the United States Bureau of Land Management, the United States Forest Service, the United States Environmental Protection Agency and local county or municipal governments. (4) Each operator who conducts mining operations on any lands within the state of Utah is responsible for compliance with these requirements.

20. Requiring turn lane improvements at street intersections when:

- a. An unsafe condition would be created by the development without the improvements; or
- b. The projected increase in traffic generated by the new or expanded use will lower the level of service;

Findings: UDOT feasibility letter and traffic plans will need to be submitted before any construction commences on the SRS project.

APPLICANTS MITIGATION: UDOT feasibility letter will be submitted before any construction can begin on SITLA section 16. Utah Department of Transportation (UDOT) will require turn lanes be added to highway 89. (BLM RS2477 permit has been recorded, 06/18/2008). This Notice of Acknowledgment of Acceptance of R.S. 2477 Right-of-Way Grant acknowledges under Utah State Code Sections 75-5-309 through 310 inclusive, that the grant of the United States of American of “the right of way for the construction of highways over public lands, not reserved for public uses” under United State Revised Statutes 2477 (43 U.S.C. Section 932 (repealed October 21, 1976, with proviso recognizing the validity of rights-of-way already established)) was accepted for and on behalf of the State of Utah and its political subdivision Kane County as it pertains to the highway located in Kane County Known as Red Knoll Road; County Road Number: K1200; State Geographic Information Database (SGID) Road Identification Number: RD130042. Total road length is 2.54 miles more or less.

“(BLM DRAFT Environmental Assessment) Improvements to US 89 would include the addition of 12-foot eastbound and westbound acceleration and deceleration lanes to aid in the safe access to Red Knoll road. Acceleration lanes would be 600 feet long and deceleration lanes would be 710 feet long. Existing asphalt would be saw cut and removed to the edge of the maintained existing travel lanes, then paved with 16 inches of base borrow material, followed by 10 inches of gravel, and finally 6 inches of asphalt. A 6-foot asphalt shoulder would extend beyond the travel/turn lanes followed by a 6-foot gravel shoulder consisting of the 16 inches of base borrow material and 10 inches of gravel.

The intersection of Red Knoll Road and US 89 would be improved to accommodate increased traffic and provide for safer access to Red Knoll Road. Right- and – left turn lanes would be added, both 12-feet in width, with a 215-foot deceleration lane as you approach US 89 traveling north on Red Knoll Road. The turning radius of the pavement would be increased to accommodate traffic turning off of and onto US 89. The existing cattle guard at the intersection would be relocated and increased to a width of 28-feet.

The total temporary and permanent disturbance for the improvements to Red Knoll Road would be approximately 6.59 acres, of which 0.11 acres would be temporary. Approximately 5.16 acres of permanent disturbance would occur on US 89 with the construction of the acceleration and deceleration lanes and increased turning radius at the intersection with Red Knoll Road.

An existing overhead power line owned by Garkane Energy that runs generally parallel to the west edge of Red Knoll Road would remain and would not be modified by this project.

Construction is expected to last approximately 2-5 months. Red Knoll Road and U.S. 89 would be flagged for construction and access would be reduced during the construction period. Traffic control on US 89 would require pilot cars and travel would be restricted to one lane for approximately 2-4 weeks. All construction activities would be contained within the proposed 66-foot ROW, but would require two temporary 50-foot by 50-foot construction staging areas. Construction equipment would include scrapers, graders, loaders, haul trucks, and water trucks. The workforce and staffing necessary for construction is anticipated to require approximately 20 workers. Construction activities would generate approximately 5,280 cubic yards of material and require 5,446 cubic yards of fill material to surface and widen the roadway, requiring 166 cubic yards of material to be imported. The balance of material is expected to be obtained from the project site. Water for construction activities would be acquired from an on-site well and the total volume would vary depending on soil characteristics during construction. [Note to reviewers: clarification of where the source of materials is not known or the approximate amount of water for construction at this time.]”

“(BLM Working Draft Environmental Assessment, (pg. 7 & 8)). The proposed road improvements on Red Knoll Road would comply with Kane County Standard Specifications and Drawing Details for Design and Construction (2012) and all road work on US 89 would comply with Section 01571 (Temporary Environmental Controls) of the Utah Department of Transportation's (UDOT) Standard Specifications For Road and Bridge Construction (UDOT 2017), the County would also include Best Management Practices (BMPs) from the KFO Resource Management Plan (RMP) as design features to minimize environmental impacts. These relevant standards and BMPs include:

Surface Disturbing Activities

- Areas subject to surface disturbance should be evaluated for the presence of cultural resources or values. This is usually accomplished through the completion of a cultural clearance. An on-the-ground inspection by a qualified archaeologist, historian, or paleontologist is required. In cases where cultural resources are found, the preferred response would be to modify the proposed action to avoid the cultural resource (avoidance). If avoidance is not possible, actions would be taken to preserve the data or value represented by the cultural resource (mitigation).
- Special design and reclamation measures may be required to protect scenic and natural landscape values. These measures may include transplanting trees and shrubs, mulching and fertilizing disturbed areas, using low-profile permanent facilities, and painting to minimize visual contrasts. Surface disturbing activities may be moved to avoid sensitive areas or to reduce the visual effects of the activities.
- Reclamation should be implemented concurrently with construction and site operations to the extent possible. Final reclamation actions should be initiated within 6 months of the termination of operations unless otherwise approved in writing by the authorized officer.
- Fill material should be pushed into cut areas and up over back slopes. Depressions should not be left that would trap water or form ponds.
- Design pipeline crossings through riparian areas and across stream channels to minimize impacts to these resources.”

As part of the highway access permitting process, UDOT is requiring SRS to construct turning and acceleration lanes in both directions. In addition to the turning and acceleration lanes, UDOT is requiring additional stacking area in the turning lanes to allow for multiple trucks to be in the turning lanes without impeding the highway traffic. This will minimize the impact of the haul trucks on the existing traffic on U.S. Highway 89. The highway improvement plans have been prepared and submitted to UDOT. UDOT has reviewed the plans and SRS is waiting on the final permit to be issued for construction.

21. Providing for emergency access;

Findings: UDOT will regulate emergency access requirements.

APPLICANTS MITIGATION: UDOT will require additional turn lanes be installed on Highway 89. The project will asphalt the road accessing the mine for dust mitigation off of Highway 89 and the surrounding area.

22. Requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;

Findings: This project does not affect pedestrian, bicycle and transit circulation facilities or buildings. It is not close to activity centers, office parks or industrial parks.

APPLICANTS MITIGATION: As stated above, the access road from the highway to the mine site will be upgraded with an asphalt surface and required drainage and will continue to provide access to the existing dirt trail which are currently being accessed via this road.

23. Requiring approval of septic and of water systems;

Findings: Southwest Utah Public Health Department and the Department of Environmental Quality will be the permitting agencies. SRS will adhere to all regulations as permitted through these agencies. Any on-site source of potable water or sewage treatment must be approved by the Utah Department of Health or DEQ, as applicable.

Sanitation Services: Permits and letters of feasibility will need to be applied for and submitted before any project construction begins.

APPLICANTS MITIGATION: The septic system will be designed as part of the design phase of the project. The septic system design and plans will be required to be submitted to and approved by the Southwest Utah Public Health Department.

24. Requiring buildings to be built to specific requirements;

Findings: The Kane County Building Department will regulate building requirements.

APPLICANTS MITIGATION: A Kane County building permit and grading permit will be applied for and obtained prior to the start of construction.

As part of approving a conditional use permit, Kane County may require that a Traffic Impact Study (TIS) be completed for any development projects where it is deemed necessary. The traffic study shall, at a minimum, incorporate traffic engineering principles and standards as presented in national practices. Additional requirements and investigation may be imposed upon the applicant as necessary. The County shall determine the need and requirements for a traffic impact study. The requirements of the TIS may be

expanded, reduced, or altered by the County based on the proposed project being analyzed. (Ord. O-2017-16, 1-8-2018)

Conclusion: This project not only helps on a local and state level, but also a national level providing much needed essential materials that are used in so many different facets of all of our everyday lives. As stated in Kane County General Plan: “Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will assure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support. The Commission will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities that expand economic opportunity and protect important scenic and social qualities. Federal land managers will coordinate with Kane County as an active, equal, on-going partner to be consistent with county goals and policies when not constrained by federal law”.

Kane County General Plan, Page 4. An additional 4.2 percent¹ of the land base is controlled by the (Utah) State Institutional and Trust Lands Administration (SITLA). These *surface and mineral* lands were granted to Utah at the time of statehood (1894) for the purpose of generating revenue for schools and other public institutions. The state received four sections in each township, which created a checkerboard scattered throughout the county. These lands are reserved for generating the maximum amount of revenue possible for the purposes of the trust. **They are not a public lands base reserved for general public interests such as recreation or wildlife habitat. They must be considered part of the developable land base of the county, with more similarity to private lands than public lands.** SITLA delineates between surface and mineral ownership of its trust lands because a portion of the acreage lies beneath privately owned and leased land. SITLA’s surface land amounts to 99,605 acres, but the state trust owns partial or all the mineral rights on a total of 143,527 acres in Kane County. (See enlarged map)²

General Plan, Page 25. “Economic Diversity. Business growth and development must focus upon jobs that pay well and provide high quality goods and services. Creating new jobs through retention and expansion of existing businesses, and by attracting target industry will diversify the economy. Creating additional educational opportunities for residents will also allow life-long learning opportunities and stimulate economic vitality. Although employment in Kane County within the travel and tourism industry is more than double that of the United States as a percentage³ it is good to remember that the service sector includes wholesale trade, utilities, administrative and waste services, real estate, rental and leasing services, retail employment, information technology and services, healthcare and social assistance, arts and entertainment, finance and insurance, transportation and warehousing, professional and technical services, and educational services. It includes most *other* services except for public administration.

Targeted Economic Development. While tourism is an important element of the county economy, it is critical that the economic base be developed as a diversified economy in order to achieve economic stability. Kane County will take a targeted approach to economic development building on the existing

¹ <trustlands.utah.gov/download/financial/TrustAcreage_County_02212014.pdf> AND “Utah Land Status and Areas of Responsibility”, June 2015, <trustlands.utah.gov/resources/maps/gis-data-and-maps/surface-and-mineral-maps>

² “Utah Land Status and Areas of Responsibility”, June 2015, <trustlands.utah.gov/resources/maps/gis-data-and-maps/surface-and-mineral-maps>, Enlarged map of Kane County (from original).

³ July 2015, Julie Suhr-Pierce, PhD., Socioeconomic Baseline Study, GSENM, Livestock Grazing MMP/A/EIS; Table 5.1.2, pg. 37

strengths in the local economy and diligently work to introduce new diversified segments to the economy. This will take a collaborative effort between stakeholders, federal, state and local agencies, as well as neighboring communities such as Fredonia and Page, Arizona, Coconino and Mohave Counties...”

MOTION: I move to **approve** the Southern Red Sands application for a Conditional Use Permit for 1) A sand mine operation development and 2) Two 120 foot silos, with the conditions as listed on the permit (*if the conditions are modified state the modifications*).

MOTION: I move to **deny** the SRS application for a conditional use permit because (state the negative health, safety, and welfare impacts and why they cannot be mitigated by any of the conditions).

KANE COUNTY LAND USE ORDINANCE

Chapter 1 GENERAL PROVISIONS

9-1-2: KANE COUNTY LAND USE PHILOSOPHY:

There has been, in the United States over the last several decades, a strong trend of increasing governmental control over private property rights and uses. This trend has resulted in the loss of property rights in favor of governmental oversight, regulation and planning concepts. The overall purpose of this trend is to increase orderly growth. However, this end is accomplished overwhelmingly by the use of restrictive laws and ordinances that effectively seize property rights from property owners. Kane County believes that this trend encroaches severely on the inalienable right of property ownership. This land use title and other county ordinances are purposefully kept in many ways as lenient as state statute will allow. Other tougher restrictions are kept as minimal as possible to ensure a balance between the individual's property rights and the property rights of the neighbors. To this end, property owners of Kane County should realize that by retaining as much of their rights as possible, they also retain the associated responsibilities.

In addition to preserving individual property rights, Kane County believes that the individual, not the taxpayers collectively, should be responsible for the individual's own living conditions. We hold it to be a violation of principle to use general public funds for spot improvements that only benefit localized areas. As such, it is Kane County policy to refuse to participate in spot infrastructure improvements which benefit only a localized area yet burden the taxpayers at large. If property owners collectively desire, they can petition the county to assist in the creation of a special improvement district which places the financial burden of the improvements on the area being improved. In this way the county reduces both the regulation and the taxes placed on the property owners. Kane County property taxes collected and deposited in the general fund are designated among other things to maintain public infrastructure not to improve it. To that end, Kane County will continue to focus on the wise use of the general fund in maintaining current improvements and future improvements once they have met county standards.

Kane County has sought to keep this land use title within the spirit of the "Declaration of Independence" and recognizes that one of the hallmark benefits of a free society is the retained rights of private property to their owner. To that end, we include this quote from the "Declaration of Independence" in this title as a governing principle that we seek to follow.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty, and the pursuit of Happiness. --That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed...

9-1-3: INTENT AND PURPOSE:

It is the intent and purpose of the board of county commissioners of Kane County, state of Utah, to avail itself of the powers granted under Utah state code section 17-27a-101 et al., the county land use, development, and management act (CLUDMA), as amended, only in a manner that will promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of Kane County as seems appropriate in a rural setting, to this end:

- A. To implement the general plan and to guide the future growth of the county in compliance with the general plan.
- B. To regulate land use in a manner that will encourage and facilitate orderly growth and development in the county.
- C. To provide land use regulations for the unincorporated areas of the county.
- D. To enable economy in government expenditures in the process of development.
- E. To promote the efficient and economical utilization, conservation, and production of land, water, and other resources and facilities.
- F. To foster the county's agricultural, commercial and industrial development.
- G. To facilitate adequate provisions for transportation, water, sewer, schools, parks, and other public requirements.
- H. To reduce the waste of physical, financial, and human resources.
- I. To lessen congested streets.

- J. To avoid or lessen the hazards to persons or damage to property.
- K. To stabilize and improve property values.
- L. To protect the tax base.
- M. To promote a more attractive and wholesome environment.
- N. To promote conditions favorable to prosperity, recreational activities, educational, and cultural opportunities.
- O. To support the use of energy conservation methods, i.e., solar and renewable energy sources.
- P. To protect both urban and nonurban development.
- Q. To encourage a variety of housing types and promote moderate income housing.
- R. To assist the public in identifying and understanding regulations affecting the development and use of land.
- S. To enforce the provisions of this title and to minimize the exceptions and variances, hereto. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-1-3 **SITE PLAN:** A schematic, scaled drawing of a building lot or location which indicates, as may be required by this title, the placement and location of yards, property lines, setbacks, adjacent parcels, utilities, topography, waterways, irrigation, drainage, landscaping, parking areas, driveways, buildings, trash containers, open storage, streets, sidewalks, curbs, gutters, signs, lighting, fences and other features of existing or proposed construction or land use.

9-1-8: INSPECTION:

The Kane County Land Use Authority or any authorized employee of Kane County may enter upon any land at reasonable times to make examinations and surveys pertinent to the: a) preparation of its general plan; or b) preparation or enforcement of its land use ordinances⁶. (Ord. O-2018-7, 7-23-2018)

9-1-9: ENFORCEMENT:

A. The Land Use Authority Administrator is hereby designated and authorized as the officer charged with the enforcement of this title. The Land Use Authority Administrator shall enforce all the provisions of this title, entering actions of the court when necessary, and his/her failure to do so shall not legalize any violations of such provisions. The County Commission may, by resolution or ordinance, from time to time entrust the administration of this title, in whole or part, to any other officer of Kane County.

Chapter 5 AGRICULTURAL ZONE (AG)

9-5-5: MODIFYING REGULATIONS:

State Institutional Trust Lands Administration (SITLA) will be regulated under chapter 7, "Commercial Zones", of this title. (Ord. O-2018-5, 7-9-2018; amd. Ord. O-2018-6, 7-9-2018)

Chapter 7 COMMERCIAL ZONES (C-1, C-2)

9-7A-3: MAXIMUM BUILDING HEIGHTS:

C-1 Zones: Four (4) stories and/or a maximum building height of 40 feet allowed with no limit on height for roof line and architectural features.

Chapter 10 SUPPLEMENTARY AND QUALIFYING REGULATIONS

9-10-10: ADDITIONAL HEIGHT ALLOWED:

Public or quasi-public utility buildings, when authorized in a zone may be erected to a height greater than the zone height limit by a conditional use permit. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-10-11: EXCEPTIONS TO HEIGHT LIMITATIONS:

Height regulations may be increased by a conditional use permit for permitted public, quasi-public, agriculture, manufacturing or industrial uses if approved by the land use authority.

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, windmills, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed subject to a conditional use permit but no space above the height limit shall be allowed for purposes of providing additional floor space. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-10-12: WATER AND SEWAGE REQUIREMENTS:

All sewage systems shall comply with the requirements of the Southwest Utah public health department and the application for a building permit shall be accompanied by a certificate of feasibility from said department. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-10-14: LIGHTING:

The concerns of safety, utility, dark sky protection and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. Careful attention to when, where, and how much nighttime lighting is needed results in better lighting practices, darker skies and reduced energy use and costs. Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. Any and all new and major addition to land uses, developments and buildings or structures are encouraged to use hooded lighting practices. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Chapter 13 PARKING AND LOADING SPACE

9-13-1: PURPOSE:

9-13-2: SCOPE:

9-13-3: PARKING REQUIRED:

9-13-4: SPACE SIZE:

9-13-5: PARKING SPACES REQUIRED FOR RESIDENTIAL AREAS:

9-13-6: COMMERCIAL PARKING REQUIREMENTS/USES TABLE:

9-13-7: LOCATION OF PARKING SPACES:

9-13-8: SHARED PARKING FACILITIES:

9-13-9: PARKING LOT REQUIREMENTS:

9-13-10: PARKING LOT LIGHTS:

9-13-11: OFF STREET LOADING SPACE:

9-13-12: ACCESSIBLE PARKING:

9-13-13: SUBMITTAL OF PARKING, LOADING AND CIRCULATION PLANS:

9-13-14: USES NOT SPECIFICALLY IDENTIFIED:

Manufacturing, mineral extraction, wholesale and warehousing 1 space per 1,000 sq. ft. of gross floor area or 1 space per employee on highest shift, whichever is greater

9-13-10: PARKING LOT LIGHTS:

A. Requirement: Parking lots used during hours of darkness shall be lighted by standards, a maximum of sixteen feet (16') in height above grade and using indirect, hooded light sources.

B. Downlighting: To protect the views of the night sky, all outside lighting shall be "downlighting" so that lighting does not trespass to adjoining properties.

C. Exterior Lighting: All exterior lighting should provide for the illumination of buildings and grounds for safety purposes, but in an aesthetic manner. All exterior lighting shall be shielded or hooded so that no light is allowed to spill onto adjacent properties. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-11: OFF STREET LOADING SPACE:

On the same premises with every building, structure or part thereof, erected and occupied or increased in capacity after the effective date hereof for manufacturing, warehouse, grocery, hospital, or other use similarly involved the receipt or distribution by vehicle of materials or merchandise there shall be provided at the side or rear of the building and maintained on the lot adequate space for public use of streets or alleys. All off street loading spaces or docking areas shall be located at the side or rear of the building or structure and be appropriately screened from adjacent residential zones. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-12: ACCESSIBLE PARKING:

A. Required: Any parking area to be used by the general public shall provide accessible parking spaces. Accessible parking spaces shall conform to the standards of the international building code and the "Uniform Federal Accessibility Standards Manual". (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-13: SUBMITTAL OF PARKING, LOADING AND CIRCULATION PLANS:

Detailed plans for off street parking, loading, circulation, and screening shall be submitted to the land use authority for approval. Said plans shall be in compliance with all standards and provisions set forth in this title and shall receive written approval of the land use authority prior to the issuance of a building permit. Appropriate filing fees shall be determined by the land use authority and submitted with each plan.

Notwithstanding all provisions of this section, all commercial, industrial and professional developments and all other nonresidential uses of land shall provide sufficient parking for all employees, business vehicles and equipment, customers, clients and patients of such business, industry or professionally used property, as may be required by the planning commission in addition to spaces presently required by this title. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-13-14: USES NOT SPECIFICALLY IDENTIFIED:

For all parking uses not listed in this chapter, the land use authority may determine the number of spaces required based upon the nearest comparable use standard available. (Ord. 2013-5, 8-12-)

Chapter 14 MOTOR VEHICLE ACCESS

9-14-1: INTENT AND PURPOSE:

9-14-2: BUSINESSES REQUIRING ACCESS:

9-14-1: INTENT AND PURPOSE:

Adequate ingress and egress to and from all uses of land shall be provided as follows herein. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-14-2: BUSINESSES REQUIRING ACCESS:

Service stations, roadside stands, public parking lots and other businesses requiring motor vehicle access shall meet the requirements as prescribed in the Utah state department of transportation's manual entitled "Regulations For The

Control And Protection Of State Highway Rights-Of-Way" where such access is on a Utah department of transportation right of way. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Chapter 15

CONDITIONAL AND TEMPORARY USES

A. CONDITIONAL USES

9-15A-1: PURPOSE:

9-15A-2: CONDITIONAL USE PERMIT PROCESS:

9-15A-3: APPEALS:

9-15A-4: INSPECTION:

9-15A-5: TIME LIMIT:

9-15A-6: EXPANSION:

9-15A-7: REVOCATION:

9-15A-1: PURPOSE:

A conditional use, because of its unique characteristics or potential impact on the County, surrounding neighbors or adjacent land uses, may not be compatible in some areas of Kane County, Utah, or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

The section below has been affected by a recently passed ordinance, 2018-21 - CONDITIONAL AND TEMPORARY USES. [Go to new ordinance.](#)

9-15A-2: CONDITIONAL USE PERMIT PROCESS:

An approved conditional use permit shall be required for each conditional use listed in this title. No building permit, other permit or license shall be issued for a conditional use by any officer or employee of Kane County unless a conditional use permit shall have been approved by the Kane County Land Use Authority.

- A. Application: Application for a conditional use permit shall be made at the Office of the Kane County Land Use Authority on forms provided for that purpose. Return the completed application to the Land Use Authority Administrator two (2) weeks prior to the next scheduled Planning Commission meeting. The Administrator will schedule the conditional use permit request on the Planning Commission's agenda.
- B. Development Plan: The applicant for a conditional use permit shall prepare a site plan of the proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the Land Use Authority may deem necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
- C. Fee: The application for any conditional use permit shall be accompanied by the appropriate fee as determined by the Board of County Commissioners. In the event additional engineering costs are accrued by the County related to a specific project the project applicant will be responsible for all additional engineering fees. (Ord. O-2016-4, 10-15-2018)
- D. Hearing: A public hearing need not be held; however, a hearing may be held when the Land Use Authority shall deem a hearing to be necessary to serve the public interest.
- E. Land Use Authority Action: The Land Use Authority shall approve a conditional use permit if conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with

applicable standards. In approving any conditional use permit, the Land Use Authority may impose conditions deemed necessary to protect the public welfare, ensure compatibility with other uses in the vicinity, and ensure that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions may include the following:

1. Assurance that the use will not be detrimental to the health, safety, comfort, order, or general welfare of persons residing or working in the vicinity;
2. Assurance the use will:
 - a. Comply with the intent, spirit and regulations of the Kane County land use ordinance and Kane County General Plan;
 - b. Make the use harmonious with other neighboring uses in that zone;
3. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
4. Evidence that all required public facilities have adequate capacity to serve the proposed conditional use;
5. Limiting the hours, days, place and/or manner of operation;
6. Requiring size or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, glare, erosion, odor and/or dust;
7. Requiring larger setback areas, lot area, and/or lot depth or width;
8. Limiting the building height size or lot coverage, and/or location on the site;
9. Designating the size, number, location and/or design of vehicle access points or parking areas;
10. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved provided that:
 - a. An essential link exists between a legitimate governmental interest and each exaction; and
 - b. Each exaction is roughly proportionate, both in nature and extent to the impact of the proposed development;
11. Requiring landscaping, screening, drainage, water quality facilities and/or improvements of parking and loading areas;
12. Limiting the number, size, location, height and/or lighting of signs;
13. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
14. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
15. Requiring and designating the size, height, location and/or materials for fences;
16. Encouraging the protection and preservation of natural features including existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, slopes, cultural resources, and/or sensitive lands;

17. Requiring the protection and preservation of groundwater recharge areas;
18. Limiting noise generation;
19. Minimizing environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities;
20. Requiring turn lane improvements at street intersections when:
 - a. An unsafe condition would be created by the development without the improvements; or
 - b. The projected increase in traffic generated by the new or expanded use will lower the level of service;
21. Providing for emergency access;
22. Requiring pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks;
23. Requiring approval of septic and of water systems;
24. Requiring buildings to be built to specific requirements;
25. Cell tower fall zone conditions and setbacks: The minimum lot area for such uses shall include all lands within the circumference of the fall zone, the radius of which shall be the height of the tower. All cell towers must adhere to the zone setback requirements; (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
26. Recreation vehicle parks: a) business license required; b) Transient Room Taxes required; c) the use must be consistent with the environmental, commercial, and economical land use purposes stated in the General Plan, as amended; d) an official site plan that clearly demonstrates that the park will not cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar unreasonable risks; the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets shall be reviewed; e) RV parks and campgrounds/glamping sites must have State and/or County approved access off a State highway, County B or D road, BLM road or, if off a private road, roads will meet Wild Land Interface Urban Code standards and will require a road maintenance agreement between property owners and easement holders memorializing the mutual understanding that an increased use to the road will result and that proof of easements to property would be required; f) Health Department permit required if over forty (40) RV sites; the Department of Environmental Quality permit is also required for water and waste; g) must comply with Building Department and building permit regulations; h) on-site manager for RV parks and campgrounds; unless the campground is considered a primitive campground; i) requirements for the management and maintenance of facilities is adequate; j) the use shall not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal; k) feasibility letters required for services extended to the RV parks and campgrounds to mitigate traffic safety conditions as to not adversely affect the use and surrounding areas; l) emergency access is adequate; m) a plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses is adequate; n) exterior lighting is adequate and does not unduly disturb the surrounding areas; o) exceptions include rural unimproved subdivisions that can only be used for agricultural purposes as defined in Utah State Code 59-2-502; (Ord. O-2017-16, 1-8-2018)
27. The conditions in subsection E26 of this section apply for glamp-grounds; limited to seven (7) sites per parcel of land;

28. The conditions in subsection E26 of this section apply for campgrounds; limited to seven (7) sites per parcel of land. (Ord. O-2018-6, 7-9-2018)

As part of approving a conditional use permit, Kane County may require that a Traffic Impact Study (TIS) be completed for any development projects where it is deemed necessary. The traffic study shall, at a minimum, incorporate traffic engineering principles and standards as presented in national practices. Additional requirements and investigation may be imposed upon the applicant as necessary. The County shall determine the need and requirements for a traffic impact study. The requirements of the TIS may be expanded, reduced, or altered by the County based on the proposed project being analyzed. (Ord. O-2017-16, 1-8-2018)

F. Findings: In approving a conditional use permit, the Land Use Authority shall find:

1. That the proposed use is necessary or desirable and will contribute to the general well being of the community;
2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity;
3. That the proposed use is in harmony with the intent of the General Plan and the zone in which it is located. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15A-3: APPEALS:

Appeal of any decision of the Land Use Authority shall be to the Appeal Authority. Appeal shall be in writing and shall be filed at the Office of the Land Use Authority not more than thirty (30) days after the written decision by the Land Use Authority. The Appeal Authority may affirm, modify or reverse the decision of the Land Use Authority. However, the Appeal Authority shall present, in writing, the reasons for its action. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15A-4: INSPECTION:

The building official/Land Use Administrator shall inspect the conditional use during the course of construction to ensure that it complies with the conditions of the permit. (Ord. O-2018-6, 7-9-2018)

9-15A-5: TIME LIMIT:

Action authorized by a conditional use permit must commence within one year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply for a new permit. The Land Use Authority may grant an extension for good cause shown which would require amending the original conditional use permit and going before the Planning Commission for approval. (Ord. O-2016-4, 10-15-2018)

9-15A-6: EXPANSION:

No use or structure in which a conditional use is located may expand without the approval of the Kane County Land Use Authority. Before expanding, the applicant shall present to the Kane County Land Use Authority a development plan. No public hearing need be held. However, the Kane County Land Use Authority may deem a hearing necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-15A-7: REVOCATION:

A conditional use permit may be revoked upon failure to comply with the conditions imposed with the original approval of the permit and upon failure to comply with all local, State, and Federal laws, including remaining current on Property Tax payments. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Chapter 19

CONSTRUCTION SUBJECT TO GEOLOGIC, FLOOD, OR OTHER NATURAL HAZARDS

9-19-1: REQUIREMENTS:

When the Kane County land use authority administrator, county engineer or the building official deems it necessary, any application for a conditional use permit, a planned unit development, subdivision, MPR, mobile home park, RV park or a building or use permit shall be accompanied by a geologic and soils survey report for the land, lot, or parcel for which application approval is sought. The report shall be prepared at the applicant's expense by a registered or licensed geologist, soils engineer or civil engineer and shall show the suitability of soils on the property to accommodate the proposed construction, and any discernible flood, earthquake, or other natural hazards. Refer to chapter 21, "Subdivision Regulations", of this title for report and certification requirements.

Whenever a geologic and soils survey report indicates a parcel subject to an unusual potential or actual hazard, the applicant shall meet the special conditions required by the Kane County engineer or building official, to mitigate such hazard, or the application shall be denied. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Chapter 21 SUBDIVISION REGULATIONS

9-21G-1: GENERAL PROVISIONS:

All subdivisions and developments must comply with the following standards:

B. Land subject to hazardous conditions such as, but not limited to, slides, mudflows, rockfalls, snow avalanches, possible mine subsidence, shallow water table, open quarries, floods, abandoned landfills, and polluted or nonpotable water supply shall be identified and shall not be subdivided until the hazards have been eliminated or will be eliminated by the subdivision and construction plans.

C. The "Kane County Standard Specifications And Drawing Details For Design And Construction". (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

Chapter 22 PERFORMANCE STANDARDS

9-22-1: PURPOSE:

9-22-2: GENERAL PROVISIONS:

9-22-3: PERFORMANCE STANDARDS PROCEDURE:

9-22-1: PURPOSE:

To permit potential nuisances from industrial or other uses to be measured factually and objectively in terms of the potential nuisance itself; to ensure that all uses will provide necessary control methods for protection from hazards and nuisances which can be prevented by modern processes of control and nuisance elimination; to protect any use from arbitrary exclusion based solely on the characteristics of uncontrolled production in this type of use in the past. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-22-2: GENERAL PROVISIONS:

No land or building in any zone shall be used or occupied in any manner so as to create dangerous, injurious, noxious or otherwise objectionable fire, explosive, or other hazard; noise or vibration, smoke, dust, odor, or other form of air pollution; heat, cold, dampness, glare, electrical or other disturbance; liquid or solid refuse or wastes; or

other substance, condition or element in such a manner or in such an amount as to affect adversely the surrounding area or adjoining premises. The foregoing is hereinafter referred to as "dangerous or objectionable elements". No use shall be undertaken or maintained unless it conforms to the regulations of this chapter in addition to the regulations set forth for the district in which such use is situated. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-22-3: PERFORMANCE STANDARDS PROCEDURE:

The building official or county engineer may require performance standards review for compliance of any use in any zone when there is reason to believe that such use or the manner of its operation will not or may not conform to the performance standards adopted by Kane County, to include, but not limited to, "Kane County Standard Specifications And Drawing Details For Design And Construction", federal, state and local EPA standards, ICC codes, etc. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

Chapter 26 WATER SOURCE PROTECTION AREAS

9-26-1: STATUTORY AUTHORITY:

9-26-2: SHORT TITLE AND PURPOSE:

9-26-3: DEFINITIONS:

9-26-4: FILING, RECORDING AND NOTICE OF MAPS SHOWING SOURCE PROTECTION ZONES:

9-26-5: ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES:

9-26-6: PROHIBITED USES:

9-26-7: SUBSTANCES NOT SUBJECT TO PROVISIONS:

9-26-8: OVERLY PROTECTIVE MANAGEMENT AREAS AND PROTECTION ZONES:

9-26-9: PREEXISTING USES:

9-26-10: ADMINISTRATION:

9-26-11: ENFORCEMENT:

9-26-1: STATUTORY AUTHORITY:

The statutory authority for enacting this chapter is Utah state code sections 17-27a-102 and 17-53-223, as amended. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-2: SHORT TITLE AND PURPOSE:

A. Title: This chapter shall be known as the *DRINKING WATER SOURCE PROTECTION ORDINANCE*.

B. Purpose: The purpose of this chapter is to comply with Utah state code section 19-4-113, as amended, requiring counties to adopt a water source protection ordinance to protect groundwater sources of public drinking water. This chapter is to ensure the provision of a safe and sanitary drinking water supply for the county by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for any public water supply agency (PWSA) water system and by the designation and regulation of property uses and conditions which may be maintained within such zones and to meet the requirements of a preliminary evaluation report according to the state drinking water source protection rule (R309-600 Utah administrative code).

C. Conflict: This chapter is designed to supplement, but not replace, other ordinances and regulations governing the use of property within the county, such as other regulations in this title. In case of conflict between this chapter and any other applicable ordinance or regulation, the more restrictive requirement shall prevail.

D. Degree Of Protection; Limitation Of Liability: The degree of protection afforded by this chapter is considered adequate for regulatory purposes. This chapter does not ensure that public drinking water sources will not be subject to accidental or intentional contamination, nor does it create liability on the part of the county, or an officer or employee thereof, for any damages to the public water supplies from reliance on this chapter, nor any administrative order lawfully made hereunder.

E. Owner Liability: A notice to cease or an exemption issued under this chapter shall not relieve the owner of the obligation to comply with any other applicable federal, state, regional or local regulations, rules, ordinances or requirements, nor shall said notice or exemption relieve any owner of any liability for violation of such regulations, rules, ordinances or requirements. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-3: DEFINITIONS:

When used in this chapter, the following shall have the following meanings:

BEST MANAGEMENT PRACTICES (BMPs): A practice or combination of practices that reduces the potential for spills and leaks at a site to occur and enter groundwater. "BMPs" shall be construed within the context of this chapter to include, but not be limited to, structural and nonstructural practices, conservation practices, and operation and maintenance procedures identified by the state department of environmental quality and the U.S. environmental protection agency. "BMPs" should be the most effective practicable (including technological, economic and institutional considerations) means of preventing pollution sources from entering groundwater. "BMPs" may include, but not be limited to, those practices outlined in the state department of environmental quality pollution prevention fact sheets.

DESIGN STANDARD: A standard applied to the design, construction and ongoing operation of various land use activities that imposes specific physical requirements and that is implemented by a potential contamination source to prevent discharges to the groundwater. Examples of design standards include, but are not limited to, facilities for segregating wastes for recovery and separating hazardous and nonhazardous wastes to prevent cross contamination; eliminating sources of leaks and spills; physical barriers, such as a berm or dike, which will hold spills or leaks; use of double walled tanks to store chemicals; locating storage and mixing areas away from floor drains, and waste disposal procedures.

POLLUTION SOURCE: Point source discharges of contaminants to groundwater or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA title III (42 USC 11002). Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drainfields, class V underground injection wells, landfills, open dumps, land filling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten (10) animal units. The following clarify the definition of "pollution source":

C. Extremely Hazardous Substances: Those substances which are identified in the section 302(EHS) column of the "Title III List Of Lists - Consolidated List Of Chemicals Subject To Reporting Under SARA Title III" (EPA 560/4-91-011).

POTENTIAL CONTAMINATION SOURCE: Any facility or site which employs an activity or procedure which may potentially contaminate groundwater as listed on exhibit A of the EPA potential sources of drinking water contamination index. A pollution source is also a potential contamination source.

REGULATORY AGENCY: Any governmental agency with jurisdiction over hazardous waste as defined herein.

SANITARY LANDFILL: A disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing an earth cover thereon.

SEPTIC TANK/DRAINFIELD SYSTEMS: A system that is comprised of a septic tank and a drainfield which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, "septic tank/drainfield system discharges" cannot be controlled with design standards.

WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-4: FILING, RECORDING AND NOTICE OF MAPS SHOWING SOURCE PROTECTION ZONES:

Each water source protection area covered by this chapter shall be shown on a map which shall include the boundaries of all zones. The PWSA shall pay for and cause a map to be prepared by a licensed civil engineer or a licensed professional geologist, which map shall be filed with the planning office and recorded by the county at the county recorder's office. The map may be revised from time to time. Notice of the filing of the map shall be given to each property owner within the boundaries of the zones by deposit in the United States mail, certified or registered, postage prepaid, addressed to the owner shown on the records of the county recorder, which cost shall be paid by the PWSA. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-5: ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES:

There are hereby established use districts to be known as zone one and zone two of the drinking water source protection area identified and described as follows:

A. Zone One: Zone one is the area within a one hundred foot (100') radius from the wellhead.

B. Zone Two: Zone two is the area within a two hundred fifty (250) day groundwater time of travel to the wellhead, the boundary of the aquifer which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

C. Zone Three: Zone three (waiver criteria zone) is the area within a three (3) year groundwater time of travel to a wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

D. Zone Four: Zone four is the area within a fifteen (15) year groundwater time travel to a wellhead, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-6: PROHIBITED USES:

The following uses or conditions shall be and are hereby prohibited within drinking water source protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under section 9-26-7 of this chapter:

A. Zone One: The location of "potential contamination sources", as defined in section 9-26-3 of this chapter, unless they are controlled with design standards.

B. Zone Two: The location of "pollution sources", as defined in section 9-26-3 of this chapter, unless their contaminated discharges are controlled with design standards; provided, however, that a person may use or store a pollution source or potential contamination source within zone two under the following conditions:

1. No Reportable Quantities: If the pollution source or potential contamination source is a hazardous substance, the amount of the pollution source or potential contamination source does not exceed the reportable quantity for that substance listed in 40 CFR 302.4, as amended; and

2. Management Plan: The person implements a management plan that incorporates best management practices approved by the PWSA that is designed to ensure that the pollution source and/or potential contamination source will not be spilled or released in a manner that may potentially contaminate groundwater. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-7: SUBSTANCES NOT SUBJECT TO PROVISIONS:

The following substances are not subject to the zone prohibitions and restrictions set forth herein; provided, that these substances are handled, stored and disposed of in a manner that does not result in an unauthorized release or cause contamination of the groundwater:

A. Normal Household Storage: Regulated substances stored at residences that do not exceed ten (10) pounds or five (5) gallons and are used for personal, family or household purposes.

B. Janitorial Products For Commercial Sites: Products intended for use at a commercial site and solely for office or janitorial purposes. Such products must be stored in total quantities of less than twenty (20) pounds or ten (10) gallons.

C. Prepackaged Consumer Products: Prepackaged consumer products available through retail sale to individuals for personal, family or household use that are properly stored.

D. Latex Paint: Water based latex paint.

E. Fertilizers And Treated Seed: Fertilizers and treated seed, when stored and applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.

F. Pesticides: Pesticide products and materials intended for use in weed abatement, pest control, erosion control, soil amendment or similar applications, when applied in accordance with manufacturer's instructions, label directions and nationally recognized standards.

G. Compressed Gases: Compressed gases.

H. Commercial Products: Substances or mixtures which may pose a hazard but are labeled pursuant to the federal food, drug, and cosmetic act.

I. Fuel And Lubricant Use: The use of any petroleum product solely as an operational fuel in a vehicle, or as an operational fuel in a landscaping or garden tool or device, or as a lubricant in any such vehicle, tool or device; provided, however, that these spent products shall be properly disposed of in compliance with applicable federal, state and local regulations. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-8: OVERLY PROTECTIVE MANAGEMENT AREAS AND PROTECTION ZONES:

If protection zones appear to be excessively large, changes to the protection zones may be considered according to the following procedure:

A. Written Comments For Reconsideration: Submit written comments to the PWSA stating the reasons that the delineated protection zones should be reconsidered.

B. Investigation; Appeal: If the PWSA concurs, it may conduct a new hydrogeologic investigation to address the issues raised by the entity requesting changes to the delineated protection zones. If the PWSA does not agree to conduct a new investigation, the entity requesting changes may appeal to the county pursuant to the requirements set forth in this title. In the event the county orders a new investigation, it shall be paid for by the entity requesting the changes.

C. Findings; New Map: Based upon the results of the new investigation, the planning department may make a determination that the new hydrogeologic investigation is or is not protective. In the alternative, the new hydrogeologic investigation may, in the county's discretion, be submitted to the state division of drinking water for its review. If either the planning department or the division of drinking water finds that the new hydrogeologic investigation is protective, a new map shall be filed showing the smaller protection zones. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-9: PREEXISTING USES:

Uses or conditions in place prior to September 9, 1996, are not subject to the zone prohibitions and restrictions set forth herein. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-10: ADMINISTRATION:

The policies and procedures for administration of any source protection zone established under this chapter, including, without limitation, those applicable to nonconforming uses, exceptions, enforcement, penalties and appeals, shall be the same as provided in this title. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

9-26-11: ENFORCEMENT:

A retail or wholesale water supplier may seek enforcement of this chapter in district court as per Utah state code section 19-4-113, as amended. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

GENERAL PLAN REFERENCES

Preamble

Page 3. In order to provide for the health, safety and general welfare of both residents and visitors of Kane County, the Kane County Board of Commissioners hereby adopts the following General Plan which outlines goals and policies for unincorporated land use, transportation and access management, conservation of natural resources, protection against natural and human-caused hazards, provision of public services, preservation of historic resources, development of the economic base, accommodation of affordable housing, and partnering with federal and state land management agencies.

Page 3. Given these basic premises, the Kane County Commission will use this Plan to guide land use decisions for the county. Where decisions regarding property rights versus property values are being made, deference shall be given to property rights. This Plan will assure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to expect intensive, urban-scale uses and to provide self-supported basic services without county financial support. The Commission will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities that expand economic opportunity and protect important scenic and social qualities. Federal land managers will coordinate with Kane County as an active, equal, on-going partner to be consistent with county goals and policies when not constrained by federal law.

Page 4. An additional 4.2 percent¹ of the land base is controlled by the (Utah) State Institutional and Trust Lands Administration (SITLA). These *surface and mineral* lands were granted to Utah at the time of statehood (1894) for the purpose of generating revenue for schools and other public institutions. The state received four sections in each township, which created a checkerboard scattered throughout the county. These lands are reserved for generating the maximum amount of revenue possible for the purposes of the trust. They are not a public lands base reserved for general public interests such as recreation or wildlife habitat. They must be considered part of the developable land base of the county, with more similarity to private lands than public lands. SITLA delineates between surface and mineral ownership of its trust lands because a portion of the acreage lies beneath privately owned and leased land. SITLA's surface land amounts to 99,605 acres, but the state trust owns partial or all the mineral rights on a total of

¹ <trustlands.utah.gov/download/financial/TrustAcreage_County_02212014.pdf> AND "Utah Land Status and Areas of Responsibility", June 2015, <trustlands.utah.gov/resources/maps/gis-data-and-maps/surface-and-mineral-maps>

143,527 acres in Kane County. (See enlarged map)²

Residential Land Use

Page 6. The private land base in Kane County is approximately 10% or 263,040 acres.³ Kane County ranks fifth in the scarcity of privately owned land (first is Wayne County 3.7%, then Grand 4.3%, Garfield 5.1% and Emery 8.1%) and ranks third in the abundance of federal lands (Garfield is first at 90%, and Wayne is second at 85.7%).³

Page 7. Industrial and Commercial Land Use

Industrial and commercial land uses are usually located at major highway intersections and near established communities. Much of the existing commercial and industrial activity has been annexed into adjacent communities. However, there are exceptions to this trend. For example: Best Friends Animal Sanctuary is located approximately 10 miles north of Kanab in Angel Canyon, an unincorporated section of Kane County.

Page 8. Public Lands with 89.7 % of the county land base in public ownership (85.5% Federal; 4.2% State), land use and management decisions made by state and federal land managers weigh heavily on the use of private land. The National Park Service, U.S. Forest Service, Bureau of Land Management, Utah State School and Institutional Trust Lands Administration, and the Utah State Department of Natural Resources shall diligently and proactively **coordinate** all public land use management decisions with Kane County in order to ensure the goals, objectives and policies of this General Plan are maintained, and the general health, safety and welfare of the citizens are protected.

<i>Jurisdiction</i>	<i>Acres</i>	<i>Percentage</i>
Bureau of Land Management	1,653,394	62.9%
Grand Staircase-Escalante National Monument	763,100*	29.0%
Kanab Resource Area (Non-Monument)	890,294*	33.9%
National Park Service	469,026	17.9%
Glen Canyon National Recreation Area	450,698	17.2%
Bryce Canyon National Park	8,910	0.3%
Zion National Park	9,418	0.4%
U.S. Forest Service (Dixie National Forest)	123,482	4.7%
Total Federal Land Base	2,245,902	85.5%
Dept. of Natural Resources	4,086	0.2%
School and Institutional Trust Lands	99,864	3.8%

Page 10. Avoiding the extension of municipal-scale services in unincorporated areas. A guiding principle which has been present in every Kane County plan since 1970 has been the recognition that unincorporated areas of the county cannot be expected to accommodate municipal-scale land uses. Residential or commercial land uses which require large investments in infrastructure such as roads, water, waste disposal, schools, and so on, cannot occur on a land base where such services are not available. Past limitations due to the lack of services have sometimes disqualified private land for development.

Kane County will allow development within the perimeters of county land use and zoning ordinances with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and/or land owners who enjoy the benefits of such improvements. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be

² "Utah Land Status and Areas of Responsibility", June 2015, <trustlands.utah.gov/resources/maps/gis-data-and-maps/surface-and-mineral-maps>, Enlarged map of Kane County (from original).

³ Utah Association of Counties, "2015 Utah Counties Fact Book", <uacnet.org/members/uac_research>, (Their data from SITLA statewide GIS mapping). By county: Emery pg. 15, Garfield pg. 17, Grand pg. 19, Kane pg. 25, San Juan pg. 37, and Wayne pg. 55.

required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

Page 13. Develop systematic wildland fire protection. The remote nature of many structures in unincorporated areas, combined with the presence of significant vegetation, creates a serious wild land-urban interface (WUI). As development continues, the need to protect private investments and residents is vital. To address these issues, a multi-jurisdictional group of agencies, organizations, and individuals have collaborated to develop the Southwest Utah Regional Wildfire Protection Plan (SURWPP). SURWPP endeavors to provide oversight and guidance to residents through education and awareness of the dangers of wildfire. Its planning objectives help identify strategies that reduce the risk of wildfire around homes and communities.

The Five County Association of Governments has published a 5-year Multi-Jurisdictional Natural Hazard Mitigation Plan that covers wildland fire protection for the county similar to SURWPP planning objectives and strategies that help reduce the risk of wildfire around homes and communities. Kane County understands the most effective wildfire management tool is wise harvest of the resource as well as vegetation treatments that create fire lines. As the forest is harvested, dead and dry fuel woods must be removed during the cleanup process. Ripe and diseased trees must be removed to promote a perpetually young healthy forest with the added benefit of economic stimulus as wood products are harvested. Treatment plans that include fire-resistant vegetation will serve to protect both private and public land from catastrophic wildfire.

Coordination with the Forest Service is essential for any wildfire mitigation plan to be successful, as is having Kane County participate in the revision of any Forest Service management plan. A Wildland Fire Plan is in the process of being developed for Kane County and is projected to be completed in 2019.

Commercial Land Uses

- Goal #1:* Encourage and provide for commercial uses in locations with infrastructure in place to serve the public.
- Objective:* Develop commercial uses compatibly with the use and character of the surrounding area.
- Policy:* The Land Use Ordinance and associated zoning map will determine the standards for commercial uses at appropriate locations.

Agricultural Land Uses

- Goal #1:* Ensure the retention of a viable and vibrant agricultural base by preserving appropriate areas for permanent and temporary agricultural and open space uses through Agricultural Protection Zones and Conservation Easements.
- Objective:* Recognize and protect important agricultural lands, especially irrigated cropland, for its agricultural production value and contribution to the preservation of open space. Encourage the establishment of *Agriculture Protection Areas* as authorized by state law.
- Policy:* The Land Use Ordinance and associated zoning map will determine the standards for agricultural uses.

Page 16. Chapter 2 – Transportation and Circulation

Kane County's policy on transportation, circulation and access addresses the general location and extent of: a) arterial, collector and local streets; b) mass transit; and c) other modes of transportation.

Introduction

A defining feature of Kane County is its remote location. Unincorporated parts of the county contain approximately

255.5⁴ linear miles of paved roads, the majority of which are included in the major state highways (89, 89A, 9, 14, and Bryce Canyon Road). Johnson Canyon, Coral Pink Sand Dunes Road, Hancock Road, six (6) miles of the North Fork Road, Alton Road, small local roads located in subdivisions, the access road to Navajo Lake and both entrances to Kanab Canyon (also known as Best Friends Animal Sanctuary) are the only paved county roads.⁵

Page 17. Most of these roads were never formally platted or surveyed. The adoption of the Federal Land Policy and Management Act (FLPMA) in 1976 repealed RS 2477 with valid existing rights, and instituted a new right-of-way authorization system (Title V) for roads created after 1976. Kane County has filed maps showing all roads vested under the provisions of RS 2477.

Kane County will take the lead in providing a safe, efficient and functional transportation system which emphasizes the circulation of residents and visitors between communities, as well as access to the scenic wonders in the county. The system will stress a wide range of transportation methods, and will be founded upon the ability of the county to utilize rights-of-way on public lands vested under the authority of RS 2477.

Kane County has also adopted the U.S. 89 Corridor Access Management Plan (East Transportation Plan) that has identified existing access controls throughout the corridor and will guide future development. This plan addresses traffic conflicts, limits the number of major intersections and creates a safer and more efficient roadway.

Page 18. Cooperate with UDOT and the Federal Highway Administration in creating safe development along all highways in Kane County.

U.S. Highway 89 is a limited-access highway, in which the Utah Department of Transportation (UDOT) restricts the number of ingresses and egresses. This is to promote safety, yet retain the capability of carrying traffic at relatively high speeds. While the county understands this, it is also evident that additional access points are needed. These can be allowed while retaining the highway's arterial nature. An eastern corridor from Kanab City to mile-post 48.8 has been developed by Kane County and UDOT to establish safe ingress and egress off Highway 89. It will be managed under the U.S. 89 Corridor Access Management Plan (aka East Transportation Plan) and used to identify future access locations.

UDOT and Kane County also constructed a wildlife protection fence in cooperation with several state and federal agencies, and sports clubs, along a 2 ¼ mile stretch of Highway 89 for tourists traveling to recreational destinations like The Wave and Lake Powell, to prevent them from colliding with migrating Paunsaugunt mule deer. This too, is managed under the same management plan and coordinated with UDOT.

UDOT also coordinates developments along State Route-9 (SR9), which is considered a scenic highway to the east entrance of Zion National Park. UDOT has jurisdiction for all ingress/egress for subdivisions, commercial ventures, and recreational pursuits; any developments off of SR-9 will follow UDOT guidelines and Kane County Standard Specifications and Drawing Details for Design and Construction. A major East Zion Gateway community is currently underway and is being developed in coordination with multiple agencies to ensure traffic safety, future parking, and shuttle systems for Zion National Park. This new gateway community could create the need for Kane County Land Use Ordinance and Kane County Resource Management Plan expansion.

Page 19. Transportation and Circulation – Goals

Kane County is taking the lead in providing a safe, efficient and functional transportation system which emphasizes the circulation of residents and visitors between communities, as well as access to the scenic wonders in the county. The system stresses a wide range of transportation methods, and is founded upon the ability of the county to utilize rights-of-way on public lands granted under the authority of RS 2477.

⁴ Per Louis Pratt, Kane County Transportation System Director, GIS Mapping.

⁵ Louis Pratt, Kane County Transportation System Director, GIS Mapping, July 27, 2015.

- Goal #1:* Improve county and regional mobility.
- Objective:* Develop a balanced transportation system that provides a broad range of transportation modes, efficiency, and connectivity.
- Policy:* Develop a county-wide transportation system through coordinated transportation planning efforts with local, regional, state, and federal agencies.
- Goal #2:* Develop a balanced transportation system that provides for safe and efficient movement of vehicles and pedestrians.
- Objective:* Coordinate land-use and transportation planning to maximize land development opportunities. Ensure that decisions regarding future land development and transportation planning are closely coordinated and mutually supportive.
- Policy:* The County will work to improve safety and circulation when roadway or property development occurs.
- Goal #3:* Provide for safe travel and access to property off of all highways located in Kane County.
- Objective:* Work with Utah Department of Transportation (UDOT) in changing access requirements (where applicable) on all highways in Kane County. Utilize and/or amend the U.S. 89 Corridor Access Management Plan that manages the corridor for future development east of Kanab City. Use the Kane County Standard Specifications and Drawing Details for Design and Construction for all growth and development.
- Policy:* Cooperate with UDOT in their efforts to establish safe ingress/egress to property off of all highways located in Kane County.

Page 21. Climate, elevation, and adequate water supply have determined land ownership and land use patterns of Kane County. 85.5 percent of the land base remains in federal ownership. The land base which is privately owned is located along perennial water courses and at the base of high elevation forests. Less than one percent of the private land base is located inside incorporated communities; a substantial amount of forest land in higher elevations has been developed for vacation homes and cabins.

Page 22. Environment - Key Issues

1. The protection of watersheds is critical to the continued development of Kane County.

Past land use practices in this arid region have caused impacts which are still affecting soil and water quality. A major affect is the decrease in water flow and water quality. More work has to be done to improve watershed conditions and to protect water quality. Kane County wishes to coordinate with its federal partners as well as Kanab City, Coconino and Mohave Counties, to drive vegetation treatments that will improve soil quality and thereby improve watershed health, water retention and yield. Kane County wishes to improve and protect the water sources that are now in place, including any future sources that will be developed.

Kane County has implemented a land use ordinance for drinking water source protection zones. There are many water source protection zones already in place; Kanab City, Johnson Canyon, Swains Creek and Best Friends protection zones are some of the largest protection zones developed. All future planning efforts for water source protection zones will be coordinated with the Department of Environmental Quality and will be recommended through the Planning Commission and Commission processes, as stated in Ordinance 1996-5.

An updated and additional Resolution 2006-23 was implemented to support the Southwest Utah Public Health Departments, Environmental Health Administrative Program to oversee alternative onsite waste water systems in Kane County. Continual coordination for future developments will stay in place for protection of Kane County's water

and water sources.

Page 23. The presence of extensive mineral deposits must be recognized.

While the designation of the Grand Staircase-Escalante National Monument (GSENM) has precluded mineral extraction under the mining law and mineral material sales contracts on certain sections of the Kaiparowits Plateau, the presence of the vast mineral resources must be recognized as a potential resource for future generations. The recent resizing and modified boundaries has also affected what is now accessible on the Plateau and subject to possible future sales contract(s), though Kane County understands it is not the reason for resizing the Monument. Either way, Kane County insists the mineral potential be responsibly assessed. Kane County understands that market standards will always dictate the feasibility of future mining and extraction.

There are other areas across the county that have variable levels of minerals that must be recognized such as the Kolob Coal Field (Western Kane County) the Alton Coal Field (Coal Hollow Mine) and various other elements (limestone, clay, gypsum, and silica). Even if the current markets make it unfeasible to extract these minerals, the presence and location of Kane County's natural resources are still a part of its intrinsic value.

Kane County's Resource Management Plan has outlined specifications and guidelines for future planning efforts regarding mineral deposits and potential on public lands within Kane County boundaries.

Pages 23 & 24. Multiple-use/Multiple functions management of public lands.

Federal land management agencies must comply with the multiple-use/multiple function goals and objectives of Congress as stated in the following statutory laws: Taylor Grazing Act, Federal Lands Policy & Management Act, Public Rangelands Improvement Act, National Environmental Policy Act, General Mining Law of 1872, Minerals Leasing Act of 1920, Materials Act of 1947, Mining & Mineral Policy Act of 1970, National Materials and Minerals Policy, Research & Development Act of 1980, and other related laws concerning recreational and multiple-use of natural resources that impact the watershed. Sovereign lands (beds of navigable waters) will be administered under *Title 65A Forestry, Fire and State Lands* (i.e. parts of Colorado River – shores of Lake Powell in Kane County). The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local citizenry.

Kane County has implemented Land Use Ordinance 'Chapter 27: Escalante Region Multiple Use/Multiple Functions Grazing Zone' and the Kane County Resource Management Plan for guidance on development and use of public and private lands within Kane County and to establish compliance with coordination efforts on state and federal laws and regulations.

2. Dark Skies.

A new trend of the environmentalists has turned to protecting the star-filled skies across the country. Because Kane County has so few towns and cities, the night sky can be seen very well. Those who want to protect the night-sky environment can implement some land-use guidelines to assist in protecting the night sky so they can see the stars better.

Kane County encourages lighting practices and systems which will: minimize light pollution, glare, and excessive glare; conserve energy and resources while maintaining nighttime safety, utility, security, and productivity; and curtail the degradation of the nighttime visual environment. New and major additions to land-uses, developments and buildings or structures are encouraged to use hooded lighting practice.

3. Scenic Corridor Protection and Preservation.

Kane County's tourism industry has been steadily growing. At the same time, several large commercial developments are being discussed that could affect the quality of some *scenic corridors* which could affect the tourism market Kane County depends on. Kane County wants to preserve the aesthetic value of its significant scenic corridors by using the concept of *visual corridor mitigation*. The county would like to minimize the disturbance on its scenic corridors by having developers incorporate mitigation measures into their planning efforts and demonstrate this awareness

throughout the development process such as using less intrusive buildings, using structures that blend in with the environment, and by utilizing the natural environment to the best extent possible. The goal is to preserve the scenic value of Kane County's natural heritage – parts that may only be seen from the inside of a vehicle, but are still marketed to the world and popular to see.

4. Air Quality.

Kane County is known for its clean quality of air. The pollution is minimal and there is very little infiltration from other areas. The Department of Environmental Quality assists in regulating new development to help protect the air quality that is now enjoyed by residents and tourists.

Page 25. Environment – Goals

Land use policies and regulations are established to recognize and respect the constraints which natural hazards present to human use. The presence of sensitive lands such as watersheds and habitat for wildlife and livestock will also be reflected. Most importantly, the county will recognize that humans have been an integral part of the region's natural systems for over 12,000 years, and must continue to play an active role in its functioning.

Goal #1: Kane County will be a coordinating proactive participant in commenting on and developing federal environmental regulations which affect the county's land base.

Objective: Promote the development of the county's mineral, water, manpower, industrial, historical, cultural, wildlife, transportation, recreational, and other resources.

Policy: Coordinate the efforts of local, state, and federal agencies regarding natural resources and wildlife with the goal of promoting efficient development and stewardship of the resources while maintaining local control.

Goal #2: Recognize the water resources in the county and the integral role these systems play in the natural and built environment.

Objective: Support the Kane County Water Conservancy District as one of the primary agencies involved with water resource development in the county. Develop and protect all the water source protection zones.

Policy: The Planning & Zoning Commission and the Kane County Commission will be involved and create any actions which impact efforts to develop water resources and treatments in Kane County.

Goal #4 Page. 26

Policy: For public lands work in cooperation with the Color Country Interagency Fire Center in implementing the goals of the Southwest Utah Regional Wildfire Protection Plan (SURWPP); For private lands work through the building department and the Kane County Fire Warden for all permits and developments.

Page 27. Introduction

Kane County provides an array of basic services to county residents, including road maintenance (county accepted roads); assessing and collection of taxes; recordation services; law enforcement; public buildings and unincorporated land use management. Most Kane County administrative and maintenance facilities have been located inside incorporated communities, mainly in the county seat of Kanab. The county does not provide other municipal-type services. Such services are provided by municipalities or special service districts.

A guiding principle which has been present in every Kane County plan since 1970 is the recognition that unincorporated areas of the county cannot be expected to accommodate municipal-scale services. Residential or

commercial land uses which require large investments in infrastructure such as roads, water, waste disposal, schools, etc. cannot occur on a land base where such services are not available.

Limitations on proposed land use due to the lack of services have sometimes disqualified private land for development. Kane County will allow development in unincorporated areas with the understanding that infrastructure improvement, development and maintenance will be at the expense of the subdivider and land owners who enjoy the benefits of such improvements. Developers will be required to operate within the perimeters of the Kane County Land Use Ordinance. Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The installation of water systems and fire hydrants does not imply or require county provided road maintenance or snow removal.

Page 28. Public Services and Facilities - Key Issues

1. Kane County will not become a provider of municipal-scale services, but will assist in such development if serviced by a special service district.

Kane County's unincorporated areas cannot be expected to provide municipal-scale services. Residential or commercial zones which require large investments in infrastructure such as roads, water, waste disposal, schools, etc. cannot occur on a land base where such services are not available. Kane County recognizes this distinction, and will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain their own services. Kane County will discourage development in unincorporated areas *unless such development is serviced* by a special district established for that purpose.

Page 29. Kane County may request developers analyze the impacts of proposed development but shall not engage in the practice of imposing impact fees.

Utah State Code allows counties to impose impact fees if the county first complies with several requirements. The purpose of impact fees is to require new development to pay for added costs to existing infrastructure and other services including utilities, fire protection, roads and law enforcement. Kane County does not provide utilities or fire protection other than wild land fire protection. The only two services provided by the county for which an impact fee could be imposed are roads and law enforcement. Kane County requires the developer to construct and improve necessary roads under current Land Use Ordinances. All other roads necessary for new development remain privately owned and maintained until they are in line with county standards. Therefore, it would be inappropriate to impose an impact fee for roads.

Kane County further believes that additional need for law enforcement, due to new growth and development, should be paid for through the increase of taxes. New growth is already built into the current structure of property taxes. There are, however, several entities, (special districts), that provide other municipal-type services to residents of unincorporated areas of the county. When those entities have the authority to impose impact fees, they should consider whether the policy of imposing impact fees is appropriate.

Kane County is aware and encourages special service districts to utilize the cooperation and assistance of funding agencies available through federal and state partnerships for developing infrastructure such as municipal-scale services. This may include the commissioning of planning and feasibility studies as well as obtaining low interest rate loans and grants to finance projects.

Page 29. Kane County will cooperate with major utility providers, including but not limited to: power, natural gas, water, telephone, and fiber optics to establish necessary utility corridors.

Kane County endeavors to ensure that its residents and visitors enjoy improved utilities, such as, power, natural gas, water, telephone and fiber optics. The county will cooperate with major utility providers in their efforts to establish necessary utility corridors. These efforts will provide an improved system which equitably and efficiently meets the needs of residents and visitors in a cost effective and sustainable manner.

Page 30. Power, natural gas, water, telephone, and fiber optics to establish necessary utility corridors.

Kane County endeavors to ensure that its residents and visitors enjoy improved utilities, such as, power, natural gas, water, telephone and fiber optics. The county will cooperate with major utility providers in their efforts to establish necessary utility corridors. These efforts will provide an improved system which equitably and efficiently meets the needs of residents and visitors in a cost effective and sustainable manner.

Public Services and Facilities – Goals (Garkane is working on getting natural gas from the project).

Kane County does not intend to become the provider of municipal-scale services or facilities. The county will facilitate the transmission and distribution of necessary services by entities created and financed by those using such services. Direct county services will continue to be limited to those which have a county-wide scope.

Goal #1: Recognition that unincorporated areas of the county cannot be expected to accommodate or provide municipal-scale services.

Objective: Residential or commercial land uses which require large investments in infrastructure such as roads, water, waste disposal, schools, etc., will be encouraged to coordinate their efforts in proximity to adjoining municipalities or special service districts.

Policy: The County will support property owners in their efforts to secure municipal-scale services through municipalities or special service districts.

Goal #2: Ensure that county residents and visitors enjoy improved utilities, such as, power, natural gas, water, telephone and fiber optics.

Objective: Assist utility providers in their efforts to convey improved systems which equitably and efficiently meet the needs of residents and visitors in a cost effective and sustainable manner.

Policy: The County will cooperate with major utility providers in their efforts to establish necessary utility corridors.

Page 31. Chapter Five – Rehabilitation and Conservation

Kane County's policy for rehabilitation and conservation is to provide for: a) historic preservation; and b) support for redevelopment or reclamation.

Introduction

Rehabilitation largely consists of historic preservation. The purpose and intent of historic preservation is to enrich the lives of all who reside and visit Kane County and provide a greater understanding of the elements that contribute to the county's visual character and appeal. History is found not only in written form, but within the homes, stores, churches, factories, and civic buildings interwoven through its fabric. Buildings have their own historic sagas to tell about their age, prestige, function, and importance. As a collective whole, buildings tell the county's history, chronicling the growth, character, and culture. Kane County wishes to provide a greater understanding of its history, and contribute to its visual character and appeal.

Preserving elements from every period of history is important. When we lose historically significant buildings, we lose the sense of place these structures create. Additionally, in order for us to understand the present and future, it is important for us to see and appreciate the progress that has been made since settlement. The ability to appreciate such progress can be accomplished through the architecture of the past.

While preserving the past is important, saving every old building is not necessary to ensure the character of Kane County is retained. Buildings which should be preserved are those which best represent their historical period and can be adapted to functional uses without sacrificing the uniqueness of their age or architectural style.

The preservation of historic resources in Kane County has been the focus of many local and regional organizations. Kane County will continue to partner with such organizations in historic preservation projects, but does not intend to become a lead agency in historic preservation. The State Historic Preservation Office (SHPO) is the lead agency for historical research, building and community preservation, and cultural resource management.

The second function of the rehabilitation and conservation element focuses on the county's redevelopment potential. Specifically, the element seeks to address the diminution or elimination of blight and redevelopment of land, including housing sites, business and industrial sites, and public building sites. Utah State Code (17C-1-201) defines a redevelopment agency as *"...a political subdivision of the state, that is created to undertake or promote urban renewal, economic development, or community development, or any combination of them, as provided in this title, and whose geographic boundaries are coterminous with: (a) for an agency created by a county, the unincorporated area of the county; and (b) for an agency created by a city or town, the boundaries of the city or town."*

Page 32. Housing stock condition illustrates that 90.16% of the homes in Kane County are in excellent, fair, or moderate condition. Although there are other types of building construction found in the county, the vast majority of improved land is residential.

Page. 34. Chapter Six – Economic Development Kane County - Economic Overview

The economy of Kane County has traditionally been based on its abundant natural resources. Most of these resources are found on lands administered by federal agencies. Access to these resources has been reduced at an ever-increasing rate since the 1970s. Animal unit months (AUMs) for grazing, timber harvests (board feet), and mineral extraction have been greatly reduced. After the creation of the Grand Staircase-Escalante National Monument, the withdrawal of locatable mineral exploration and development in northern Arizona, and the cessation of coal leases (which affected western Kane County) the reductions caused the loss of a significant number of higher paying jobs.

With the increase of tourism, which jumped significantly in the 1980s, and the demise of natural resource-based jobs in the early 1990s, Kane County's job market shifted towards hospitality/service-based jobs. Kane County also saw the emergence of a new job category from Best Friends Animal Sanctuary. Best Friends established themselves as a non-profit organization north of Kanab City in Kanab Canyon (informally renamed by them as Angel Canyon) and have grown to become the largest employer in the area with approximately 450 local employees (and approx. 800 nationally).

Government jobs in Kane County have also risen significantly. They now account for 25% of all jobs and 32% of payroll dollars (with the county seat being in Kanab). These jobs bring some stability to the work force as the numbers in this category tend to steadily increase.

Over the past several years, Kane County's population has shifted in its demographic. The U.S. Census Bureau and the Kem C. Gardner Policy Institute (University of Utah) are close in their population estimates in describing the spread of age groups. As of July, 2016 the Census Bureau estimated Kane County's population to be 7,334⁶; that is a 2.9% increase from April, 2010. The Census Bureau says 22.8% of the population is 65 years or over, which is a 3.3% increase from the 2010 population. To put that in perspective, the table below shows the age spread 0-17 years; 18-64 years (working age) and 65 years and over:

2016	0-17 years	%	18-64 years	%	65 years +	%	Total
U.S. Census Bureau	2,068.19	28.20	3,593.66	49.00	1,672.15	22.80	7,334
Kem C. Gardner	1,764.00	23.91	3,996.00	54.15	1,619.00	21.94	7,379

⁶www.census.gov/quickfacts/fact/table/kanecountyutah.us#viewtopDownload October 2017

Prior to 1980, retirement in Kane County was limited to those families who had lived in the area for several generations. With the introduction of new subdivisions offering inexpensive land, the retirement segment grew, which had an impact on the county's economy. Retiree household income is generally higher than the household income of those presently in the labor pool.

However, according to the U.S. Dept. of Commerce, the percentage of people living in poverty in Kane County is around 9%⁷ (the state of Utah is 11.7%); most of the percentage of people who fell below the poverty line were single moms with children under 18 years (25.9%). But, the numbers that reflect the senior statistics in that report are a little deceiving because the Census Bureau counts people 65 years and older in one category, whereas, Kane County serves 60-years and older at its Senior Centers and ends up with a higher count. The real-time figures for service to seniors at the poverty level is closer to 14%, based on the statistics collected by Five County Association of Governments, the agency that tracks the home delivered and congregate meals to senior citizens. In Kane County, that is over 1,000 seniors (60 yrs. And older) living at 125% of the poverty level.

There are also a high percentage of children in Kane County living in intergenerational poverty (IGP). IGP is the type of poverty that has been passed on from two or more generations and becomes cyclical. Kane County has identified 100 children that currently live in IGP and approximately five times that many who are at risk of remaining in IGP as adults.⁸ Kane County is focusing on reducing the number of children living in IGP by partnering with other agencies to better utilize and coordinate existing resources to combat it.

One of the other concerns about Kane County's economy is its environment. The natural beauty of the area is unsurpassed; the air and water are clean and the climate is without extremes. But, most of the land in Kane County is publicly administered and access to the county's natural resources is limited because it is controlled by federal and state agencies. This has led to job losses and made economic development within the county more challenging.

Tourism has been established as a major component of Kane County's economy, but the opportunities it presents also come with challenges. Employment in the hospitality sector is cyclical and wages are generally lower without year-round job stability. Human resources have been strained because young people leave the area for quality jobs that can support a family. Housing affordability has also changed in relation to wages; there has been an increase in the sale of empty lots and the construction of residential housing, which has affected home prices; and long-term rentals have given way to vacation rentals causing a shortage. Business owners have had to get very innovative to create affordable housing for their workforce, which has included purchasing houses to temporarily rent to seasonal or VISA-card holding workers.

Page 35. Economic Development – Guiding Principles

The same qualities that attract residents and tourists create a myriad of problems for businesses and industry. Some of the best opportunities for economic growth are due to the abundance of natural resources; however, the use of these resources is restricted because of environmental restraints placed on federally managed lands. This has also reduced the number of high-paying jobs.

The following are key economic development principles that should guide Kane County in efforts aimed at economic development:

Page 36. Local Area Leadership. Kane County will foster an environment for effective leadership that focuses on vision, communication, effectiveness and respect. Leaders must champion responsible economic development that enhances the quality of life, and preserves unique scenic and natural beauty. Kane County will be an active partner with other business and government organizations working to develop a broad-based economy. It will promote traditional economic uses while fostering new economic activities.

1. Year-Round Employment.

⁷ 2017 U.S. Department of Commerce Report.

⁸ Kane County IGP Strategic Plan; "A Report to the Intergenerational Welfare Reform Commission"; Kane County IGP Committee, June 2, 2017.

Travel and tourism account for the majority of Kane County's economy. Seasonal fluctuations in travel and tourism result in high unemployment rates especially when scenic destinations such as the North Rim of the Grand Canyon and Grand Staircase-Escalante National Monument close. Kane County will work with area stakeholders, as well as federal and state agencies to develop year-round recreational opportunities that will require steady employment to reduce the cyclical nature of the tourism industry, assisting both employers and employees to sustain a steady level of income.

Economic Diversity. Business growth and development must focus upon jobs that pay well and provide high quality goods and services. Creating new jobs through retention and expansion of existing businesses, and by attracting target industry will diversify the economy. Creating additional educational opportunities for residents will also allow life-long learning opportunities and stimulate economic vitality. Although employment in Kane County within the travel and tourism industry is more than double that of the United States as a percentage⁹ it is good to remember that the service sector includes wholesale trade, utilities, administrative and waste services, real estate, rental and leasing services, retail employment, information technology and services, healthcare and social assistance, arts and entertainment, finance and insurance, transportation and warehousing, professional and technical services, and educational services. It includes most *other* services except for public administration.

Targeted Economic Development. While tourism is an important element of the county economy, it is critical that the economic base be developed as a diversified economy in order to achieve economic stability. Kane County will take a targeted approach to economic development building on the existing strengths in the local economy and diligently work to introduce new diversified segments to the economy. This will take a collaborative effort between stakeholders, federal, state and local agencies, as well as neighboring communities such as Fredonia and Page, Arizona, Coconino and Mohave Counties, and the Tribal Councils for the Paiute, Navajo and Hopi Indians. Through the continued efforts of organized Coalitions, Kane County will strive to revive the timber industry and mineral extraction where it is environmentally safe and sound. It will also do everything in its power to safeguard and increase the livestock and agricultural industries where it is economically feasible. In addition, Kane County will support the continued efforts for extended leases and extraction of the Alton Coal fields, which will increase the number of available jobs in the area as well as secondary services required to support the industry.

Page 37. Arts and Cultural Opportunities. Local events that attract outside talent and provide opportunities for local talent to be displayed and enjoyed must be encouraged. Preservation of the county's culture and heritage should always be a focal point of Kane County's strategy of future economic development efforts. This will include additional events that not only highlight the local culture, but spotlight the beauty of the local surroundings.

1. Environment. Kane County is home to many astounding scenic qualities, including its clean and tidy communities. This sense of personal and community pride as stewards of the land must be fostered. Of particular importance to the county is the ability to utilize its natural resources in a responsible manner without undue political interference. This utilization can occur without impairing the scenic quality treasured by both residents and visitors. Access to scenic lands should be made available to those who will treat the land with respect and honor.

In addition to this, Kane County will foster a relationship with neighboring communities to enhance the sense of community pride, offering ideas and/or assistance to help clean up areas of blight that are visual from the main transportation corridors, so we can work together in portraying the sense that Kane County is important to its residents and is something we are proud to show to visitors from across the world.

Economic Development – General Goals

Kane County will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities that expand opportunity, utilize available natural resources, and protect important scenic and social qualities.

Goal #1: Retain, expand and/or diversify existing businesses.

⁹ July 2015, Julie Suhr-Pierce, PhD., Socioeconomic Baseline Study, GSENM, Livestock Grazing MMP/A/EIS; Table 5.1.2, pg. 37

Strategy: Focus business assistance and economic development efforts in Kane County on retention, expansion, and diversification of existing businesses and industry.

Page 38.

Strategy: Support economic development organizations and workforce providers to ensure that training programs are created and delivered in the marketplace that match the needs of existing and targeted businesses.

Strategy: Support the annual Center for Education, Business and Arts (CEBA) Rural Economic Development Summit in their efforts to educate local citizens, entrepreneurs, and business owners on Kane County's economic development efforts.

Goal #2: Attract or develop new businesses that provide quality jobs.

Strategy: Kane County will coordinate its business recruitment efforts closely with county, regional, state and other economic development organizations.

Strategy: Develop a network of business contacts that can assist in business recruitment.

Strategy: Enhance educational opportunities in Kane County. Encourage and advocate for post-secondary educational opportunities being available, accessible, and affordable.

Kane County's role as a supporting partner to further Economic Development

One of the wonderful aspects of living in rural Utah is the degree to which people reach out and support one another. Kane County will provide leadership through extensive collaboration with others. Kane County will support a wide range of community efforts that contribute to the area's economic growth, and stability, and help it sustain the benefits of a rural way of life. The following list includes examples that may not fit in Kane County's target areas but are important areas where it will play a supportive role:

- Kane County will support the Southwest Applied Technology Center in efforts to establish educational programs for local students, the business community, and anyone seeking to improve their skills or further their education.

Page 39. Targeted Economic Development Efforts. Tourism has become Kane County's local *export economy* providing jobs and supplementing the tax base with little cost to local taxpayers. With Kane County's strategic location to so many natural wonders—three National Parks, five National Monuments, two State Parks, two National Forests, and one of the nation's largest National Recreation Areas—it makes sense that we become a magnet for visitors from all over the world.

- Kane County will support efforts to secure adequate infrastructure for Kane County's future, including but not limited to the Lake Powell Pipeline, extending natural gas to county customers, and making improvements to Internet/Broadband communications.
- Kane County will support the Utah Department of Transportation, and local jurisdictions in the development of highways, roads and streets assuring safe, convenient public travel within Kane County and the surrounding region. This includes adopting and abiding by the Kane County US-89 Corridor Access Management Plan.

Page 45. The Kane County General Plan focuses on the unincorporated areas of the county. Private land is approximately 249,936 acres or 9.5% of the total land base. Kane County ranks fifth in scarcity of privately owned land at 10.1% and third at the abundance of federal lands (87.5%) amongst the other counties. Less than one percent (0.80%) of county land base is located inside incorporated communities. [See chart at beginning of Plan.]

Page 48. However, it behooves Kane County to prepare and adopt a comprehensive, long range plan that addresses the issue of moderate income housing because the Utah Assessment indicated the trend will only worsen over time and the gap between wages and affordability is going to get bigger. In addition, addressing the concept of moderate income housing is critical to programs and initiatives trying to move people out of homelessness and intergenerational poverty.

Page 50.

Goal #3: Recognition that unincorporated areas of the County cannot be expected to accommodate or provide municipal-scale services.

Objective: Residential land uses which require large investments in infrastructure such as roads, water, waste disposal, schools, etc., will be encouraged to coordinate their efforts in proximity to adjoining municipalities or special service districts.

Policy: Kane County will not allow development that requires county-financed or maintained services. Landowners who require such services will be required to finance, install and maintain services without expecting or receiving county-provided services. The County will support property owners in their efforts to secure municipal-scale services through municipalities or special service districts.



Kane County Land Use Authority

76 North Main Street
Kanab, Utah 84741
Phone (435) 644-4966
planning@kane.utah.gov

Commercial Conditional Use Permit Application Fee \$500.00*

***In the event additional engineering costs are accrued by the County related to a specific project the project applicant will be responsible for all additional engineering fees.
(KCLUO 9-15A-2C)**

Applicant's Information

Name: SOUTHERN RED SANDS, LLC

Mailing Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Phone: [REDACTED] E-mail address: [REDACTED]

[REDACTED]
801 555 7775

Property Information

Parcel # SEC 16, T42, R7W Zone: C-2 (SILTA) Total acreage: 640

Acreage occupied by new use: 90 Current use of land: NONE

PROPOSED USE: SAND MINE FOR THE EXTENDED HEIGHT OF 120'
- 6 SILOS -

***Please provide proof of ownership.**

***Application must be received in office 21 days prior to the scheduled Land Use Authority Meeting (KCLUO 9-15A-2A).**

***Incomplete applications will be returned to the applicant/engineer.**

***Fee is non-refundable after engineer's review.**

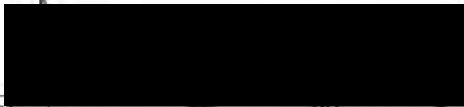
Property Owner's information
(if different than applicant)

Name: UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION
Address: 675 E 500 S SUITE 500
City: SLC State: UT Zip: 84102
Phone: 801-538-5100 E-mail address: _____

A notarized affidavit by owner that the applicant has authority to act on their behalf is required.

There shall be no presumption of approval of any aspect of the process. Each application for a Conditional Use Permit shall have all required submittals before it is accepted as a complete application. It is highly recommended that the applicant or their authorized agent be present at the Planning Commission meeting that the Conditional Use Permit is an agenda item. Electronic appearance is acceptable if prior arrangements are made.

I (We) understand that the Land Use Authority shall not authorize a Conditional Use Permit unless the evidence presented is such as to establish that such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, and the proposed use will comply with the regulations and conditions specified in the Kane County Land Use Ordinance for such use. (9-15A-(1-7))

_____
Signature of owner or applicant

6/10/19
Date

**ATTACH A LOCATION MAP, SITE MAP, SITE PLAN, BUILDING PLAN, AND
DETAILED DESCRIPTION OF PROPOSED USE.**

Please include a parcel map obtained from the Kane County Recorder's Office.

Land Use Authority Action:

☐

Approve

☐

Deny

Planning Commission Chairman

Date

TO BE COMPLETED BY KC LAND USE ADMINISTRATOR:

Is this an amendment? ☐ Yes ☐ No

**KANE COUNTY
CONDITIONAL USE PERMIT**

Southern Red Sands
Name of Applicant

06/10/2019
Date of Application (attached)

ATTACHMENTS

Exhibit "A"..... Application for conditional use permit
Exhibit "B"..... Legal description of property for which
conditional use is requested
Exhibit "C"..... Site map including parking, ingress & egress
(KCLUO 9-15A-2)

**FINDINGS OF THE PLANNING
AND ZONING COMMISSION**

The Planning and Zoning Commission has reviewed the application for a conditional use permit submitted in this matter, has held a regularly scheduled meeting to consider the application and having had an opportunity to fully consider the matter, the Planning Commission hereby makes the following findings:

1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community; and
2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity; and
3. That the proposed use complies with the intent, spirit & regulations of the Kane County Land Use Ordinance and General Plan (KCLUO 9-15A-2E (2a)); and
4. The use is harmonious with other neighboring use in the zone (KCLUO 9-15A-2E (2b)); and
5. Utah State Code §17-27a-304. Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a county jurisdiction over property owned by the state or the United States.

CONDITIONAL USE PERMIT GRANTED

Based on the application submitted and based on the forgoing findings of fact, the Commission hereby grants the conditional use as outlined below, subject to all conditions listed herein and any other conditions enforceable in law

or in equity. In the event that any of the conditions of this permit are not followed, the Commission reserves the right to revoke, in whole or in part, the conditional use granted herein.

Applicant is hereby granted the following conditional use: Conditional Use Permit for Southern Red Sands, LLC (SRS) Land Development Project, Mining Sand and (2) 120' silos.

CONDITIONS OF PERMIT

1. The holder of this permit must obey all state, local and federal laws in regard to use of the land on which this conditional use permit is granted. This includes compliance with all local ordinances, zoning ordinances, rules, regulations or other local laws as stated in Kane County Land Use Ordinance 9-15A-(1-7).
2. The holder of this permit must obtain a letter of approval from the Culinary Water Authority and/or Sanitary Sewer Authority.
3. Holder agrees to appear, when summoned in writing, at any meeting held by the Kane County Planning and Zoning Commission or the Kane County Commission, to address or answer any questions regarding the conditional use granted herein, including but not limited to holder's compliance or non-compliance with the conditions of the permit. Holder further agrees to make written response regarding compliance or non-compliance when requested by the Kane County Planning and Zoning Commission or the Kane County Commission.
4. Holder is allowed to construct and maintain the facilities, structures, and/or landscaping outlined in the site map which is attached hereto as Exhibit "C" and is hereby approved as part of this conditional use permit. Holder is not allowed to construct any additional facilities, structures, and/or landscaping unless said additions are approved by the Planning and Zoning Commission as part of this conditional use or are approved as activities that are acceptable within the zone.
5. Holder shall maintain all property and facilities used under this conditional use permit in good condition and repair and shall not allow their activities to cause or create a circumstance which causes or creates disturbance to persons or properties in the area surrounding the property which is the subject of this conditional use permit.
6. The conditional use permit will expire after one **(1) year** unless substantial work shall have been accomplished towards completion of the use. Whether or not substantial work has been accomplished shall be determined by the Planning and Zoning Commission.
7. This conditional use permit is granted with the use of the land, unless otherwise revoked or modified by the Planning and Zoning Commission as outlined herein, or as otherwise allowed by law and equity. If holder fails to complete the project within a reasonable time after **one (1) year** from the date of this permit, the Planning and Zoning Commission reserves the right to revoke the conditional use permit granted herein and the term above specified will no longer apply. Before the expiration of any term specified herein, holder may apply to amend the conditional use permit granted herein.
8. The holder of this permit shall allow members of the Planning and Zoning Commission, members of the Kane County Commission, the Kane County Building Inspector, and their designated agents to inspect the premises during the course of construction, and thereafter, to insure that holder is complying with the conditions of the conditional use permit.
9. This conditional use permit may not be transferred or assigned without express written consent of the

Planning and Zoning Commission.

10. All Federal, State and local permits will be in place before construction can begin.
11. All permits will need to be submitted to the Kane County Land Use Administrator.
12. The SRS development will comply with pertinent *Kane County Land Use Ordinance* and *General Plan* requirements. (Attachment #1)
13. SRS will be regulated by the Mine Safety and Health Administration (MSHA). The “Mine Plan” will need to be submitted to the Kane County Land Use Administrator, once it is completed. The Mine Plan will be a set of procedures and policies which will be implemented prior to the start of mining operations. The Mine Plan will cover all aspects of safety on the mine site regulated under Federal Regulations 30 CFR Parts 1-199. All employees and on-site workers will be required to be certified miners, which requires a 40-hour minimum training and a minimum of 8 hours of continuing training each year, as well as weekly and daily safety meetings and trainings. Occupational Safety and Health Administration (OSHA) requirements will all be adhered to.
14. SRS will comply with R647-102 1.13. The rules apply to all lands within the state of Utah lawfully subject to its police power, regardless of surface or mineral ownership, and regardless of the type of mining operation conducted. Therefore, all permitting will go through the Division of Gas Mining Agency (DOGMA) and ensure compliance with all health and safety standards for this mining development and operations. An “Approved Notice of Intention” shall be formally filed to commence mining operations, including any amendments or revisions thereto that is determined to be complete and contains a mining and reclamation plan, which has been approved by the Division.

R647-1-1034. Violations of the Act, these rules, a notice of intention, or a Board or Division order has occurred, the Board may take any enforcement action authorized by law including requiring: compliance, abatement, mitigation, cessation of operations, a civil suit, forfeiture of surety, reclamation, or any other lawful action.
15. All Air Quality test results need to be submitted to the Kane County Land Use Administrator (KCLUA) for compliance to BMP in compliance with the Notice of Intent (NOI) with the Utah Division of Air Quality (UDAQ) for its proposed operations in Kane County, Utah. The Utah Air Conservation Act and Utah Administrative Code includes requirements for state permitting of new or modified emission sources which will list all criteria pollutants, hazardous Air Pollutants and Greenhouse Gas emissions and Best Available Control Technology, and Air Quality Modeling.
16. Soil/Sand test results need to be submitted to the KCLUA. SRS has tested the soil/sand in the proposed mine area and has found that the smallest soil particulate size in the mined material is above 170 mesh size (88 microns). 29 CFR 1910.1053 regulates exposure “respirable crystalline silica”. Respirable particles generally refers to particles small enough to reach the alveolar spaces in the lung, which are particles smaller than 10 microns (OSHA Docket OSHA-2010-0034. As per 29 CFR 1910.1053, the material in the proposed mining area is not small enough to be inhaled and does not pose a respiratory risk.
17. All lease requirements will be regulated by SITLA. KCLUA has been given a copy of the lease and requirements. (SITLA Lease: Page ML 53492-MP, Page No. 1-6 (14)).
18. SRS will meet with the KC Development Committee before starting the development to ensure the site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations are met.
19. All mitigating factors must be in place before permits are acquired. (*KCLUA Conditional and*

Temporary Uses: 9-15A-1-7

20. A thorough Development Plan needs to be submitted as required per *KCLUO 9-15A-2-(B)*
Development Plan: The applicant for a conditional use permit shall prepare a site plan of the proposed buildings, fences, landscaping, automobile parking and loading areas, and any other information the Land Use Authority may deem necessary. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
21. UDOT traffic plans will be approved and a letter of feasibility will be submitted to Kane County Land Use Administrator and Lou Pratt, GIS.
22. A Parking plan will be submitted and approved by the Kane County Land Use Administrator and be in compliance with Kane County Land Use Ordinance 9-13-(1-14).
23. MSHA 30 CFR and Kane County Nuisance Ordinance will be adhered to.
24. To ensure the project does not impact the local circulation network or cause significant traffic on U.S. Highway 89, SRS will develop and implement a Transportation Management Plan in coordination with the Kane County Engineer and UDOT prior to construction and issuance of a building permit. The applicant is developing a final parking and vehicle circulation plan which will need to be reviewed and approved by the KC Development Committee prior to any construction.
25. All permits will be obtained as listed in previous conditions to eliminate the exhaust/emissions, and erosion. Emissions will meet all local and Federal EPA requirements.
26. SRS will comply with all lighting measures in the *Kane County Land Use Ordinance 9-10-14: LIGHTING*.
27. A Storm Water Pollution Prevention Plan (SWPPP) will be submitted to the KCLUA. The SWPPP will require measures to prevent the erosion and transportation of material. The SWPPP will require the use of Best Management Practices (BMPs).
28. A feasibility letter for solid waste during construction and during the day-to-day operations of the SRS project will be submitted to the KCLUA.
29. The Fugitive Dust Plan will be submitted to the KCLUA before construction begins. Fugitive Dust Control Plan: The Utah Department of Environmental Quality regulates fugitive dust emissions via Rule R307-309, requiring development of a Fugitive Dust Control Plan (R307-309-6). SRS will develop and submit a Fugitive Dust Control Plan to the Utah Division of Air Quality prior to the start of construction.
30. Permits for emissions will need to be submitted and will meet all local, Federal EPA and MSHA requirements.
31. The Mine Safety Plan will be submitted to the KCLUA in accordance to Federal Regulation 29 CFR 1910.1200. The Mine Safety Plan is being prepared in accordance with MSHA requirements of 30 CFR. MSHA will be required to review and approve the Mine Safety Plan.
32. A Reclamation Plan will be submitted to the KCLUA before construction begins. SITLA requires Performance and Reclamation Bonds and Reclamation Plans on all projects through their lease agreements. (SITLA LEASE ML 53492-MP Page No. 3) KCLUA will attend the reclamation site inspections for verification of compliance.
33. All permits will be submitted to the KCLUA for the necessary facilities required permits from State, Federal and County Entities, i.e., Building Department, Southwest Utah Health Department, UDOT, Garkane, Water Conservancy District, Kanab City, Fire Warden, Law Enforcement, Garbage

Disposal (land fill needs and solid waste) approval, etc.

34. The KC Building Official and County Engineer will require performance standards review for compliance of any use for the sand mine development to ensure the manner of operation will conform to the performance standards adopted by Kane County, to include, but not limited to, "Kane County Standard Specifications and Drawing Details for Design and Construction", Federal, State and local EPA standards, ICC Codes, etc. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)
35. The KC Building Official and KC Fire Warden will ensure the project complies with the defensible space requirements of the Utah Wildland-Urban Interface Code throughout construction and operation of the facility.
36. SRS will coordinate and submit the Emergency Response plan with the KC Sheriff's Office for the Emergency and Shutdown Procedures. The safety of all employees working on the Project during construction needs to be ensured. An Emergency Response plan needs to be developed and implemented for the Project in accordance with 3 CFR established by MSHA.
37. SRS agrees to have all feasibility letters in place before any improvements to the project area can move forward to provide that adequate public facilities are available to sustain this project.
38. *Kane County Health and Safety Ordinance 4-3-3-25* will be adhered to for noise. The mining operations will comply with no operations during the hours of eleven o'clock pm and sunrise. SRS is requesting that the Processing Plant be allowed to operate with unrestricted hours. The processing operations will consist of the operation of the plant, the operation of 3 front end loaders and the loading of haul trucks.
39. The view shed plan will need to be submitted showing the silos will be color painted to match and blend into the background of the existing site.

View shed cross sections will need to be submitted prior to the meeting for the Planning Commission to review. The view shed sections will be from the processing plant location and extend both towards the highway and towards the Best Friends property.
40. A construction storm water runoff plan will be submitted to the KCLUA before construction begins.
41. Finalized water attainment plans will be submitted to the KCLUA before construction begins.
42. SRS will fence approximately 55 acres with an 8-foot-high, chain-link fence. The fencing plan will be submitted as part of the final design to the KC Building Inspector.
43. Archaeological review and reclamation plan will be submitted to the KCLUA before construction begins as required under 36 Code of Federal Register (CFR) § 800- the regulations implementing Section 106 of the National Historic Preservation Act.

A reclamation plan per SITLA lease must be in place and a performance bond to ensure the project is protected and preserved throughout and after the life of the mine.
44. All water feasibility needs to be submitted before construction begins to the KCLUA. SRS has initiated a ground water feasibility well siting study. They are working with Kanab City for water feasibility.
45. The results of the NEPA study and BLM Environmental Assessment will be submitted to the KCLUA after finalization. The access road is currently undergoing a NEPA study. The requirements of the NEPA study will be required to be followed for the construction of the access road. The mining operations will be required to follow all air quality, NEPA and cultural resource requirements for all State, Federal and MSHA agencies. The Utah Mined Land Reclamation Act of 1975, Title 40, Chapter 8 of the Utah Code Annotated as amended (the Act). Section 40-8-2 of the Act states the

findings of the Legislature.

46. All studies and permits required by The Utah Mined Land Reclamation Act of 1975, Title 40, Chapter 8 of the Utah Code Annotated as amended (the Act). Section 40-8-2 of the Act will be submitted to the KCLUA to ensure compliance. Each operator who conducts mining operations on any lands within the state of Utah is responsible for compliance with the following rule: Operator Responsibilities, Compliance with other Local, State and Federal Law as: The approval or acceptance of a complete Notice of Intention shall not relieve an operator from his responsibility to comply with the applicable statutes, rules, regulations, and ordinances of all local, state and federal agencies with jurisdiction over any aspect of the operator's mining operations, including, but not limited to: Utah State Division of Water Rights, the Utah Department of Business Regulation, the Utah State Industrial Commission, The Utah Department of Environmental Quality, the Utah Division of State History, the Division of Forestry, Fire and State Lands. The School and Institutional Trust Lands Administration, the Utah Division of Wildlife Resources, the U.C. Fish and Wildlife Service, the United States Bureau of Land Management, the United States Forest Service, the United States Environmental Protection Agency and local county or municipal governments. (4) Each operator who conducts mining operation on any lands within the state of Utah is responsible for compliance with these requirements.
47. Southwest Utah Public Health Department and the Department of Environmental Quality will be the permitting agencies for water facilities and permits. SRS will submit copies of the permits that are permitted through these agencies. Waste Certification shall apply. Any on-site source of potable water or sewage treatment must be approved by the Utah Department of Health or DEQ, as applicable.
48. All buildings will require a building permit through the KC Building Department.

Notice: Under Utah Code §17-27a-304 Kane County does not have jurisdiction or any regulatory authority regarding land use regulations on State of Utah School and Institution Trust Lands Administration ("SITLA") lands that are located within the unincorporated areas of the County. The official zoning map of Kane County does not designate a zone for any SITLA lands. For the purposes of making recommendations to SITLA when a project or development is being proposed on SITLA lands within the unincorporated areas of the county, Kane County treats SITLA lands as if they were zoned Commercial. Therefore, even though the Land Use Authority has processed the relevant Conditional Use Permit Application using the standard legal process in reviewing and issuing a Conditional Use Permit, this "Conditional Use Permit" has no legal authority. It does not tie to or run with the land that is the subject of the Conditional Use Permit application and it conveys no legal rights or remedies to the applicant or any third parties. This "Conditional Use Permit" acts merely as the official recommendations from Kane County to SITLA the regarding how Kane County believes SITLA should regulate the project that is proposed in the application.

EXHIBIT “B”

Legal descriptions of property for
which conditional use is requested

Southern Red Sands

Residential & commercial businesses within a 5-mile radius of first silica sand mine

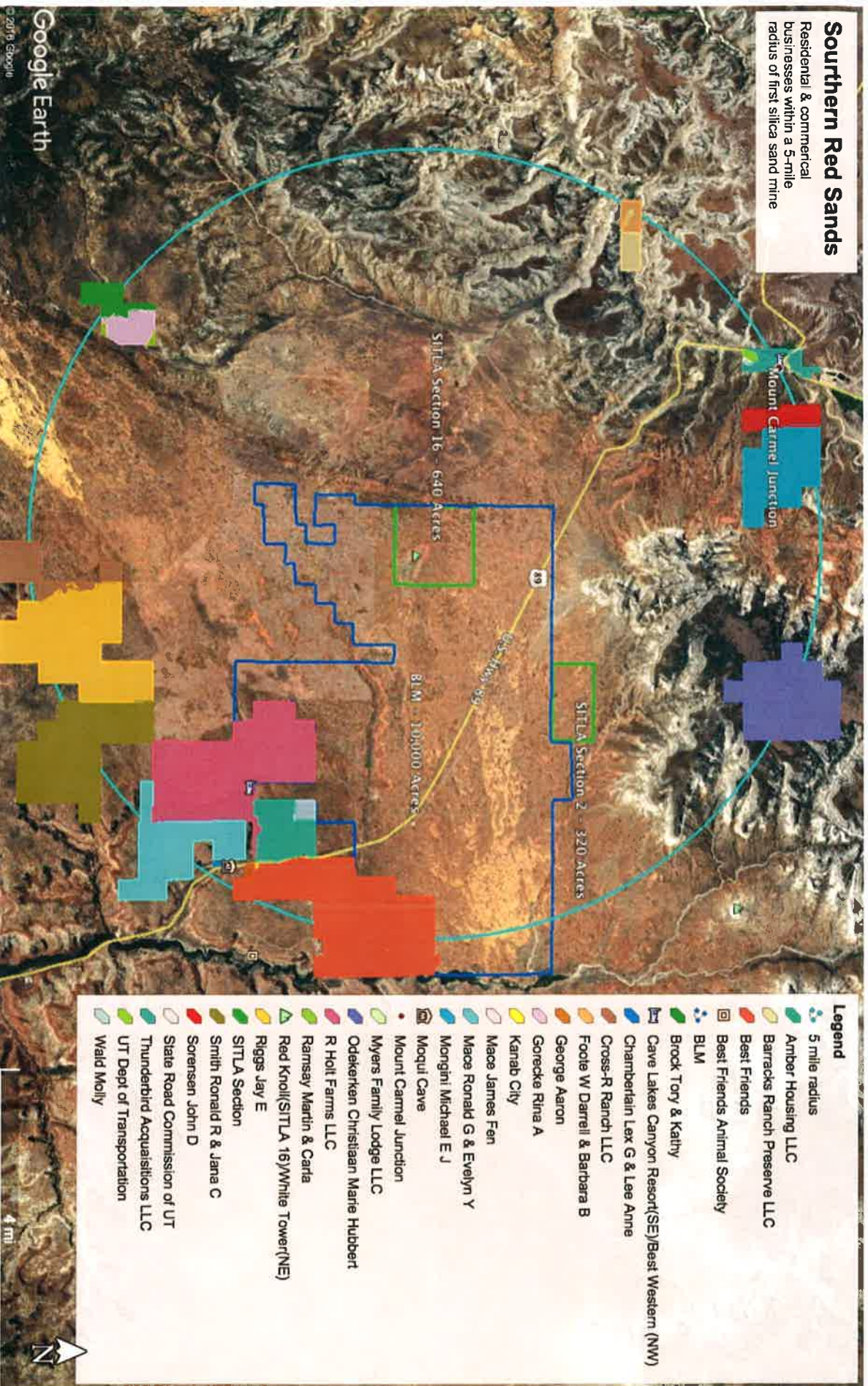


EXHIBIT “C”

Site map



— WET PLANT - PHASE

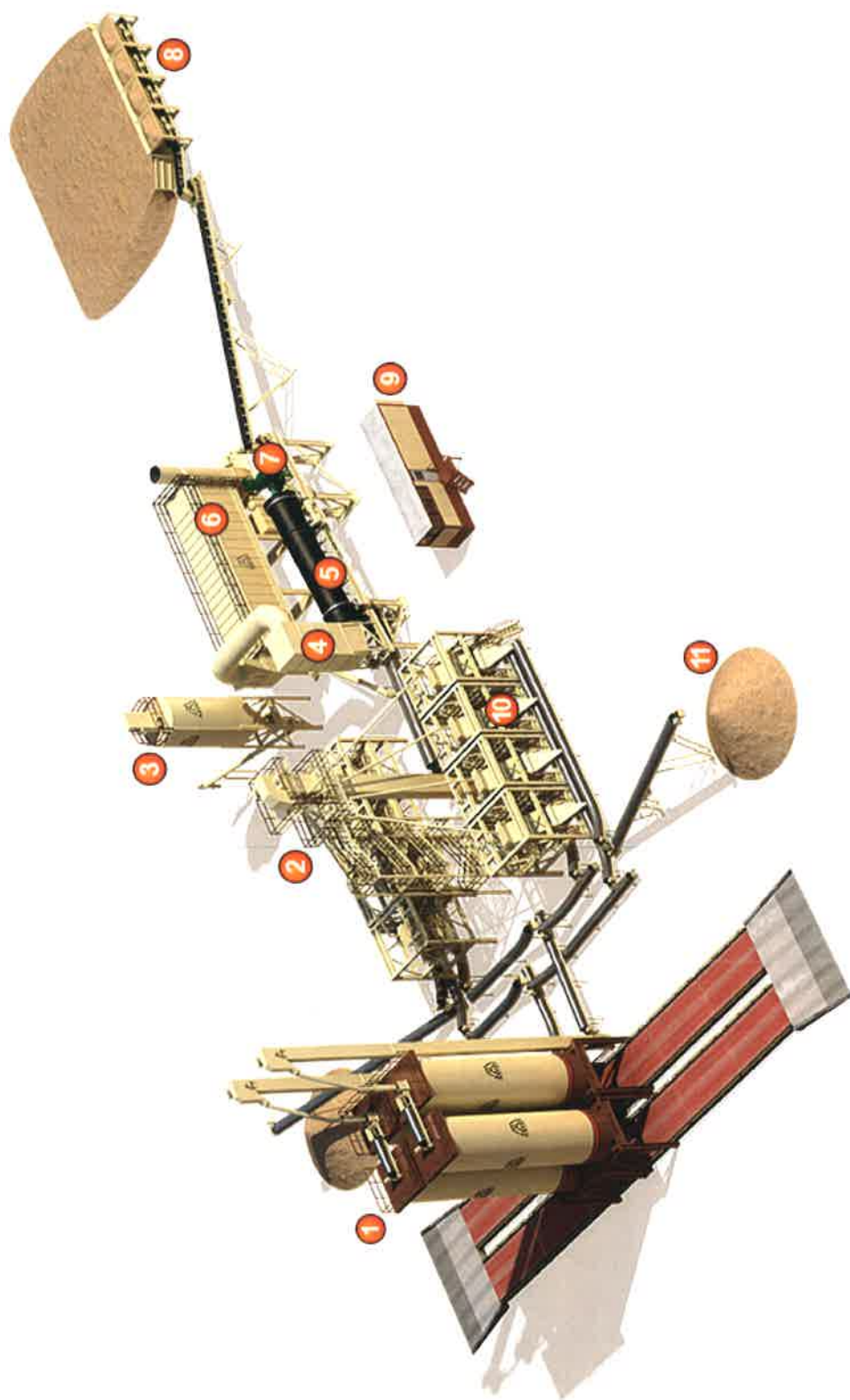
PHASE 2 (WET AND DRY PLANTS
NON-PAVED ROADS)

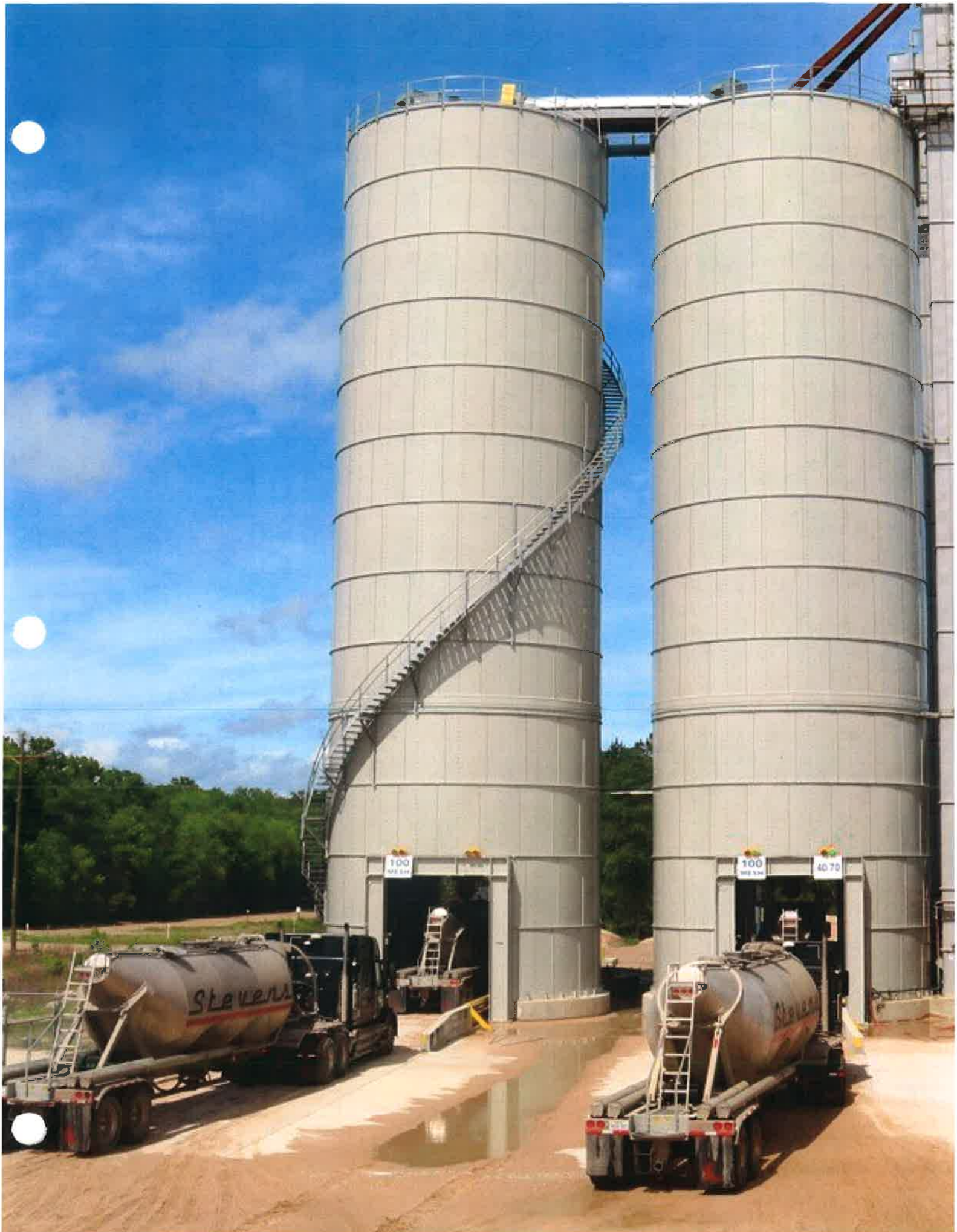
ITEM	ITEM #	ITEM NAME	ITEM DESCRIPTION
1	100-001	PLANT 100-001	PLANT 100-001
2	100-002	PLANT 100-002	PLANT 100-002
3	100-003	PLANT 100-003	PLANT 100-003
4	100-004	PLANT 100-004	PLANT 100-004
5	100-005	PLANT 100-005	PLANT 100-005
6	100-006	PLANT 100-006	PLANT 100-006
7	100-007	PLANT 100-007	PLANT 100-007
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9	100-009	PLANT 100-009	PLANT 100-009
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72	100-072	PLANT 100-072	PLANT 100-072
73	100-073	PLANT 100-073	PLANT 100-073
74	100-074	PLANT 100-074	PLANT

FOR APPROVAL
REC 12/18/18

REC-1218715

APPROVED _____
APPROD AS NOTED _____
CHANGE AS NOTED _____
& "ESJOW" _____





SITLA and BLM

Legend
acres
Red Knoll

SITLA Section 2
320 acres

SITLA Section 16
640 acres

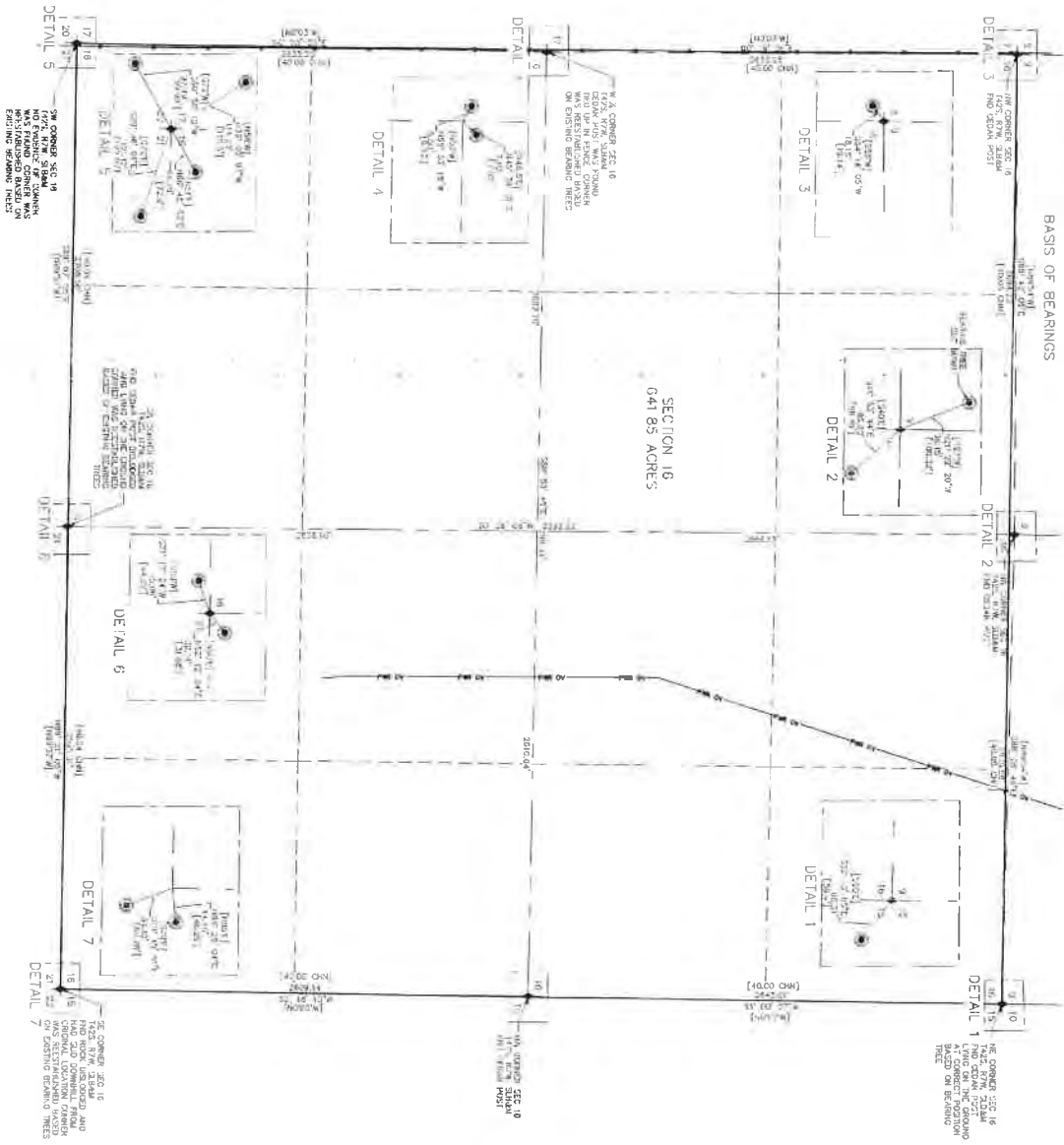
BLM
10,000 acres

Google Earth

© 2017 Europa Technology
© 2017 Google

2 mi





SITLA SECTION 16

LOCATED IN SECTION 16,
TOWNSHIP 42 SOUTH, RANGE 7 WEST
SALT LAKE BASE AND MERIDIAN

STATE OF TEXAS, CRIMINAL JUSTICE

3. However, it is equally a public concern that we should identify members who still hold this degree of attachment with the 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 85

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Date: _____

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LEGAL DESCRIPTION:

ALCON TOWNSHIP 42 SOUTH, RANGE 7 WEST, SALT LAKE BASE AND MERIDIAN

- GLIM SURVEY AND FIELD NOTES FOR SECTION 19 DATED 1909

Southern Red Sandu
400 E 300 South, Suite 5
Kerneb, Utah 84741

LEGEND

SET 5/8" x 36" REDBAR WITH PLASTIC
CAP MARKED IR. ENG. PLD 3581917
FOUND BEARING TREE
FOUND OR SET SECTION CORNER AS
NOTED

SECTION LINE

1/10 SECTION UNIT
FENCE

RECORD DATING AND DISTANCE

SCALE IN FEET
SCALE 1" = 300'

INITIAL SUBMITTAL:		DATE: 05/10/2015
REV#	DATE:	DESCRIPTION:

SOUTHERN RED SANDS
RECORD OF SURVEY
SEC 16, T42S, R7W, SLB&M
KANE COUNTY, UTAH

IRON FROCK
ENGINEERING
CORPORATION • 1990-1991

Building on Solid Foundations

400 E. 300 SOUTH
KANAB, UTAH 84741
435-844-2031
WWW.IFPCORP.COM

