



MINUTES

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

CHAIRMAN: Tony Chelewski

MEMBERS PRESENT: Tony Chelewski, Dale Clarkson, Doug Heaton, Danny Brown, Byard Kershaw, Harold (Hal) Hamblin

MEMBERS ABSENT: Wade Heaton

EX-OFFICIO MEMBER: Andy Gant (recused himself from County obligations)

STAFF PRESENT: Shannon McBride, Land Use Administrator; Ade' Nelson, Zoning Administrator; Rob Van Dyke, County Attorney; Cody Howick, Engineer; Wendy Allan, Land Use Administrative Assistant; Lou Pratt, GIS; Barbara Hansen, Building Inspector; Isis Smith, Chief Deputy Recorder; Dave Owens, IT Director; Devin Reed, IT; Christian Reed, IT; Emily Oblad, IT

5:00 PM	Meeting called to order by	Tony Chelewski
	Plcdge of Allegiance	Tony Chelewski
	Prayer	Dale Clarkson
	Announcements	Tony Chelewski

MOTION: A motion was made by Byard Kershaw to approve the **June 10, 2019** minutes. The motion was seconded by Danny Brown. The Chair asked for any questions or comments. The motion passed unanimously.

Announcements/Updates:

Chairman Chelewski informed the audience that public comment may be made during the specific agenda items.

MOTION: A motion was made by Doug Heaton to go in and out of public hearing at the call of the chair. The motion was seconded by Dale Clarkson. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

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.

Don Cox came to the podium. Ade' presented the project. The applicant would like to rezone to qualify for a USDA loan. All requirements have been met and it is consistent with other properties in the area.

Chairman Chelewski called the commission out of public hearing.

MOTION: Doug Heaton made a motion to recommend the zone change to the Kane County Commission, for the following reason: going from a less restrictive to a more restrictive zone, it will not have an adverse impact on any neighbor, and there has been no objection by any neighbor.

The motion was seconded by Dale Clarkson. The motion passed unanimously.

FINDINGS:

- Lot meets the minimum acreage requirement to be zoned Residential 1 acre (R-1). The lot is currently zoned Commercial 1 (C-1).
- A Zone Change is required for a lot 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.

Chairman Chelewski called the commission into public hearing

Administrative 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.

Brent Carter, New Horizon Engineering, (holding Power of Attorney) explained the project to the P&Z. Shannon added that it is a simple lot joinder with no easements being vacated. It does not need to go to the commission. Cody Howick, Kane County Alternate Engineer has reviewed the project and everything is in order.

Chairman Chelewski called the commission out of public hearing.

MOTION: Hal Hamblin made a motion 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.

The motion was seconded by Byard Kershaw. The motion passed unanimously.

FINDINGS: Amending (joining) the above stated lots conforms 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.

Chairman Chelewski called the commission into public hearing.

**Administrative
Public Hearing**

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

**Application 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**

Brent Carter, New Horizon Engineering, (holding Power of Attorney) presented the project. Shannon explained that the easements are no longer used as they are in between the properties. Civil Science has reviewed the project. All the easement termination agreements with local utility providers are in place. This will need to go to the commission for final approval due to vacating the easements.

Chairman Chelewski called the commission out of public hearing.

MOTION: Hal Hamblin made a motion 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.

The motion was seconded by Dale Clarkson. The motion passed unanimously.

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.

Chairman Chelewski called the commission into public hearing.

**Legislative
Public Hearing**

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

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 Tom Avant, Iron Rock Engineering.

Tom Avant, Iron Rock Engineering, (holding Power of Attorney) explained the project. Lou Pratt, KC GIS, is available to answer questions. Tom explained that UDOT will be moving their access and installing turn lanes to line up with this access road. This will extend the East Transportation Plan, providing an alternate route in case of traffic being stopped on Highway 89. Shannon indicated that Civil Science has reviewed the project. This project needs to be recommended to the commission for approval.

Chairman Chelewski called the commission out of public hearing.

MOTION: Byard Kershaw made a motion 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 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, 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.)

The motion was seconded by Danny Brown.

Doug asked if this road currently meets county standards. Tom explained that a portion of these roads are improved. The other sections will be improved over time. Doug reminded Tom that the County will not accept maintenance of the roads until they are brought up to County standards.

Chairman Chelewski called for the question and the motion passed unanimously.

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-ways 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.

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.

Attorney Van Dyke introduced the topic explaining that state law went into effect December 1, 2018, allowing medical cannabis. It requires that the County allow cannabis production establishments in at least one Industrial Zone and one Agricultural Zone. Production facilities include grow facilities as well as distribution facilities. The distribution facility for our area is Southwest Public Health. Our current policy, due to state law, is to treat cannabis production establishments as a permitted use in the Agricultural Zone. Rob indicated that the P&Z could list cannabis production facilities as a permitted use in the Agricultural Zone, list it as permitted in the AG Zone with regulations attached to that use, list as a conditional use in the Agricultural Zone, or create an additional Agricultural Zone to include cannabis production establishments. Rob asked for direction from the P&Z on how to proceed.

Rob mentioned two of the concerns with these facilities state wide. First, other states have seen an increase in crime rates in locations where marijuana is grown and distributed. The other concern is that cannabis production facilities tend to reduce the perception of risk among our youth.

Rob indicated that once an ordinance has been drafted, there will be a public hearing.

Hal asked if the County can be more restrictive than the State. Rob stressed that the County has to allow the facilities but the County regulations may be stricter than the State.

Danny asked if there is a required distance from a school. Shannon explained that the County does not have any Agricultural Zones near a school. Danny asked the staff looked into other counties regulations and see what they say in regards to proximity to schools, churches, etc.

MOTION: Doug Heaton made a motion to postpone this discussion for further study.

Danny seconded the motion. The motion passed unanimously.

Administrative 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.
Submitted by Chad Staheli, Southern Red Sands, LLC.

Chairman Chelewski indicated the public hearing would open after Attorney Van Dyke's presentation. Tony invited the public to make comment at that time. He informed the public that they will each have 3 minutes to speak, then after an additional 10 seconds they will be cut off. He requested no clapping or shouting so as to keep the meeting moving. He stressed that the public cannot give their time to another person.

Chairman Chelewski called the commission into public hearing.

Attorney Van Dyke outlined how the meeting will proceed and rules for the public hearing. (Attachment #1). Rob also explained the history of SITLA lands and how they operate. (Attachment #1)

Chad Staheli, CEO of Southern Red Sands, addressed the P&Z Commission. He introduced Bob Carter, President of Industrial Alliance Company, the Engineering Procurement Contractor, Josh Beazer and Tom Avant with Iron Rock Engineering, providing civil engineering services and Andy Gant, General Manager of Operations, involved in all technical aspects of operations. Chad showed a technical sematic of the plant (attachment #2) and explained the operation of the plant. He confirmed that they have a reclamation bond requirement in their SITLA lease. There will be a water treatment facility onsite that will use flocculants. They are requesting up to six silos.

Chad indicated there are many state agencies that regulate the mining operation namely, Division of Air Quality, Division of Drinking Water, Division of Water Quality, NEPA for the access road, UDOT, OSHA and the Mine Safety and Health Administration. Chad spoke of mitigating the view shed. They will paint the silos neutral colors with a matte finish. They will stack the silos so you will not see all six silos in a line. They have done line of site analysis from multiple locations including highway turnoffs in the area, Peek-a-boo and Best Friends Dog Town and the plant will

not be seen from those areas. They will follow all County lighting ordinances. He spoke of requirements in the SITLA lease including reclamation. They have gone through a threatened and endangered species study and an archeological study for sensitive sites. He gave out their website address; www.srsands.com . He showed some pictures of what the plant may look like.

Doug asked about the depth of the sand they intended to mine. Chad responded it is 30-40 feet of surface sand. Doug questioned how many years they could mine. Chad indicated that if they operated for a 10 year period they would mine approximately 1.1 percent of the claims they control.

Hal asked why they changed the request from 2 silos to 6 silos. Chad indicated that it was misprint. Bob stated the silos range from 1500 tons to 3000 tons. A tank 120 feet in height has an inside diameter of about 20 feet. He stressed it is critical the silos be smaller in diameter. If a tank is too fat the larger particles will tend to fall to the outside.

Hal asked about fencing and security. Chad stated that the plant will be fully fenced. They will make sure it is open grazing compatible. MSHA also has fencing guidelines that they will follow. Bob added that occasionally wildlife will come into the fenced area to drink. All of the water on site is clean and fine to drink. Cattle and livestock are typically fenced out.

Hall referred to the fact and findings in the staff report (pg. 7, attachment #2) and requested a definition of vicinity. Chad replied that their closest neighbor is Best Friends, 3 miles away. Hal indicated that vicinity to him means your neighbors. Hal spoke of a reclamation project in the area that was done to benefit wildlife, sportsmen, and cattle grazers.

Hal asked for a time frame on reclamation. Andy indicated they have spoken with the BLM about their mastication projects on Hancock Road. SRS plans to use the same process. SRS has the same seed and distribution mixes. They will mulch the vegetation that comes off of it. Hal asked for clarification on the time frame. Andy indicated they will reclamation as they go. The Department of Air Quality limits the disturbed area. They are looking at mining 5 acres at a time. About 10 % of the sand they remove will be used to re-contour.

Hal referred to page 19 of the staff report (attachment #2) and asked for clarification regarding the processing plant operating 24 hours a day. Chad indicated some of that will be driven by market factors. Bob addressed the question, stressing that mining will be done during day light hours. He explained that it takes about 4 hours to start up the plant. He stated that the plant has minimal light affect and night impact is very small. There will be lights on the top of the silos for safety. It is not a loud facility. He has not seen any impact on wildlife. Hal asked about trucks running 24/7. Bob indicated that there will be times when they will need to pick up and run trucks at night. He also indicated the majority of the trucks will head north. They do have potential sales in the San Juan Basin.

Hal asked if there is a limit to the number of wells they will drill. Chad indicated that a single well should be sufficient but the plant does requires a certain flow rate. Andy added that reports indicate one well will be plenty but they would likely drill a second well for redundancy.

Hal referred again to the staff report (pg. 24) and stressed that the plant area does have some wetlands on it and asked SRS to be sensitive to the areas that have water. Tom indicated the spring Hal is referring to is about 2/3 of a mile west of where the plant will be. He added that they will not be drilling from the aquifer that feed the springs. Hal asked what contingency they are willing to promise if they dry the springs up. Chad said they will have to look at that. Hal reviewed some pictures and continued to discuss the water issue. (Attachment #3) Hal talked about the concern of water flowing south. Hal also informed us of a BLM well project. Hal asked SRS to help insure that the water in the area does not dry up.

Chad reiterated that they have spent the last 18 months talking to water experts. Hydrologists have reviewed these issues. SRS plans to mitigate any impact they may have. Tom explained that the springs Hal talked about are all coming out of the upper Navajo formation. SRS will go into the Lambs Point Tongue aquifer. There is a seal placed between the two aquifers so that water cannot go from one to the other.

Byard asked about containment of precipitation runoff. Chad stressed that it is a requirement. Byard also asked about oil and fuel spills and storage. Chad indicated that there will be fuel stored on site. Bob explained that there will be a concrete containment area in case of spillage. Diesel storage tanks will have a concrete containment area around them. There will also be a containment area around anything that requires propane or natural gas. Anywhere there is an exchange of fluid or containment of fluid there is a concrete retention barrier. It is heavily regulated by MSHA.

Danny asked who did the research. Tom replied that Laughlin, a hydrologist company out of northern Utah, did the report. Tom has reviewed all the reports to make sure that their findings are consistent with research done on the aquifers in the last 30 years. Chad indicated that Laughlin has not yet been onsite. Danny would like to see Laughlin meet with Hal or someone in the area that has actual experience with the water. Bob added that the golf course was drawing at a similar rate to what this mine will draw.

Doug pointed out that this has been a big water year. He questioned what will happen if the containment does not hold all the runoff and if there is a byproduct that would be detrimental to the surrounding area. Chad indicated it would just be sand.

Tony referred to UDOT adding turn lanes to the highway. He asked if it is possible to put the highway entrance at a high point so that the trucks can start out going downhill and not impact the existing traffic on the highway. Tom indicated that the entrance is at one of the flattest parts of that roadway. UDOT is requiring lengthened accelerating lanes. Tom presented and reviewed the UDOT road plans. (Attachment #4)

Hal asked about access to the dirt trails in the area. Andy explained that all operations will be on the east side of the road. The one road that will be affected by the plant fencing will be able to be accessed by going around the perimeter of the plant.

Rob addressed the concern of conflict of interest. Andy Gant is with Southern Red Sands. He is also a County Commissioner. Utah State Law requires that a commissioner disclose any conflict of interest. They are not required to recuse themselves from the vote. Andy Gant did list Southern Red Sands on his conflict of interest form and has recused himself from all County involvement in regards to this permit. Commissioner Gant has recused himself from the proceeding, on behalf of the County, tonight. This application does not go to the commission for approval. Hal Hamblin has disclosed that he is a permittee on the BLM lands that neighbor the SITLA land. Byard Kershaw helped the County with the Title V application for a segment of road on BLM property. The County's Engineer is Tom Avant with Iron Rock Engineering. He is the engineer for Southern Red Sands. Cody Howick, Civil Science Engineering, is the County's alternate engineer. Civil Science was the reviewing engineer on this project.

Shannon McBride explained that we have treated this SITLA conditional use permit as we would any other conditional use permit. The County did not use Iron Rock Engineering for any portion of this project. The P&Z has reviewed the staff report. The report was made available online. The application was reviewed by Civil Science as well as SRS. Shannon applied 27 pages of KC ordinances. She listed 48 conditions that SRS will need to mitigate.

Shannon reiterated that SRS has requested we change the permit from 2 silos to 6 silos.

Shannon asked for any questions in regards to the listed conditions. She stressed that SRS will attend development meetings, consisting of GIS, Building Department, Fire Warden, County Engineers and Sheriff's Department, to correlate with the County. SRS will give us all results and reports of all findings. They will be required to get building permits and have inspections.

Byard pointed out that the conditions listed are similar to what is found in a NEPA document.

Attorney Van Dyke addressed the P&Z with direction on how to proceed. The staff report recommends they approve the application. SRS has requested the application be changed to say 6 silos. The fencing requirement states 8 feet, however, the County requirement is 6 feet. It is recommended that be changed. The DOGM permit requirements may not apply, Attorney Van Dyke suggests changing that to say "if required". The permit may be approved with those amendments.

Danny asked about the silos being painted to color match the surrounding area. Shannon indicated, that according to SRS' submission, they will be colored matched and will not cause glare.

Shannon pointed out that they are willing to abide by the Kanab City lighting ordinance which is more restrictive than the County lighting ordinance.

Hal referenced condition #22 on the staff report regarding protection of watersheds. He asked if something could be added regarding protecting existing surface water uses. Rob suggested that be brought up during commission deliberation after public comment.

Chairman Chelewski indicated it is time for public comment.

Attorney Van Dyke explained that if the P&Z denies the conditional use permit the County would request SITLA not move forward with the project. The reality is that SITLA would most likely proceed anyway.

Attorney Van Dyke reviewed the rules of the public hearing.

Tom Dillon: He is a resident of Kanab, an engineer that spent his time designing mines and mineral processing plants, and doing environmental reclamation of hazardous waste sites. He is concerned about the process of the plant, the mine plant itself and the reclaiming of the land and how it will affect the hydrology on the surface. The 13,000 claims the plant owns sit on the heart of the aquifer recharge zone. The sand can be processed on BLM land. The material being removed is the surface sand. Surface sand captures and transports water to the fracture zones. Reclamation must sustain the critical function of capturing snow and rain water and transporting it to the fractures that the wells tie into. Not just surface water, but all the wells that feed Kanab. They are going to take a thirty foot sand layer that moves water down to a three foot layer. The sand that is left is the undersized of the filtration. It is important to recognize that the dynamics could be radically changed by having a thinner light layer of sand.....

John Hiscock: He is a resident of Kanab. He has a juris doctorate degree with a career as a land management specialist. He feels that there has been a material change in the application tonight from 2 silos to 6 silos. He questions whether the staff has evaluated the difference in framing its recommendations. He recommends action be delayed to give staff time to review the changes requested in regards to all the various conditions. He is also concerned about the hydrological study that has not been made available to the public. He would like to see specific conditions in the CUP to include public use of surrounding lands be accommodated as much as possible. There should be a specific condition in the CUP regarding wildlife protection. He recommends consultation with the Utah Department of Fish and Game and and/or the United States Fish and Wildlife Service should take place to ensure the protection of those wildlife resources.

Bart Battista: Director of Facilities, Best Friends Animal Sanctuary. He mentioned a conflict of interest with a member of the KC Water Conservancy that should be disclosed. He feels the county, city and SRS are choosing to rely on the expert witness of engineers and not a hydrologist. Best Friends Animal Society commissioned one of the premier hydrogeologist in the nation and have provided a preliminary report for reference. Geologist, Dr. Ken Kolms, said there is not enough information to say that any pumping in a well upgradient from the city's wells will not adversely affect the city's wells or the aquifer. UGS does not recommend basing a decision on their analysis. He recommends this decision being tabled until further analysis is done. The county is stating they cannot regulate anything on SITLA land however, they should be able to regulate the externalities of the project. Best Friends has 400 employees and is located 3 miles away. Once SRS disturbs the sands there will be respirable sands on site. He feels this is premature and not in the best interest of the County.

Dean Baker: He is with Keep Kanab Unspoiled. He thinks SRS has been less than forthright with the P&Z and the people of Kane County. (1) He questions the estimated number of employees. The average employment for frac mines is 31, with an average output of 1.5 tons a year. This is twice what SRS says they will produce. (2) Truck data does not add up. Standard truck load is 25 tons of sand. This means trucks will weigh between 115 and 120 thousand pounds. (3) Where are the trucks going? There are already two frac sand mines opening in the Uinta Basin. It is unlikely that SRS can ship sand 230 miles and be competitive with frac sand mines located there. That means trucks will be traveling through Kanab. (4) We don't know their intentions. They may sell out or go bankrupt. (5) We have contracted two lawyers. We do not understand why SRS gets to represent their case and those on the other side are not allowed comparable time.

Dave Shogren: Representing Sanctuary Ranch LLC, located downstream on the Virgin River. He is hand delivering 10 copies of an email they sent to Shannon for the commission to review. This email backs up reasons for opposition (attachment #5).

Lara Klina: Owner Stuart Wooley House Bed and Breakfast in Kanab. Thank you for your time and service. Thank you for your questions this evening. She asked the Commission to get things in writing before agreeing to the conditions set forth. Will there be blasting in the Navajo Sandstone when the scooping of sand is done? What are the numbers you have been given that will affect the single SITLA plot you have been given as opposed to the 12,000 acres? SRS said they will scoop only but at the Chamber of Commerce meeting they spoke about blasting. Will blasting affect the retention barriers for the fuel? There is radon and other natural elements that will be disturbed by mining and blasting. What stops SRS from building the silos higher than what they are asking? When things keep changing red flags go up. What will happen with the water in the case of a drought or contamination? We are SRS first frac sand project. Should we be honored or worried?

Heath Snow: Attorney from St. George Utah retained by "Keep Kanab Unspoiled". He thinks the planning commission may be getting hood winked. Case law indicates other state agencies lose their exemption when they go to lease to another party who is going to operate and conduct on their land. The concept stems through the supremacy clause of the Utah Constitution that indicates the State is Supreme over the counties. That protection does not necessarily.... To say this is just a suggestion to SITLA.... Why would SITLA put this requirement in their very own lease? Your responsibility is to grant a conditional use permit under state law only if you can impose reasonable condition that can mitigate adverse conditions or defects. How can this body reasonably make decisions on what conditions should be imposed if you don't know what all the detriments are? Have the impact studies been done? If this body chooses to adopt a conditional use permit without having all of the detrimental effects in front of them to determine conditions it would be acting arbitrarily and capriciously.

Laura Fertig: I was happy to see your concern with the seeps in the area. Those vernal pools share host to a number of interesting species of plant assemblages, including a rare variety of clover. She would like to ask for something more obvious and stringent to reduce impact. The hydrologists are saying there is not enough information. We need to wait and let them take the time they need to gather information. This would provide ease and reduce conflict. It would provide information based

on the best available science rather than emotion and opinion. It would help community relations if we wait on what the hydrologists and scientists have to say. I love walking Red Butte and it breaks my heart that I will not be able to do that for at least 50 years.

Tim Jacobsen: Environmental Attorney from Wisconsin. He was asked by people in the community to come and help with this situation. He clarified he is not threatening to sue the County or the City. If the project goes forward they would seek a permanent injunction to stop the project. He feels having three minutes is not conducive to giving you much detail or substantial information. He would be willing to provide written critique of the information submitted to the county. He believes there are a lot of inconsistencies in the information that has been provided. He believes that a lot of the assumptions set forth in the application materials and in the staff recommendations are based upon inaccuracies and there is a lot of conflicting information that has been submitted. This is a project that is very vague. He feels there are threats to water quantity and quality, air pollution and other pollution threats that will cause harm to tourism and that will exceed the positive potential impact of this project. And severe nuisances to residents and visitors. He asked that the commission be thoughtful and take their time to gather facts needed and table this proposal because it is fraught with peril.

Dirk Clayson: Thank you for listening to this matter and the studying you have been doing. It is important for the county to work on these conditions and recommendations and to have a voice in things. He referred to condition #26 regarding the Night Sky Ordinance and asked if the report can be edited to say SRS will comply with the Kanab City standards? The Highway 9 line of sight may have been overlooked, particularly evening light issues. He asked of the possibility of adding conditions that specifically states that visibility of light issues from Hwy 9 would be mitigated.

Diana Zimmerer: Resident of Vermilion Cliffs. How is the silica dust put in the silos? It seems like that would get into the air and the dust will spread and cause potential health hazards in humans and animals. Yesterday SRS said they would only be using water, now they are saying flocculants. That will mean more truck traffic hauling chemicals. How much of this water is going to be recycled and reused by the plant? Since there will be chemicals used, what will happen to the sludge and contaminated water? She read a statement from Clayton County, Iowa mining referring to monitoring flocculant levels and the effect of acrylamide.

Emily Martin: The applicant mitigated the adverse impacts on the mining and vegetation. Is the county asking for a deposit to ensure the reclamation is done? Garkane will not be running power to the site. If generators are used day and night, how will that noise be mitigated and how will it impact the wildlife? She encouraged the use of local knowledge and people who have lived here and know the land.

Marlene Isreal: She is concerned with the mitigation for visual, aural particulate, and dust pollution. Can SRS be required to plant tree barriers between the plant and any area where we might see or hear it or inhale anything that might come from it? She is also concerned about the negative impact of increased traffic and what impact it will have on the economy and safety.

Jay Riggs: Land owner in the area. He is concerned about hydrology. He requests this be put on hold until a real hydrology study can be completed. This is high desert and if you don't have water you don't live.

Susan Hand: Thank you for setting the tone and informing us on the process. She is a biologist. An animal needs shelter, food and water. The shelter and food also require water. What is at stake is largely a sponge that collects precipitation for our water system. The meeting Monday night was very informative. The future of our lives, town and economy are sitting on the water issue. Please go slowly on this topic. Scrutinize it. Our economy depends on travel and tourism. This project presents a tremendous threat on many levels: visually, recreation and outdoor sports. Traffic is already dangerous.

Von Dell Chamberlain: Raised here in Kanab. Please pause and think about driving over the area we are talking about. (He then described the area in detail.) This is one of the most beautiful places in the world. Millions of people come here from all over the world. Many move here because of the beauty. Realize that in spite of whatever funds may come because of this project, the most important thing we have in our economy is the beauty of the area. Whenever we do anything that detracts from the beauty that draws people to this area, we are doing something that adversely affects us forever.

Michelle Galleria: She suggested additional mitigations. She would recommend (1) no trucks during peak downtown activity; (2) no diesel trucks; (3) a solar field or renewable energy on site; (4) wildlife crossings on the roads; (5) remediation of water from idling trucks. She is opposed to this. The mitigations are sufficient or exceed state and industry standards but are insufficient and insulting to the intent of the Kane County General Plan. Consider the type of traffic and roadside pollution more than the volume of traffic. The General Plan used the term "wholesome" and fracking in not wholesome.

Shane Stotlar: Resident of Kanab. Kanab is changing. We want the culture to stay the same but we need industry to keep our families here. Water is key. The studies show that there is sufficient water. The golf course proved that. It doesn't seem like the aquifers will be changed. We are losing traffic from the south. These trucks will replace that traffic. Please consider that there are people who could benefit from this.

Vince Olsen: Kane County Democratic Chairman. (1) It was not a mistake that they put two towers instead of six. (2) The hydrologist from Loughlin never came here. (3) The angle of repose is the ability or sloughing of a granular product. The towers do not need to be 120 feet. You cowboys know that you need to take care of the land. When you crack open a big piece of land it is an open wound.

Rick Csenge: I urge you not to approve this application. It will lead to tragic losses for those who live in and visit Kanab and deliver far too little benefit. This is a moral issue. Climate change is in the news every week. (He delivered much information on global warming.) Kanab should not be contributing to global warming. Frac sand mining directly serves the oil and gas fracking industry. We have a moral obligation to say no to further fossil fuel development and to hasten the transition to clean energy. This should not go forward on moral grounds alone.

Tom Carter: He cares about the area of the proposed mining site. He is concerned about the Ponderosa pine trees growing in the area that are protected by the sand dunes. He is also concerned with traffic safety. The trucks laden with hundreds of thousands of tons of sand will be entering and crossing heaving streams of traffic where the speed limit is 65 miles an hour and the sites horizons are very short. You have to anticipate accidents. This will require more emergency response people. If the plant goes through it requires an overpass. This is a moral concern.

Sharon St. Joan: SRS has requested to construct 6 silos. County ordinance states no structure in a commercial zone can exceed 40 feet. These silos will be 120 feet. A conditional use permit does not approve a height change. In order to get a waiver for a height restriction, SRS needs to apply for a variance. The P&Z commission does not have the jurisdiction to approve structures, like the silos, which exceed 40 feet. That must go to the County's Appeal Authority.

Glenn Parrent: You are not doing a legitimate conditional use permit. You are applying 48 rules. I think we have been ambushed. The number of silos has been changed tonight. The information SRS is putting out keeps changing. The amount of water they need has changed. The number of wells has changed. The number of trucks keep changing. They are going to build the plant on sand. What are they going to put under it? What are they going to line it with? How are they going to pour concrete on it? How are they going to protect from spills? The flocculants will attach to the fines that will be put back into the dunes and then washed out by rain.

Mike Noel: He is representing the Kane County Water Conservancy District. This item has been discussed since last August. Each decision was made out of executive session. Everything has been run by their attorney, Rob Van Dyke, and KKWCD are in full compliance with the law. They now have a contract with SRS for 600 acre feet of water and the irrigation company will file the change application. SITLA land is like private land. The mining claims were made years ago by people in New York. We now have a Utah based company who cares about the land wanting to mine it. All permitting will be done by the state of Utah. It will not impact the water resources that are there.

Jim Walls: Citizen of Kane County. No one has mentioned the downwind problem. He referenced the bomb testing in Nevada and the dust that carried all the way here. There is no mitigation for this. Pollution lands on the surface so this polluted sand is on top. Will the atomic pollution be monitored? Please investigate this point.

Scott McDonald: Computer scientist by trade. SRS mentioned they will take 30-40 feet of sand. This auditorium is about 30-40 feet high. They said they will remove 30 feet of sand and one tenth of that will go back. That leaves a big hole. How will they fuel this plant? How do they get that fuel to the site? How many trucks will that require? How will they reclaim their equipment? I tried to research SRS and can't find anything on the internet on them.

Tony Zimmerer: The CEO should know their company. He did not give a straight answer. He passed things off to his staff. What about the ugly sight of plant? Where are the pictures of what it will look like?

Mike McTeer: Resident of Kanab. The Grand to Grand Ultra race takes place every year over a six-day period, from Grand Canyon to Bryce Canyon National Park attracting participants from all over the world. He explained the nature and route of the race, stressing that the route is close to the Red Knoll area. The participants do not want to see this plant along the way. What will SRS do to mitigate this undesirable experience for these elite athletes?

Chairman Chelewski called the commission out of public hearing. He thanked the public for their comments and their demeanor.

Attorney Van Dyke instructed to the planning commission to deliberate and bring up any additional questions they have for the staff or the applicant. The P&Z can discuss the proposed conditions and then make a motion.

Doug thanked the public for their thoughts. He commented that he is aware most of this decision was made when the ordinances were put in place years ago. He stressed that we can only measure against the existing law. We do not have the latitude to be arbitrary. If they meet the criteria that has been established in the ordinance then this must move forward. We must hold every applicant to the same standard. It appears that, with the exception of some additional conditions, they (SRS) met the criteria that has been established by our own rules and laws.

MOTION: Doug Heaton made a motion to approve the Southern Red Sands application for a Conditional Use Permit for a sand mine operation development and (6) 120' silos with the conditions as listed on the permit.

Motion was seconded by Dale Clarkson.

Chairman Chelewski called for discussion.

Hal questioned if they are only going to mine surface sands. Will there be any digging, blasting, pulverizing of sandstone, etc.? SRS responded that if they choose to blast they will have to go through a permitting process through the Division of Gas, Oil and Mining. SRS has not gone through that process. They have no plan to do that. It is more economically viable to use the alluvial sand.

Hal asked about the sizes of the sand. Chad with SRS indicated they are looking for three different mesh sizes of sand: 30/50, 40/70, 71/40. SRS will clean the sand and then sort it to specific sizing.

Hal asked if Chad has been involved in this process before. He indicated he had not. Hal pointed out that the soil in that area is highly erodible. Hal would like to put in the conditions something that will stop the erosion to neighboring lands. Andy stated that Storm Water, Pollution and Prevention (SWPP) control is handled by the state Division of Water Quality. Iron Rock is doing those SWPP protocols that they are required to submit to the state. There will be people on site inspecting.

Hal inquired about generators and Garkane not providing power to the area. Andy clarified that they are starting out with L & G generation. There is not capacity in the line between Kanab and Valley to carry the load, approx. 5 megawatts. Garkane is in the early stages of upgrading the power line from the Buckskin Substation to Kanab to 138 kilovolts. Until that is in place it will be a stretch to get enough power up to Red Knoll. SRS is working to engineer and share the cost on the upgrade from the Ranchos substation to Red Knoll so that it can be transitioned to full time power.

Hal asked if we have conditions regarding noise control. Shannon indicated we did.

Hal also asked about drilling down to Lambs Point Tongue. If they hit water in the Navajo aquifer will they stop drilling? Tom Avant explained that the upper Navajo is an unconfined aquifer. It is like a pond. The levels can go up and down. The Lambs Point Tongue is a lower aquifer. It is like it is pressurized. The plan is to go to Lambs Point Tongue.

Hal wants the public to know he has strong concerns and a gut feeling that he is going to go against. He pointed out that we need to trust people. We have to take the stand that there is going to be diversity and we have to trust people. There are laws in place to handle things. He would like the County to ask the state water engineer to monitor the uses of the water and the history we have of that water. We need to protect our culture and our history.

Byard stressed that it takes years before a plan of operation will be approved. Wildlife issues have been addressed. There may be some local jobs available. This will be market driven. Tourist traffic is already terrible in this area. RVs are just as bad as any semi-truck on the road. The conditions listed address the issues. There is no such thing as clean, green energy.

Dale feels that we have plenty of oversight in the conditions presented. The staff has been very thorough in preparing the conditions. The rules and regulations are in place to protect the assets and our future.

Doug shares a real love for the wildlife. Doug lives right next to the Alton Coal Mine. He spoke of the deer standing by the fence watching the trucks go by. He does not have concerns about disturbing the wildlife due to his observation over the years.

Danny asked if the specialists ever come back and evaluate the impact of their approval. Andy explained that is an ongoing process. SRS has collected a lot of data but until they drill a test hole they have no idea what the results will be. Andy spoke of how SRS will monitor the wells. Danny asked who is checking on the wells during the process. Andy stressed that things will be monitored on a daily basis. Chad explained that water is monitored based on other peoples' wells. There is an ongoing system that is always checking on each other.

Shannon indicated that the conditions state that all Federal, State and local permits will be in place before construction begins and the County engineers will review all results. We will have development meetings to make sure all permits are in place. Danny requested that the information

to come from SRS rather than ranchers. Chad stressed that the process that exists has the reporting in place.

Danny asked about the natural sand filtration. Chad indicated it is part of the hydrology study. Danny questioned how much water can be recycled. Chad indicated that they plan to recycle 90+%. He went on to say that they will need to recontour and there will be a reduction in size.

Danny pointed out the delegation of questions in business is common because a business owner doesn't always have all the answers.

Hal asked if there is a separate requirement for the approval the silo height extension. Shannon stressed that our ordinance specifies that the height extension is done through a conditional use permit (KCLUO 9-6). Rather than submitting two separate applications we had them combine it into one. The hand written application states 6 silos.

Danny wanted the audience to know that most of their concerns are addressed in the conditional use permit. Some issues cannot legally be addressed.

Doug called for the question. The motion passed unanimously.

Tony expressed that the P&Z is as concerned as the public. We try to do the best we can in our decision to see that it is done properly and will benefit the residents of the County.

FINDINGS: See attached Staff Report.

Motion was made by Hal Hamblin to adjourn the meeting. Motion was seconded by Danny Brown.

The motion passed unanimously.

Meeting was adjourned at 8:57 pm


Land Use Authority Chairman,
Tony Chelewski


Administrative Assistant,
Wendy Allan

School & Institutional Trust Lands Administration (SITLA) and Conditional Use Permits

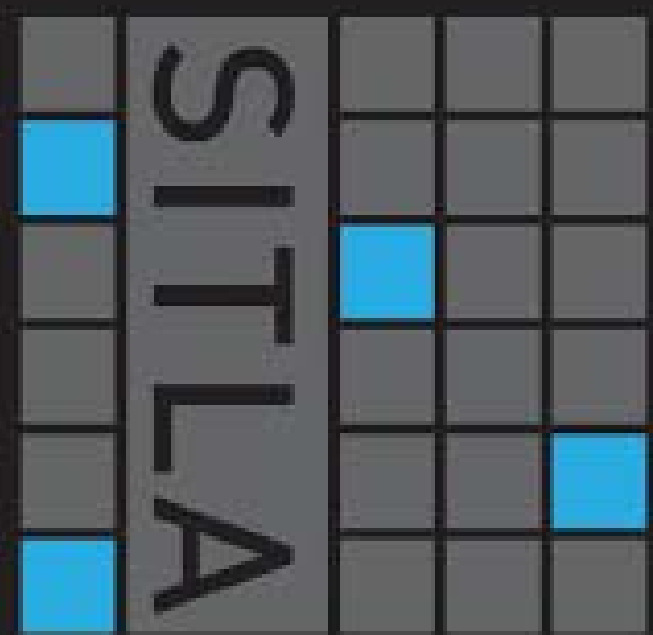
Preliminary Matters

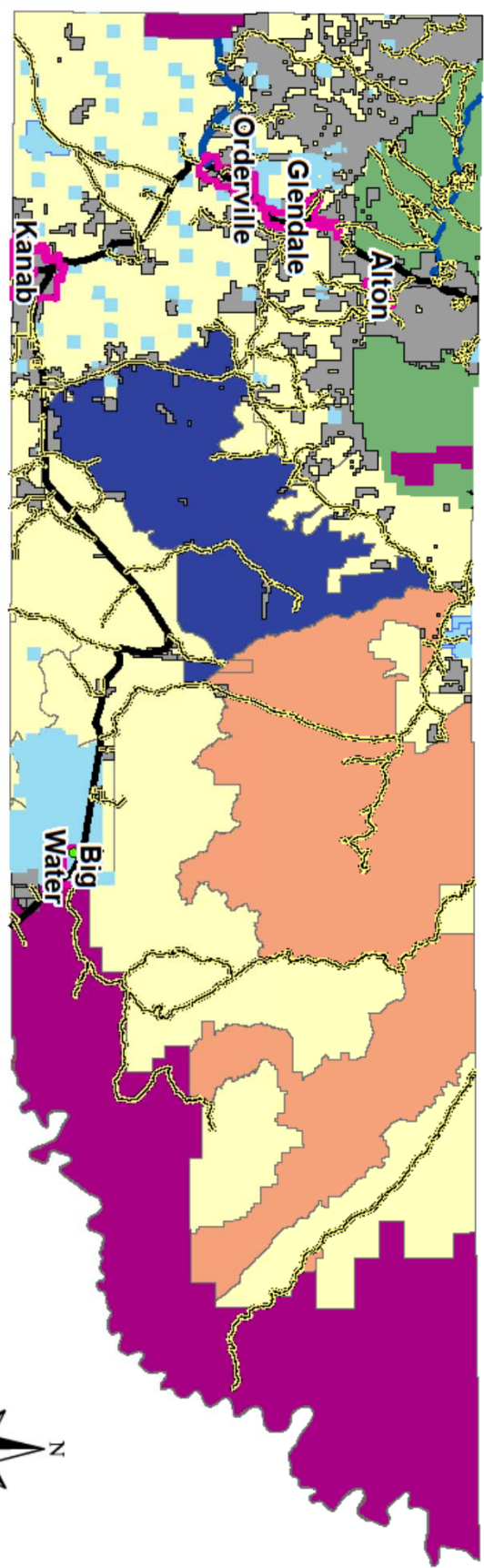
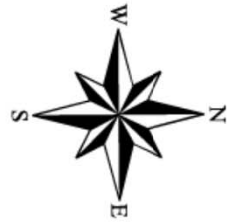
- ▶ Conflicts of Interest
- ▶ Procedure for the meeting
 - ▶ Presentation by Attorney
 - ▶ Presentation by SRS
 - ▶ Presentation of Staff Recommendations
 - ▶ Public Hearing
 - ▶ Deliberation and Questioning by the Planning Commission
- ▶ Rules for the Public Hearing
 - ▶ Three Minutes per person – Microphone will shut off after an additional 10 seconds
 - ▶ No applause, cheering, or other noise disruptions or you may be asked to leave
 - ▶ The Chair may set an overall time limit if necessary
 - ▶ Questions will not be addressed individually

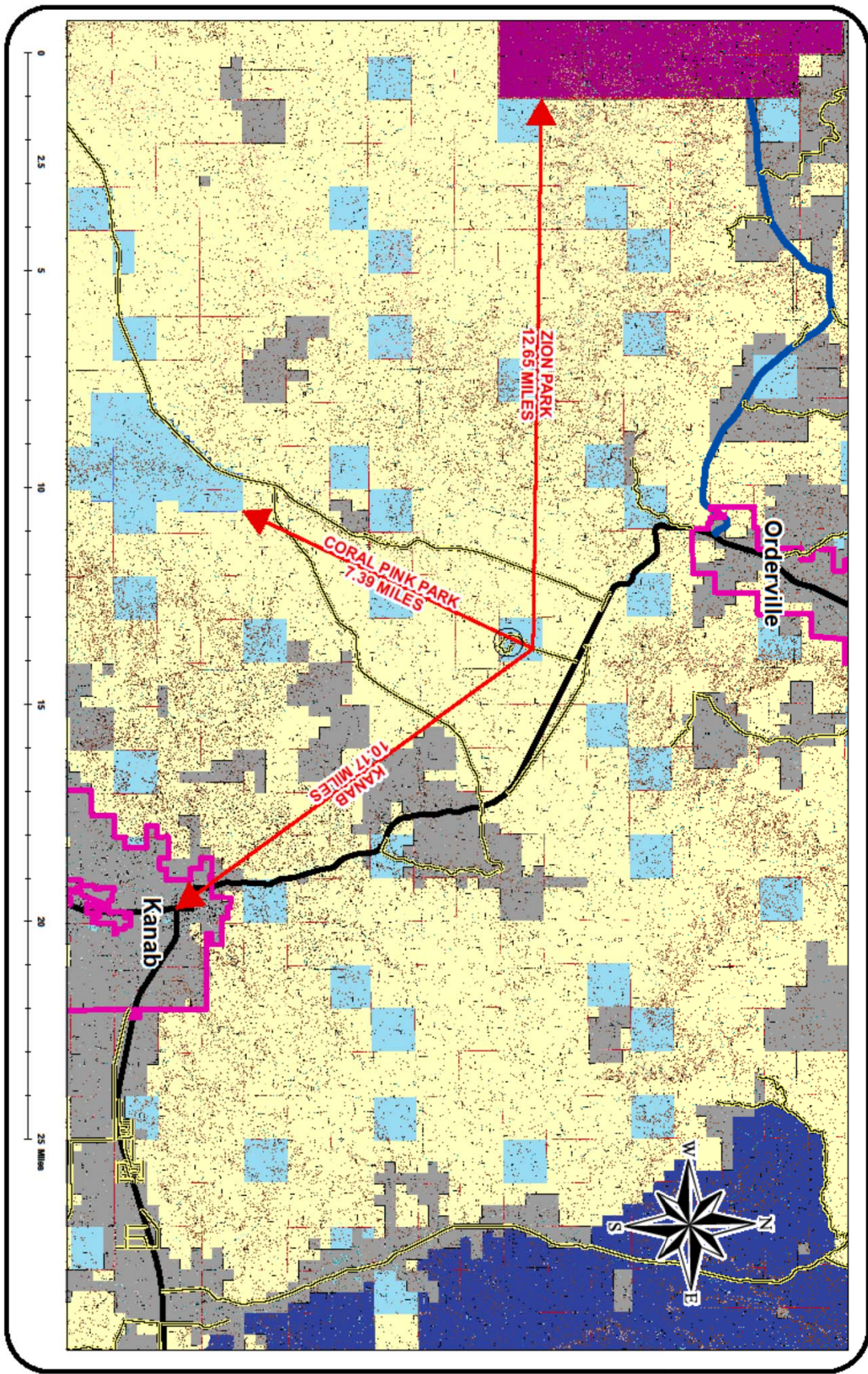
What is SITLA?

- ▶ State of Utah School and Institutional Trust Lands Administration
 - ▶ Owns 6% of the land within Utah's borders
 - ▶ Generates perpetual endowment for the Permanent School Fund
- ▶ The fund provides continual revenue for 12 beneficiaries:
 - ▶ K-12 Public Education
 - ▶ University of Utah
 - ▶ College of Mining & Earth Sciences
 - ▶ Miners Hospital
 - ▶ Utah State University
 - ▶ State Teaching Colleges
 - ▶ School for the Deaf
 - ▶ School for the Blind
 - ▶ Public Buildings
 - ▶ Juvenile Justice Services
 - ▶ Utah State Hospital
 - ▶ Reservoirs

- ▶ State divided into 6 mile x 6 mile townships
- ▶ Townships divided into 36 one square mile sections
- ▶ State of Utah give section sections 2, 16, 32, and 36 for public schools.







How Does the County Regulate SITLA?

- ▶ Utah Code 17-27a-102 General Land Use Authority
 - ▶ “...a county may enact all ordinances...that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county...”
- ▶ Utah Code 17-27a-304 State and Federal Property
 - ▶ “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.”
- ▶ Kane County Code 9-5-5F:
 - ▶ SITLA will be regulated under Chapter 7 “Commercial Zones”

What does this mean?

- ▶ The County has no jurisdiction or authority to regulate land use on SITLA lands.
- ▶ SITLA asks Counties and Cities to weigh in on developments on SITLA lands that would otherwise be under the County or City Jurisdiction
- ▶ Kane County's policy is to treat SITLA lands as if they were zoned Commercial
- ▶ Commercial Zones require a Conditional Use Permit for Mining and certain heights.
- ▶ The Land Use Authority will consider the application for a CUP
- ▶ If passed this will act as recommendations to SITLA on how to regulate SRS

What does this mean?

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.

What is a Conditional Use Permit?

- ▶ Conditional Use - A land use that has unique characteristics or negative effects that may not be compatible in an area without conditions to mitigate the detrimental impacts.
- ▶ 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. Utah Code 17-27a-506(2)(a)(i)
- ▶ Can only be denied if the detrimental impacts cannot be substantially mitigated by reasonable conditions. Utah Code 17-27a-506(2)(b)
- ▶ In Commercial Zones Mining and a height of 120 feet are conditional uses that require a conditional use permit.

CUP Process

Kane County Code 9-15A-2

- ▶ Applicant submits an application at least 21 days in advance of a Planning Commission Meeting
- ▶ Planning Commission reviews the application along with a staff report in a public meeting
- ▶ A Public Hearing may be held when it is necessary to serve the public interest.

Public Hearing

- ▶ Useful Comments:
 - ▶ Identify a reasonably anticipated detrimental effect of the proposed use
 - ▶ Identify a reasonable condition that can mitigate a detrimental effect
 - ▶ Factual information
- ▶ Not Useful Comments:
 - ▶ “Public Clamor” – Emotional or baseless opinion on a matter
 - ▶ “I’ve hired a lawyer”
 - ▶ “Most of the people in the room want you to vote ____.”
 - ▶ Repeating comments that have already been given
- ▶ Questions will not be addressed individually but at the discretion of the Planning Commission during their deliberation.

Rules for the Public Hearing

- ▶ Three Minutes per person – Microphone will shut off after an additional 10 seconds
- ▶ No applause, cheering, or other noise disruptions or you may be asked to leave
- ▶ The Chair may set an overall time limit if necessary
- ▶ Questions will not be addressed individually during the public hearing but may be addressed at the discretion of the Planning Commission during their deliberation.



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

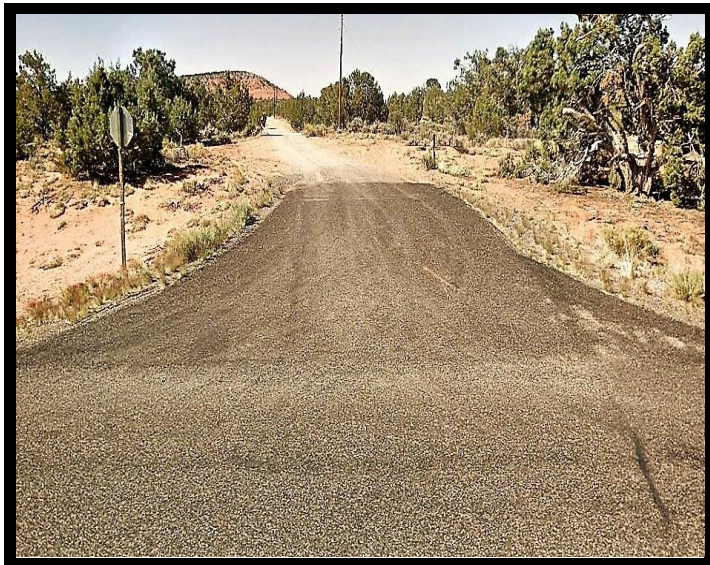
SUMMARY:

- 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' silos 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



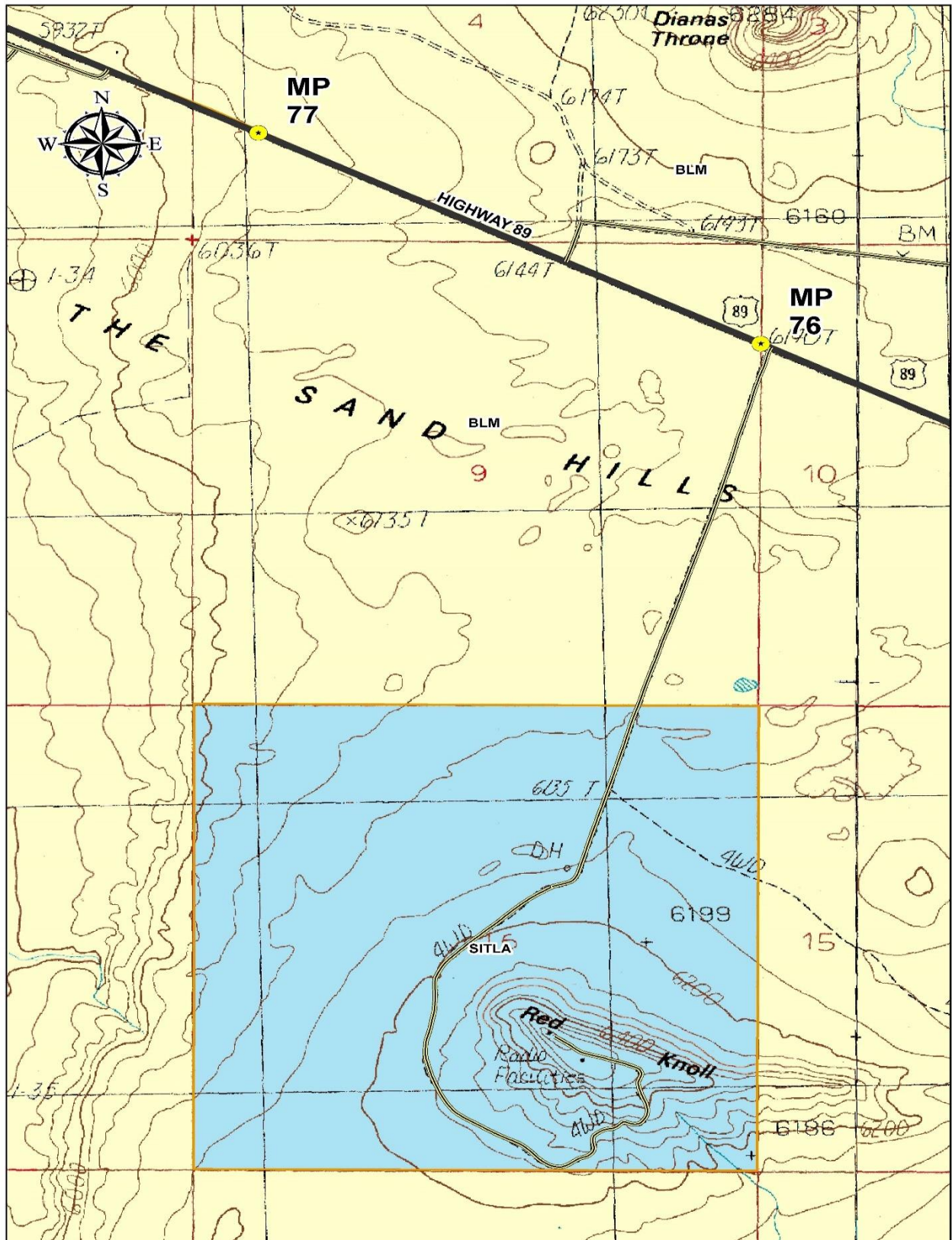
Highway 89 View Ingress & Egress SRS Project

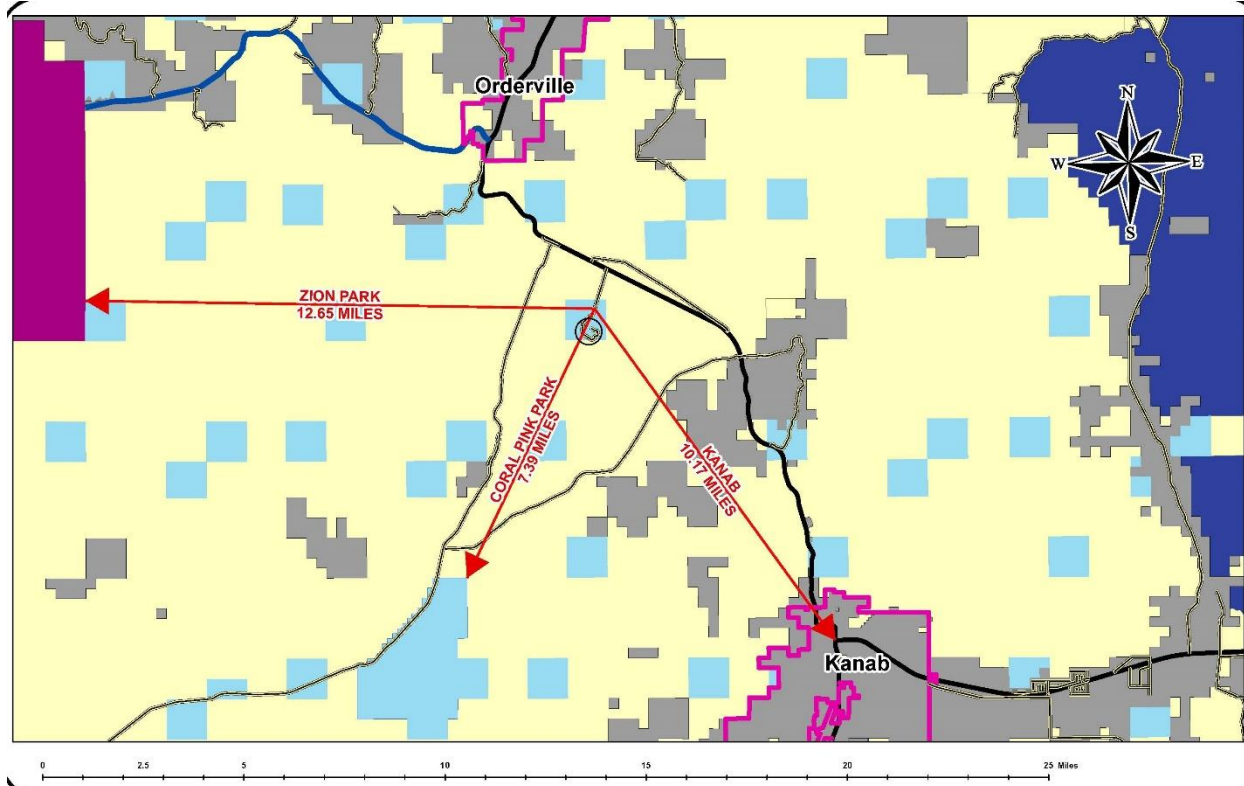


RS2477

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) silos, 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 foot 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 initial 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-foot 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,

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

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...”

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).



State Section Seep

Write a description for your map.

State section Seep 37.154264° -112.644023°

Legend

- BLM Wilderness Area
- Bureau of Land Management (BLM)
- Feature 1
- Feature 2
- Feature 3
- Feature 4
- Feature 5
- National Park Service (NPS)
- Private
- State
- State Parks and Recreation
- State Wildlife Reserve/Management Area
- US Forest Service (USFS)
- USFS Wilderness Area
- UT46812079SE
- UT46812079SE
- UT46812079SE

Google Earth

1000 ft



United States
Department of Interior
BUREAU OF LAND MANAGEMENT
Project Inspection and Maintenance Schedule

Project # 8142887

1. State UT 2. Office 110 3. Allotment Number 4. Project Name Kinninnick Spring
5. Location T. 42 S ,R 7 W ,Sec 22, 1/4 Sec SENE UTM 356778E 4112709

7. Last Inspection Date 05 Condition Excellent West side

Apparent reason of failure or success: Very well constructed

8a. Recommended Action Monitor

b. Describe needed repairs

c. Estimated Cost Unknown

Remarks

Inspected by Frank Olsen

When winter 2007

Photos



Kinninnick Spring

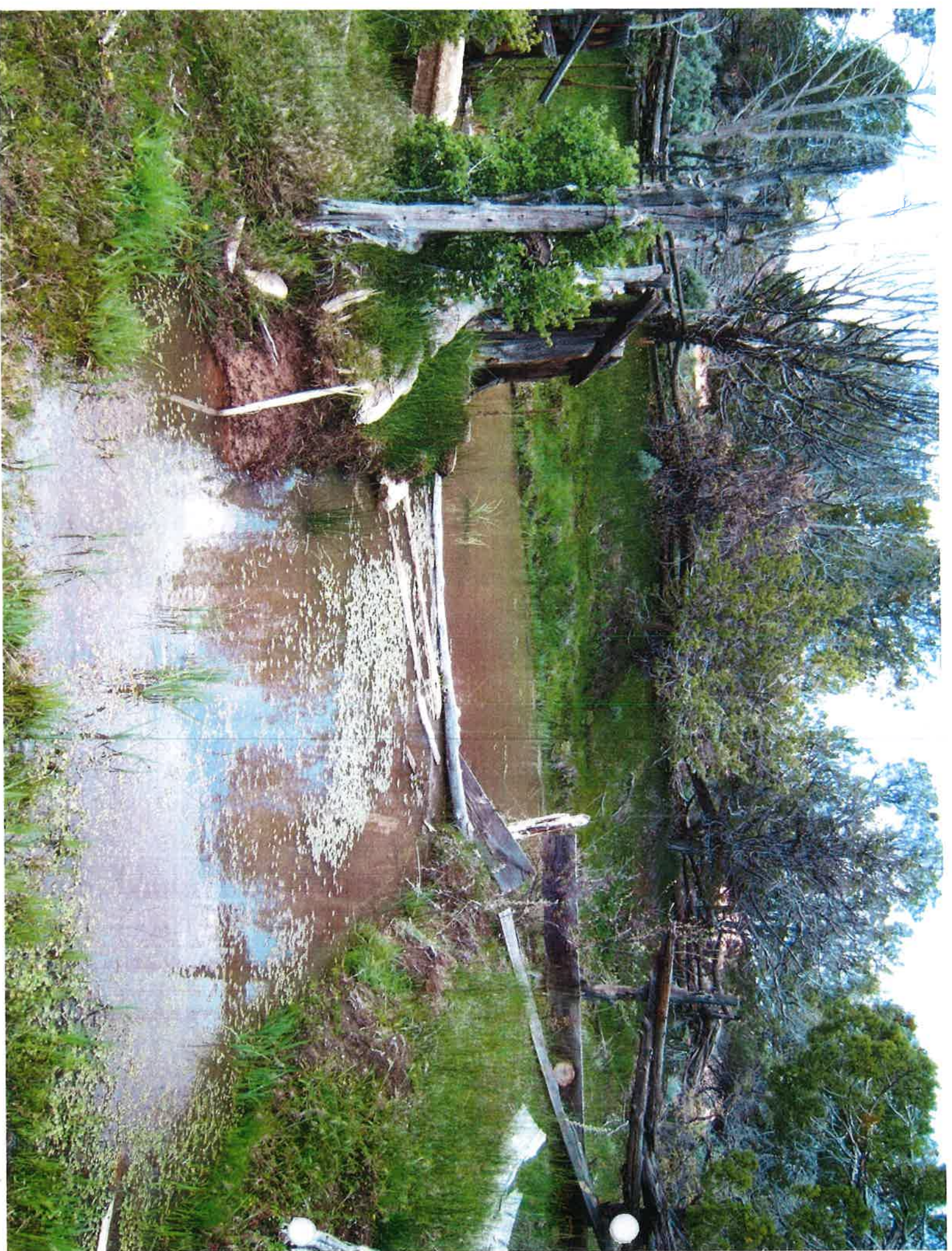


Kimberly Spring
BLM
Approx

1945-1950

200-300 yds. from E side of State Land







1945

Red Kowee Spring

200-300 yds from
East End of State Sec.

Red Knoll Seep

Write a description for your map.

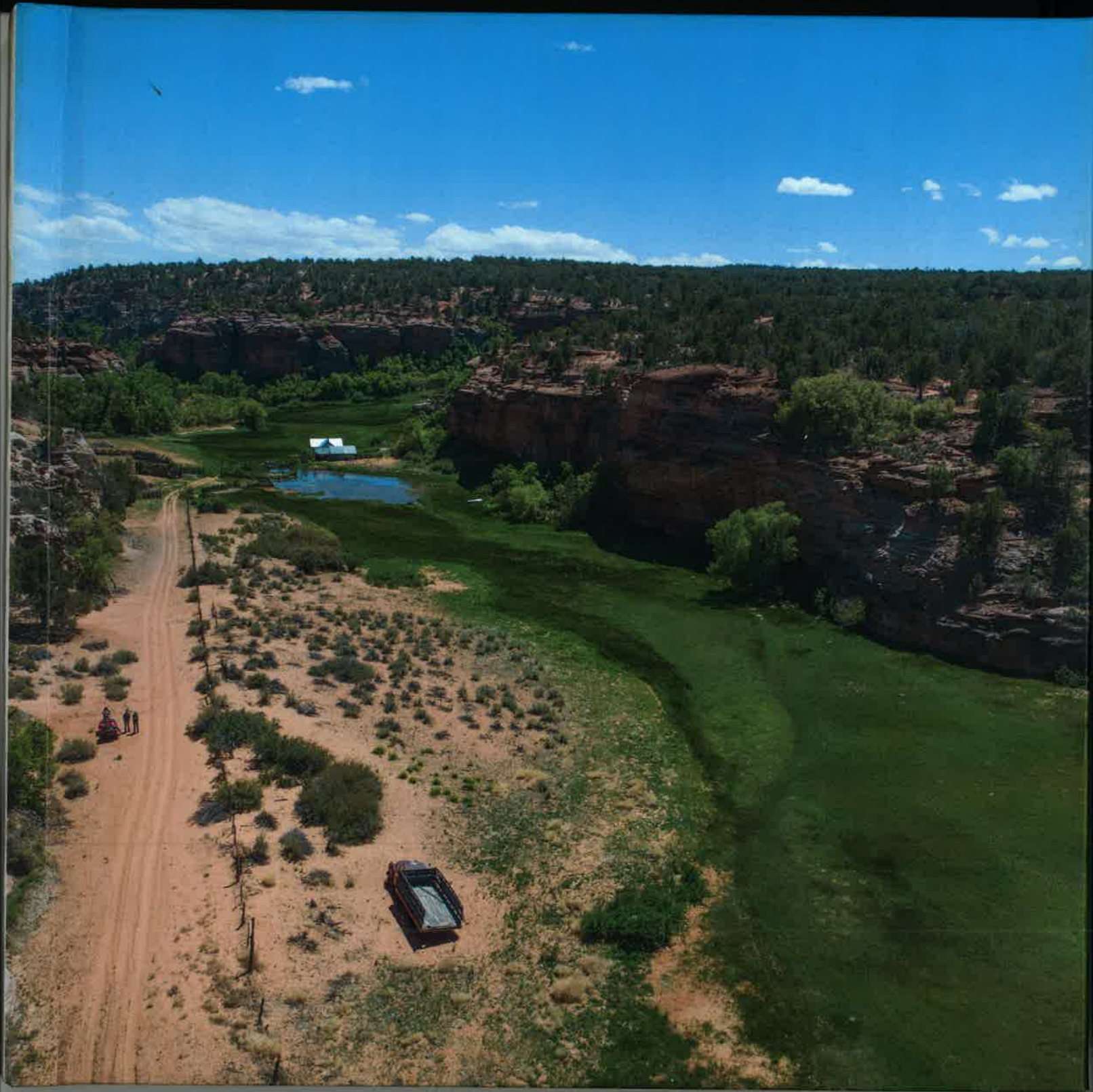
Legend

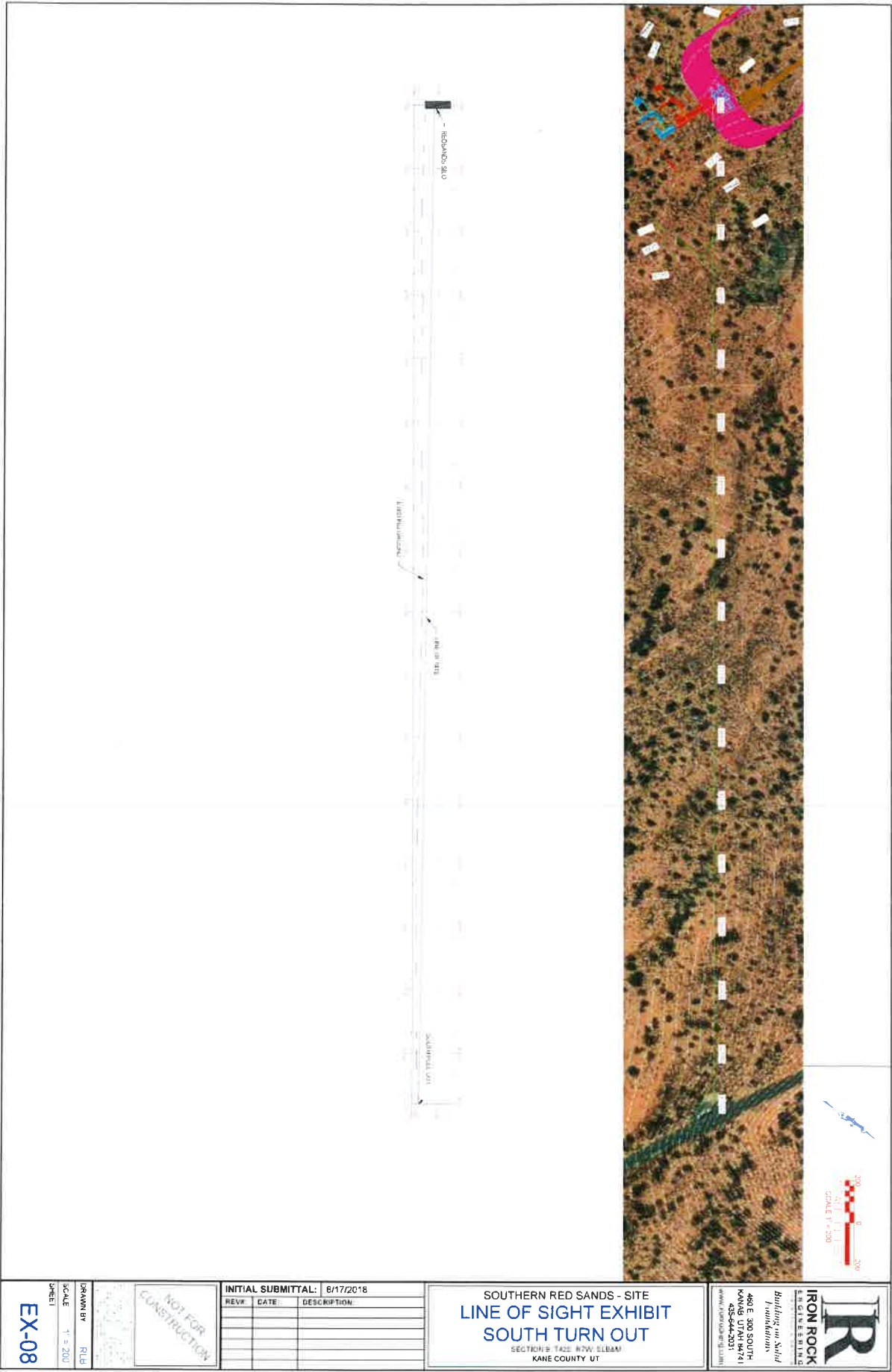
- BLM Wilderness Area
- Bureau of Land Management (BLM)
- Feature 1
- Feature 2
- Feature 3
- Feature 4
- Feature 5
- National Park Service (NPS)
- Private
- State
- State Parks and Recreation
- State Wildlife Reserve/Management Area
- US Forest Service (USFS)
- USFS Wilderness Area
- UT46812079SE
- UT46812079SE

Google Earth

600 ft







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435-644-2031
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NOT FOR CONSTRUCTION

REV#	DATE	DESCRIPTION

EX-08

SOUTHERN RED SANDS - SITE
LINE OF SIGHT EXHIBIT
SOUTH TURN OUT
SECTION 14, T42S, R7W, S14E
KANE COUNTY, UT

INITIAL SUBMITTAL: 6/17/2018

SANCTUARY RANCH LLC

July 10, 2019

Via email to smcbride@kane.utah.gov and hand delivery

Kane County Planning Commission
Attn: Shannon McBride, Land Use Administrator
76 North Main Street
Kanab, Utah 84741

Re: *Conditional Use Permit for Southern Red Sands, LLC Land Development Project*

Dear Planning Commissioners:

This letter is submitted in opposition to the Conditional Use Permit for Southern Red Sands, LLC's proposed sand mine. I am writing as a representative of the owner of Sanctuary Ranch LLC, owner of Trees Ranch, a one of a kind property downstream from the proposed mine on the Virgin River, and the last remaining agricultural zoned land in the town of Springdale. We have 2000 acres nestled between Springdale and Zion National Park, sharing a canyon, wildlife, and cultural resources which are listed on the National Register of Historic Places. It is a special place; uncommonly beautiful and rich in resource. In addition to being a residential property, we are a working farm. We hold extensive water rights to both surface and ground water to support the operation of Trees Ranch. It is unclear to us that our rights to our land and water are being considered or protected with this Conditional Use Permit, as required by law.

As discussed in more detail below, the mine proposal fails to meet the standards set out in KCLUO 9-15A-2.F for a Conditional Use Permit because: (1) the record is not adequate to support the conclusion that the mine is necessary or desirable and will contribute to the general well-being of the community; (2) the mine could be injurious to property in the vicinity; and (3) a mine is not consistent with uses allowed in the C-2 zone.

1. Mine is not necessary or desirable.

Under KCLUO 9-15A-2.F.1, in order to approve a Conditional Use Permit, the Kane County Land Use Authority shall find that a mining use "is necessary or desirable and will contribute to the general well-being of the community." The record in the staff report does not document how the proposal meets this criteria.

Numerous state laws are cited, but there is no analysis or documentation to show how the proposed mine is necessary or desirable and how it contributes to the general well-being of the community. This is mandatory criteria to approve a Conditional Use Permit. As discussed in more detail below, the proposed mine is not consistent with commercial uses allowed in the C-2

zone, and it is detrimental to the environment and surrounding properties, so it does not make a meaningful contribution to the well-being of the community.

2. Mine is injurious to property in the vicinity.

Under KCLUO 9-15A-2.F.2, in order to approve a Conditional Use Permit, the Kane County Land Use Authority shall find “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.” The Staff Report makes it clear that the potential injurious impacts to properties in the vicinity, including Trees Ranch, have not been adequately disclosed.

Water Impacts

We are concerned about the impacts to our water rights and impacts to the Virgin River. The mine could contaminate the ground water that serves Trees Ranch. Section 17 in the Staff Report says SRS has applied for a Ground Water Feasibility and Well Siting Study, but the findings are not available. The Staff Report also states that the mining operations must detain all storm water on-site, however, there is also a reference to subsequent NEPA review (BLM Red Knoll Environmental Assessment) and development of a drainage plan that will provide information on whether this is feasible. Until the results of these studies are available, it is not possible to determine whether the mine will injure properties in the vicinity, including our farm. For this reason alone, the Conditional Use Permit should be denied or the decision delayed.

Additionally, the Virgin River could be impacted by the mine. This river is designated as “Wild and Scenic” under the National Wild and Scenic Rivers Act. There needs to be further analysis regarding the mine’s impact to the Virgin River.

Traffic Impacts

The Staff Report notes that a BLM Red Knoll Road Environmental Assessment has been initiated and is in process. This assessment should be completed before approval of a Conditional Use Permit.

Additionally, the Staff Report says a Transportation Management Plan will be prepared, but the record does not include any information about anticipated traffic volumes. The proposed mitigation is inadequate unless the impacts are disclosed.

The Staff Report says that the County may require a Traffic Impact Study. This study should indeed be required, and the County should not act on the Conditional Use Permit until the study is complete.

3. Mine not consistent with the General Plan or C-2 zone

Under KCLUO 9-15A-F.3, the Kane County Land Use Authority shall find “that the proposed use is in harmony with the intent of the General Plan and the zone in which it is located.”

The General Plan discusses the importance of property rights. If the proposed mine harms our farm's water rights, then it has a detrimental impact on our property right. Use of the land controlled by the State Institutional and Trust Lands Administration cannot detrimentally impact the property rights of landowners in the vicinity. The record is not clear that there will not be harm to our property rights.

Also, under KCLUO 9-7B-4.B, "If a use is not allowed in a given zone, it is either not named in the use list or is indicated in the appropriate column by a dash." The Staff Report notes that the C-2 zone allows "materials sales yard, outside, with sale of rock, sand, gravel, and the like as an incidental part of the main business but excluding concrete mixing" as a conditional use (KCLUO 9-7B-5). The use table for the C-2 zone does not include "underground mining" as a permitted use.

Instead, the Staff Report says, "All uses listed in the residential and agricultural use tables are allowed in the C-2 zone with their appropriate designation of permitted or conditional uses unless otherwise changed in the commercial uses table." The agricultural section of the code allows "underground mining" as a conditional use (KCLUO 9-5-3).

It is a stretch to argue that a zone that does not allow concrete mixing in a materials sales yard would allow mining and processing. The permitted uses in a commercial zone contemplate stores and services that are accessible to the public. A mining operation would have a detrimental impact on surrounding properties because the use is more intense and impactful than even "heavy commercial" uses. Because the proposed use occupies such a large area, it also forecloses the opportunity to use the land for commercial operations that are consistent with surrounding zones. Moreover, KCULO 9-5-5.J states that State Institutional Trust Lands will be regulated under the "commercial" zone regulations, not the "agricultural" zone regulations. It is therefore improper to apply the agricultural zone use regulations to this application.

As documented in the Kane County Land Use Philosophy, "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 property to their owner." The Conditional Use Permit potentially infringes on our property rights, and the Conditional Use Permit for Southern Red Sands LLC's proposed mine should be denied at this time. At the very least, there needs to be a more robust analysis of the proposal's impacts. Without additional analysis, there is a serious risk of injury to our property rights.

Sincerely,



Alison G. Ivey
General Counsel

**Emails & letters
included in the
Planning Commission's
Packet**

July 10, 2019

Dear Kane County Planning Commission:

I am writing to voice my opposition to the application for the Conditional Use Permits for Southern Red Sands. At the very least, I'm hoping that you "table" any approvals until you get more information about this operation.

Do we know how much sand will be produced and where it is going? We need to know this in order to determine how to prepare for the surge in heavy truck traffic.

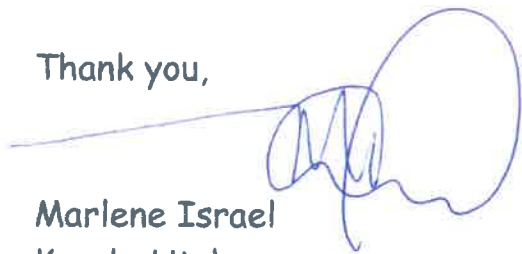
I'm primarily concerned about the significant increases in diesel pollution, noise and congestion. More importantly, I'd like to know about safety precautions; we've already had a traffic fatality in our town this year, and too many accidents (and fatalities) just outside town. We also have an elementary school a block away from one of the truck routes.

Increased truck traffic will also affect Kanab's attractiveness as a tourist destination. How can we mitigate this, and protect our local economy, *before* approving the permit?

This project has been purposefully fast-tracked by the Water Conservancy. Please involve the wider community in planning this stage of the approval process. We need collaboration and transparency. All stakeholders need to be fully included in the decision process for one of the most consequential developments in our community's history.

Thank you,

Marlene Israel
Kanab, Utah

A handwritten signature in blue ink, appearing to read 'Marlene Israel', with a long horizontal line extending to the left.

Shannon McBride

From: Marlene Israel
Sent: Wednesday, July 10, 2019 2:54 PM
To: planning@kane.utah.gov
Subject: SRS Conditional Use Permit

July 10, 2019

Dear Kane County Planning Commission:

As a resident and homeowner in the City of Kanab, I have the following concerns about the Kane County Conditional Use Permit granted to Southern Red Sands (SRS):

The conditions only require that SRS meet the county land use ordinance with regard to **lighting** (#26). This could have a negative impact on Kanab City's Dark Skies efforts and the recently enacted ordinance. A simple mitigation would be to expand Condition #26 to require SRS to meet the standards of the Kanab City ordinance, except in cases that are mandated by law (e.g., air traffic lighting, emergency exits, etc.).

A positive mitigation of the **visual, aural, and particulate dust pollution** might be to require SRS to plant a tree barrier, between Highway 89, and their facilities. Such a barrier would have increased effectiveness over time, as the trees grow taller. Also, are all roads to the facilities going to be paved? If not, they should be.

It is difficult to predict what negative impacts the increased amount of **traffic** will have on other economic sectors (especially tourism) throughout the County and in the City of Kanab. Therefore, the County should continuously monitor the situation.

Thank you,

Marlene Israel
Kanab, Utah

Wendy Allan

From: Wendy Allan
Sent: Tuesday, July 9, 2019 2:35 PM
To: Ade' Nelson; Byard Kershaw ; Dale Clarkson; Danny Brown; Doug Heaton; Harold Hamblin; Robert VanDyke; 'Shannon McBride'; Tony Chelewski; Wade Heaton
Subject: FW: Southern Red Sands - please vote NO!

From: Karen Heet <karenheet@yahoo.com>
Sent: Tuesday, July 9, 2019 1:41 PM
To: wadeheaton1@gmail.com; blkershaw@gmail.com; agant@kane.utah.gov
Cc: smcbride@kane.utah.gov
Subject: Southern Red Sands - please vote NO!

Planning Commissioners,

I am very opposed to giving a CUP to Southern Red Sands. This project seems to have been in the works for quite a while, but it hasn't been vetted fully by the public, and there are just too many unanswered questions about the impacts this would have on our town, our roads, our unspoiled beauty, and even the financial impact on our community.

Please vote NO and please forward my comments to the other commissioners whose contact information is not on the Kane County website.

Respectfully,

Karen Heet
247 W Ladera Ln
Kanab, UT 84741

Wendy Allan

From: Catherine Woneis
Sent: Friday, July 5, 2019 7:05 PM
To: smcbride@kane.utah.gov; anelson@kane.utah.gov; wallan@kane.utah.gov;
wadeheaton1@gmail.com; blkershaw@gmail.com
Subject: Please do not give your blessing to the Southern Red Sands project

Please take a stand and do not put your stamp of approval on the Southern Red Sands project. We should ask SITLA to save this land for future generations, or at least for a time that Utah is more desperate for this money.

We are but stewards of this earth, and it is our obligation to keep Kane County unspoiled for our children and our children's children.

Don't be the planning commission that sold out our beautiful future, the quiet of our roads, the integrity of the air we breathe, and the water upon which we depend for a few quick bucks -- that's not the Western way, and, more importantly -- that's not the Kane County Way.

Thanks very much for your consideration,

Catherine Woneis
Kanab, UT

*To truly reverence the Creator, we must appreciate His creations. God intends His creations to be pleasing to look upon and to enliven the mind and spirit. **For that reason, making the earth ugly offends Him.** It is important to see and appreciate the glory and grandeur of God in everything about us, because the state of the human soul and the environment are interconnected—each affects the other. The earth, all living things, and the expanse of the universe all eloquently witness of Him.*

Wendy Allan

From: Shannon McBride
Sent: Wednesday, July 10, 2019 9:07 AM
To: Wendy Allan
Subject: FW: Please do not give your blessing to the Southern Red Sands project

Shannon McBride,
Kane County Land Use Planner
smcbride@kane.utah.gov
1-435-644-4966
76 North Main Street
Kanab, Utah 84741

*By failing to prepare, you are
preparing to fail.
Benjamin Franklin*

From: Catherine Woneis <catevz@gmail.com>
Sent: Wednesday, July 10, 2019 5:33 AM
To: Shannon McBride <smcbride@kane.utah.gov>
Subject: Re: Please do not give your blessing to the Southern Red Sands project

PS - at the very least, I would respectfully request that the height variance not be granted -- or at a minimum, that they not be allowed to put 2 120-foot silos up. Putting the equivalent of two 12 story buildings in a rural area zoned for 4 stories seems ridiculous -- and "painting them to match" isn't really going to help. They would be some of the tallest structures around, and then what's to stop others from building so tall?

Thanks, Catherine

On Mon, Jul 8, 2019 at 11:57 AM Shannon McBride <smcbride@kane.utah.gov> wrote:

Thank you.

Shannon McBride,
Kane County Land Use Planner
smcbride@kane.utah.gov
1-435-644-4966
76 North Main Street
Kanab, Utah 84741

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preparing to fail.

Benjamin Franklin

From: Catherine Woneis <catevz@gmail.com>

Sent: Friday, July 5, 2019 7:05 PM

To: smcbride@kane.utah.gov; anelson@kane.utah.gov; wallan@kane.utah.gov; wadeheaton1@gmail.com; blkershaw@gmail.com

Subject: Please do not give your blessing to the Southern Red Sands project

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Catherine Woneis

Kanab, UT

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Wendy Allan

From: Matt Diley
Sent: Friday, July 5, 2019 3:39 PM
To: agant@kane.utah.gov; wadeheaton1@gmail.com; blkershaw@gmail.com; smcbride@kane.utah.gov; anelson@kane.utah.gov; wallan@kane.utah.gov
Subject: Concerns about the Frac Sand Plant and the future of Kanab

Planning Commission Members and Land Use Authority Office Staff,

My wife and I moved to Kanab four and a half years ago. We were enamored with the unspoiled beauty of this place. We had never lived in a town this small but it completely captivated us. Now we find ourselves worried about the future of such a perfect place. The things that most attracted us or have since become incredibly important are these:

The Dark Skies - seeing the Milky Way from the backyard on a nightly basis when it's in the sky is magical. Dark skies are rare in the world today and we still have them.

The Silence - people haven't begun to track it yet, as far as I know, but I believe there will come a time when silence tourism will be a thing. You stand in the area where the Sand Hills are, anywhere in that expanse north of town, and often the only sounds you hear are the birds and the wind. Nature restores the soul and silence is a big part of her bag of tricks.

The Wildlife - we track the seasons by the deer, welcoming their return as a sign of winter, watching them depart as a sign that summer is coming. Same with the young eagles, the falcons that nest in the cliffs, and most lately, the pair of California condors nesting in Vermillion Cliffs. These are rare and wonderful animals, especially the latter, and impacting their lives for a few jobs and a few dollars is just not right.

The Water - a colleague of mine is from Southern California and didn't have good water there. He sent some of Kanab's off to be tested and it came back amazingly pure, some of the best in the country. At a time when the billionaire's are investing in water because they understand it is the next most valuable resource, why would we give up ours? That water is our future, the ability for us to grow, to have healthy children, to have a healthy community. What price for that?

Doing anything that would enable the building of a sand plant, along with the accompanying mining and trucking operations, that takes away from any of these would not be a wise move, in my opinion. The fact that it would impact all of them is unthinkable.

Kanab doesn't need to keep up with the Joneses... we don't need whatever we're planning to do with that money. We need to be content with who we are, with what we have, and realize that the entire world would love to be in our position. Only they're not and we are, and you have the power to create a legacy that says that what we have is enough, that it's more than enough, and that we are going to stay unspoiled, to be this small, perfect pocket in the world where people can still touch nature, still experience the dark skies and listen to nothing and drink pure water.

I'll close with this thought. Edward Abbey in his book entitled "Desert Solitaire," which essentially deals with the wild places disappearing as government claims it for the masses and because of the political interests that have money behind them, has some words to consider. The book is focused around Arches National Park, then a national monument, and how the changes forever altered the place he knew and loved and what he sees that

we lost. In the introduction to the book he writes "most of what I write about in this book is already gone or going under fast." Don't let a book be written about Kanab with that same preface, we can save our little slice of heaven, please do that.

Sincerely,

Matt and Donna Diley
470 E Wagontrain Circle
Kanab, UT 84741
435-644-8057
matt.diley@gmail.com
donna.diley@gmail.com

Wendy Allan

From: Matt Diley
Sent: Tuesday, July 9, 2019 12:28 PM
To: agant@kane.utah.gov; Wade Heaton; blkershaw@gmail.com; smcbride@kane.utah.gov; anelson@kane.utah.gov; wallan@kane.utah.gov
Subject: Conditions for the Frac Sand Plant
Attachments: Conditions for the Frac Sand Plant Land Usage - Matt Diley.pdf

Planning Commission Members and Land Use Authority Office Staff,

Mr. Heaton was kind enough to clarify the purpose of the meeting and the types of comments that will be entertained. To that end I have prepared some documentation. I will bring printed copies with me but wanted to give it to you ahead of the meeting. I've tried to make it concise and organized and hope you will take a few moments to browse it. I will be presenting as much of this as possible in the time I'm allocated, but I wanted to give you a chance to review it if you preferred ahead of time.

Sincerely,

Matt Diley
470 E. Wagontrain Circle
Kanab Utah
435-644-8057 (h)

Health

Silica Dust

Information

"Similar to asbestos, silica sand enters the lungs and doesn't leave. Under a microscope, the larger grains of crystalline silica are round, but smaller pieces less than 4 microns in size resemble sharp shards of glass. This is the size that is 'respirable', or easily inhaled by humans. Over time, it causes a variety of respiratory problems, including silicosis, which can take as long as 50 years after exposure to appear.

For years, silicosis has been thought of as an occupational hazard. Its impact is somewhat similar to exposure to asbestos, which is projected to cause half a million deaths over the next 30 years and causes illnesses with long latency periods like asbestosis, lung cancer, and mesothelioma.

Silicosis, an irreversible but preventable disease, is the illness most closely associated with occupational exposure to the material, which also is known as silica dust. Occupational exposures to respirable crystalline silica are associated with the development of silicosis, lung cancer, pulmonary tuberculosis, and airways diseases. These exposures may also be related to the development of autoimmune disorders, chronic renal disease, and other adverse health effects.

The OSHA Final Rule for Occupational Exposure to Respirable Crystalline Silica, including the standard for construction, 29 CFR 1926.1153, and for general industry and maritime, 29 CFR 1910.1053, took effect on June 23, 2016. The OSHA final rule reduces the permissible exposure limit (PEL) for respirable crystalline silica (RCS) to 50 micrograms per cubic meter of air, matching the NIOSH REL. Engineering controls are now also a part of the new rule helping to reduce worker exposure."

Condition Suggestion

I would suggest that OSHA regulations for respirable crystalline silica be monitored/audited at least annually by an external firm both on the site and at distances from the site, to ensure that the wind isn't carrying it offsite and creating a hazard in the surrounding area. This would ensure safety for both workers and the residents of Kanab that utilize the surrounding land for recreation. Exceeding limits would cease operations until silica levels could be mitigated.

In spite of regulations, "workplace safety expert Eric Esswein and his team visited 11 fracking sites in five states: Arkansas, Colorado, North Dakota, Pennsylvania and Texas. At every site, the researchers found high levels of silica in the air. It turned out that 79 percent of the collected samples exceeded the recommended exposure limit set by the National Institute for Occupational Safety and Health."

Health

Groundwater Contamination Mitigation

Information

The desired sand must be removed from other particles present when it is mined. This is achieved through a process called flocculation. The chemicals typically used in this process, chemicals such as polyacrylamides and acrylamides, contain neuro toxins. From research I've conducted:

"Frac sand processing also poses dangers to water sources. Miners commonly use chemicals called flocculants to clean, wash, or remove unwanted minerals or other fine particles from the processed sand. These chemicals can infiltrate into groundwater after washing.

Long term exposure to common flocculants like polyacrylamides and acrylamides in high concentrations of drinking water can lead to nervous system, blood problems or increased risk of cancer."

Condition Suggestion

Green options for the chemicals used in flocculation are available and we should prohibit any chemicals to be used in the process that could impact this or future generations through contamination. I would propose banning the use of polyacrylamides, acrylamides, or any chemical that contains neuro toxins or has shown to cause adverse effects in humans in the operations on this property and require green solutions for any chemical processes.

"Mike Caron, director of land use for Minnesota-based Tiller Corp., said the company's frac-sand division has intentionally avoided polyacrylamide because of the unknowns. The company uses a starch-based flocculant sold by HaloSource Inc. of Bothell, Wash."

Environment

Mitigating Waste Run-Off and Stream/Pond Contamination

Information

"From pyramids of discarded sand to sludge that accumulates in filtering devices, the mines create tons of waste byproducts that must be managed until they can be plowed back into the ground as part of reclamation plans designed to protect the environment and preserve the rural landscape.

"The industry just came on too fast," said Ruth King, a stormwater specialist with the Wisconsin Department of Natural Resources. "I wish we could turn back the clock a couple of years and start over."

Dick Eberly's property twice has had spills from Preferred Sands in Blair, Wis. In a rash of continuing violations that started last year, heavy rains have combined with sand-processing water to overflow holding ponds on several mining sites. The breaches have dumped sandy sediment into public waters, where it can suffocate fish eggs, kill aquatic plants and rob fish of habitat they need to reproduce.

"It really does impact the fisheries side of it," said Roberta Walls, another Wisconsin DNR water specialist.

Rich Budinger, president of the Wisconsin Industrial Sand Association, an industry trade group, said sediment pollution is indeed a threat to natural areas. The entrance of new, inexperienced sand companies and heavy rains have made conditions more challenging, he said."

Condition Suggestion

Given the heavy, flash flood type rains and the red flag wind warnings that the Kanab area experiences every year, I believe an independent review/audit by an engineering firm familiar with the frac sand industry be conducted annually to ascertain if the measures being taken to contain waste to the site are adequate and that operations cease until corrected if they are found to be insufficient.

I believe this should be a conditional condition as the impact of noise on wildlife is not yet well understood, though it has been shown that bird life was significantly reduced by noise and light caused by significant traffic on roads. As more data becomes available it would be wise to review noise levels going forward.

Environment

Endangered Species

Information

There are two significantly endangered species which make their homes in and around Kanab.

The first, *“the Kanab ambersnail, scientific name Oxyloma haydeni kanabense or Oxyloma kanabense, is a critically endangered subspecies or species of small, air-breathing land snail, a terrestrial pulmonate gastropod mollusc in the family Succineidae, the amber snails.*

This snail lives in wetlands, springs, and seeps,[4] and only two of its natural habitats are known to exist: Three Lakes, a meadow near Kanab, Utah, and Vasey's Paradise, a springs along the Colorado River within Grand Canyon National Park.”

Any impact to the groundwater could significantly impact this species.

Second, there are *“currently, there are around 400 California condors alive in total, with a little over 200 living in the wild. But the California condor is still considered critically endangered by the IUCN Redlist.*

Their population continues to be threatened by poison ingestion, most notably by lead poison from hunters' bullets left in carcasses. Other threats include illegal egg collection, habitat loss, and power lines.”

Here is the range map of the California Condor:



Condition Suggestion

A general assessment by a wildlife expert to ensure that neither species will be or is being impacted should be conducted annually. Operations should not be allowed to either cause significant impact to the population or cause the loss of significant habitat (i.e. polluting the three ponds area, causing the birds nesting in Vermillion Cliffs to cease doing so, etc.)

Environment

Dark Skies

Information

The State of New York has a law in place to govern lighting in order to help preserve dark skies and limit further light pollution. The law is called the “Healthy, Safe and Energy Efficient Outdoor Lighting Act.”

Basics

“If the fixture initial output is 1800 lumens or greater the fixture has to be “fully shielded.” For the purposes of this law, “fully shielded” essentially means no light above the horizontal plane of the fixture. Historical style luminaires may emit up to 2% of its light output above the horizontal plane.”

Condition Suggestion

To preserve the dark skies around Kanab, I would suggest we use the State of New York's law as a guideline but take it further, requiring all lighting used on the plant to be “fully shielded” such that no light may be emitted above the horizontal plane of the fixture. Additionally we should limit fixture height so that light emitted does not pollute the surrounding skies.

Safety

Trucking Operations

Information

Additional truck traffic through Kanab will pose an issue with general traffic, noise and safety to the residents and visitors. Additionally, such traffic will cause additional road damage.

Condition Suggestion

Limit the number of trucks permissible through the town of Kanab. Also limit the total number of trucks permissible to leave the facility in total.