

# DUCHESNE COUNTY PLANNING COMMISSION MINUTES

Duchesne County Administration Building, Commission Chambers

February 6, 2024 at 5:00 PM

Attending: Connie Sweat, Tom Winterton, Terry Nelson, Shon McKinnon, Mike Hyde, Mike Gottfredson, Becky Broadhead, Randy Freston II, Scott Duncan, Garth Robison, Ryan Rogers (on-line).

## Introduction of New Planning Commissioners

Terry Nelson and Kelsey Carter

## Election of a Chair and Vice Chair for 2024

- Shon McKinnon nominated Connie Sweat for Chairman, and Thomas Winterton seconded the motion. Motion carried 4-0.
- Connie Sweat nominated Annette Miller for Vice Chairman, and Thomas Winterton seconded the nomination. Motion carried 4-0.

Meeting began at 5:07 PM.

## Public Hearing

Mike Gottfredson presented:

- Request by XCL Resources for a conditional use permit to operate an industrial sand mining and processing facility in the Upalco area.

### **Findings (see attached).**

Connie Sweat called for any proponents.

- Scott Duncan, representative for XCL, stated XCL wants to be transparent with everyone. He provided one correction regarding the water well that was mentioned. That water well has been plugged. It will not be used for the sand mining project. The proper paperwork and filing have been submitted to the Division of Water Rights as well as the water right is still retained. He transferred that water right from Max Anderson's name into XCL's name. Scott commended Mike Gottfredson for his thorough presentation. He said they will be getting their water from two different places on the Shiner's property. He asked if there were any questions.
- Connie Sweat asked Scott Duncan where they will get their water.
- Scott Duncan said they have a fresh water source that XCL is buying, commercial water, from Roosevelt City that is being stored at Sand Wash. He reports Jimmie Taylor has a water catcher right along Ioka Lane where he collects the runoff. It is water that goes through the area drainage and gathered through a commercial pit on Shane Shiner's property that XCL will pump the water through to the sand mine.
- Terry Nelson asked if they'll be laying a flat line from the pond.
- Scott Duncan said it won't be a flat line. It will be a steel line.
- Mike Gottfredson asked if they have an idea of how much water is going to be used.
- Scott Duncan referred this question to Garth Robison.
  - Garth Robison stated that collecting all of our water is a big deal. Recirculating, recollection, reusing. This situation here is a recollection of 80% + give or take losing 4 or 5% product would have him guessing 200 gallons of water per minute back into the facility. He said it is tough to guarantee the water usage until XCL is closer to operation.

Connie Sweat asked if there were any other questions.

- Terry Nelson asked if XCL had talked to the state about the use of SR87 and the impact 175 more trucks and 61 vehicles will have on this road.

- Scott Duncan said he needed to back up a little bit. He explained when XCL originally came in and met with Mike Gottfredson the initial use of the sand mine was to use product at the local wells. XCL will probably use conveyer belts to transfer it to our frac site. The sand will be used at XCL's abutting property for the first 1 to 1-1/2 years. As production is on-site at the beginning, XCL will not have any added impact to State Road 87. XCL has met with Duchesne County's Road Department, but they haven't met with the State Department yet. XCL has worked with UDOT on a few other things in the past and would certainly want to do that with this situation as well.
- Thomas Winterton asked if 1000 N is already being used heavily for oil field work as well.
  - Scott Duncan said, yes.
  - Thomas Winterton asked if the use was XCL or someone else?
  - Scott Duncan stated that primarily it is XCL, but other companies are using the road as well.
- Connie Sweat asked about any progress on the bond money owing.
  - Scott Duncan and Ryan Rogers both said they thought the bond had been prepared and they would both make sure the bond was filed immediately. Ryan Rogers said he would get with Lauren Brown and have that taken care of before XCL starts.

Connie Sweat asked if there were any other questions or discussion.

- Thomas Winterton wanted to go on record again stating how much he appreciates XCL investing in Duchesne County. His personal view point is always to hold the applicants to the minimum standards needed to mitigate the impacts without any excess owing. "As I look at the use of our roads in the county, I feel it is important that we protect the roads, but I always want to assure there are methods in place so that applicants like XCL aren't getting blamed for other oil field traffic that may be contributing to the problem and the cost to repair the roads is rationed out proportionately. It is his goal to protect everybody."
- Connie Sweat asked if the 61 vehicles were their employee's cars.
  - Scott Duncan said yes it would be the staff to run the sand mine.
  - Mike Gottfredson reminded Connie that such traffic will only be during the peak hours (at the 6am and 6pm shift changes.)

Connie Seat asked if there were any opponents. There were none.

Connie Sweat closed the hearing and called for a motion.

- Thomas Winterton motioned to approve the CUP based on the recommendations that had been laid out, and Terry Nelson seconded the motion. Motion carried 4-0.

### **New Business**

Connie Sweat asked Mike Hyde how Bill 353 was going? Mike Hyde reported it seems like it is an attempt by the legislature to protect existing sand and gravel and other types of critical material mines as they are needed for many of the road projects. In the Basin area, with all the oil and gas projects, Bill 353 would facilitate expansion and continued operating in spite of urban development encroaching on these mines. Mike said it probably stems from the mines out at the point of the mountain in Draper City where there has been a lot of controversy on this matter.

### **Minutes**

- December 6, 2023
  - Thomas Winterton moved to approve the minutes, Terry Nelson seconded. Motion carried 4-0.

### **Information Only Items**

Mike Hyde reported Mathew Bell received the approval of the Rezone that was granted by the Duchesne County Commissioners for his Larsen Springs lot. Motion carried 2-1 on 2-5-24.

Mike Hyde reported the next Planning Commission Meeting would be on March 6, 2024. He said there is an application for a variance for some setbacks. Mike continued saying there is a small piece of property on the corner in Neola across from the store that is very narrow and has all the right of ways, setbacks and easements that one can have. The applicant wants to build something on the property so he is asking for a variance from the planning commission. Mike Hyde stated that normally this would be handled by the counties Board of Adjustments, but the county hasn't been able to keep that board staffed here for the last several years so the applicant has agreed to let the planning commission hear that request for him.

There could be more applicants as the public has one more week to make application. Also, the Planning Commission will plan to meet in April. The Community Development Department has been working with Duchesne City and Roosevelt City on their updates to their airport master plans. The legislature has required counties to adopted airport overlay zones to help protect those municipal airports from incompatible uses that might occur in the county. Mike Hyde asked both cities to review and comment on the proposed ordinance. Mike said he hasn't heard anything from either of them so he has asked them again, today, to get back to us by the end of February. Mike said the county is also waiting for the legislature to finish their session. If there are any changes that the county needs to make to the zoning or subdivision ordinances, our department will be bringing those to the planning commission later on. Some changes to the subdivision ordinances were passed in the last legislative session. The Community Development Department is waiting to see if the legislature changes anything else.

Connie Sweat called for a motion to adjourn.

Shon McKinnon moved to adjourn. Thomas Winterton seconded. The motion carried 4-0.

Meeting adjourned at 6:00 PM.

# DUCHESNE COUNTY PLANNING COMMISSION MEETING

## FEBRUARY 7, 2024

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**REQUEST TYPE:** Conditional Use Permit  
**APPLICANT:** XCL SandCo, LLC  
**PROPOSAL:** Industrial Sands Mine and  
Processing Facility  
**LOCATION:** 10 acres of Parcel # 00-0006-3358 in  
Section 24, Township 2 South,  
Range 3 West, in the Upalco area.  
**ZONING DISTRICT:** A-5

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### REPORT CONTENTS

FINDINGS OF FACT .....	2
CONCLUSIONS .....	11
RECOMMENDATION .....	11

## FINDINGS OF FACT

### **1. PROPOSAL DESCRIPTION**

XCL SandCo (XCL) proposes to operate an industrial sands mining and processing facility in a project area of 10 acres on Parcel # 00-0006-3358 located within the A-5 zoning district. As an industrial use, the proposed operation is permitted within the A-5 zoning district with a conditional use permit. XCL would mine, transport, process, and stockpile sand excavated in this project area for their own use, specifically for oil and gas operations within the Uintah Basin. Sands within the project area are estimated to reach an average depth of 40 feet, but will vary due to the geology of the mine reserve.

### **2. HISTORY OF EVENTS**

January 17, 2024	The application was submitted.
January 17, 2024	The application was deemed complete.
January 24, 2024	Notice mailed to property owners within 300 feet of the subject property.
January 24 & 31, 2024	Notice of Public Hearing published in Uintah Basin Standard.
February 7, 2024	Planning Commission hearing.

### **3. DUCHESNE COUNTY ZONING CODE**

#### **8-13-1: SCOPE AND PURPOSE:**

- A. Issuance: Conditional use permits may be issued as provided by this title for any of the uses for which a conditional use permit is required as identified in the table of uses and the table of site development standards, as set forth in Chapter 6 of this title.
- B. Purpose: The purpose of the issuance of a conditional use permit is to allow the proper integration into the county of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.
- C. Conditions: A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed land use in accordance with applicable standards. 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 conditional use permit may be denied.

#### **8-13-2: APPLICATION FOR PERMIT:**

All requests for a conditional use permit shall be made on the application form provided by the county, detailing the nature of the conditional use request. The applicant shall also provide the necessary information identifying the purpose of the conditional use request, and all required information shall be provided to the planning office twenty-one (21) days prior to the planning commission meeting. The planning commission is authorized to render a final decision on the issuance of a conditional use permit following the review and receipt of a recommendation from the zoning administrator.

**8-13-3: PUBLIC HEARING REQUIRED:**

All applications for a conditional use permit shall be made in accordance with the provisions of this title and shall be the subject of a public hearing held before the planning commission for which a minimum of fourteen (14) days' public notice has been provided and the planning staff notifying all property owners by U.S. mail within three hundred feet (300') of the proposed conditional use.

**8-13-4: FINDINGS AND CONDITIONS FOR APPROVAL:**

A. Findings Required: The planning commission may grant a conditional use permit in compliance with this title if, from the application and the facts presented at the public hearing, it finds:

1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, or general welfare.

**Findings:**

1. **Noise and Dust:** Surface mining and processing industrial sands can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise and dust from the operation of equipment, and windblown dust from untreated stockpiles.

The applicant proposes to mitigate noise disturbances through locating the sand mine in a remote location and regulating truck noise prohibiting the use of "jake brakes."

The applicant also proposes to follow a Fugitive Dust Plan to keep dust levels below state allowances. The applicant also states they will hold a Utah Department of Environmental Quality air permit for the project.

➤ If the applicant complies with dust standards (administered by the TriCounty Health Department and/or the Utah Department of Environmental Quality) and noise standards found in the County nuisance ordinance, the proposal is less likely to be injurious to public health, safety, or welfare.

2. **Reclamation:** Detrimental impacts can also occur if the mining area is not reclaimed properly.

The applicant proposes to reclaim the area according to the Duchesne County Material Pit Finishing Standards and submitted a reclamation plan as part of the conditional use permit application.

➤ If the applicant complies with the Duchesne County Pit Finishing Standards and follows its own reclamation plan, the proposal is less likely to leave the landscape in hazardous conditions or aesthetically displeasing when the mining activity and processing operations are concluded.

3. **Water Pollution:** Detrimental impacts can occur if operations of a sand mine and processing facility result in the sedimentation of waterways.

The applicant proposes to apply for and hold both a construction stormwater permit and an operations stormwater permit from the Utah DEQ Division of Water Quality. They also state the site will be internally drained so that no stormwater pollution occurs off-site beyond the project boundaries. The applicant submitted a storm drainage plan as part of the conditional use permit application.

According to maps prepared by the Utah Division of Drinking Water, the project does lie within Zone 4 of Johnson Water's Well #3. This means groundwater within the zone has a time of travel distance of 15 years to the Well #3 wellhead. The Duchesne County Drinking Water Source Protection Ordinance does not regulate groundwater drinking protection zones 3 and 4. In addition, the well is classified by the Division of Drinking Water as both Inactive and within a Protected Aquifer. A "protected aquifer" means a producing aquifer in which the following conditions are met:

- a. A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;
- b. The public water system provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and
- c. The public-supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

► If the applicant complies with the Duchesne County Drinking Water Source Protection Regulation ordinance and regulations and code set out by the State of Utah, including the adherence to the requirements of both the proposed construction stormwater permit and operations stormwater permit, the proposal is less likely to be injurious to public health, safety, or welfare.

4. **Public Improvements:** The mining and processing of industrial sands and the associated heavy hauling may be detrimental to public improvements in the vicinity; especially county roads (see Findings A-1-6 on page 5).

The applicant states the water needed for this operation will be supplied by a water well on the property to the south of the project area. Wastewater will be disposed by a 0.64-acre septic system that will be constructed at the project site.

The Utah Division of Drinking Water has on record Water Right # 43-11317, owned by Max Anderson, with the right limited in quantity to an annual diversion for stockwatering of 1.4800 acre-feet. It is a 4-inch

well with a depth of 310 feet. The Division does have a process to change the use of wells, in this case, from STOCKWATERING to INDUSTRIAL, COMMERCIAL, RECREATIONAL, COMMUNITY AND MINING.

► If the applicant adheres to the drinking water and onsite wastewater regulations enforced by TriCounty, and applies for and holds the associated permits, the proposal is less likely to be injurious to public health, safety, and welfare. Duchesne County does not enforce state code and regulations of water rights or uses, and refers the applicant to the Utah Division of Water Rights for any water diversion change of use.

The applicant states two-phased power exists at the site and will serve the project. Utilities are permitted uses in all Duchesne County zoning districts.

5. **Wetlands:** There is a listed riverine wetland within the project area, (see attached map and the National Wetlands Inventory). All will need to be avoided unless permission to disturb wetlands is obtained from the US Army Corps of Engineers or other agencies with jurisdiction. This may involve a wetland delineation.
6. **Roads:** Oil wells are currently being drilled in the vicinity, which is already placing heavy truck traffic on private access roads, public access roads, along with County and UDOT roads. The proposed access to the processing facility is as shown in the attached Vicinity Map. Regarding County road impacts, the applicant proposes to use County Road CR 143, connect to CR 137, before connecting and disbursing along SR 87 and Highway 40. The applicant also states their inbound traffic during a 24-hour period to be “around” 175 trucks and 75 cars. The applicant further states that their peak hour vehicle trips, a measurement of traffic, is 61. The applicant also claims the low number of peak hour vehicle trips would not be considered extraordinary use, as defined in Duchesne County’s Transportation Master Plan.

In the Duchesne County Master Plan Section 4.6 ENERGY/COMMERCIAL DEVELOPMENT IMPACT AND MITIGATION, it states “If the development will increase traffic by more than 25% of normal operating volume then it will be deemed “Extraordinary Use” and measures should be taken to improve insufficient pavement structures prior to the development.” “Peak hour vehicle trips,” as cited by the applicant, is not interpreted by Duchesne County to mean “normal operating volume.” “Normal operating volume” is interpreted by Duchesne County to be associated with “average daily traffic” and road classifications.



In a January 26, 2024, memo, and at the request of Duchesne County, Jones and DeMille Engineering estimated the cost to upgrade CR 143 (1000 N.) from a minor collector road classification to a major collector road classification to accommodate industrial traffic on CR 143 (1000 N.) at between \$2.2 million and \$2.6 million. The Duchesne County Road Department will not be improving this road in the near future and does not plan on upgrading the road classification from a minor collector.

If the Duchesne County Road Department needs to apply weight restrictions to the haul routes on current or future County Roads, the applicants will need to adjust accordingly. Since road damage could occur, the applicants shall coordinate with the County to make repairs, as needed.

► If the applicant improves CR 143 (1000 N.) to a standard approved by the Duchesne County Road Department, or uses and/or improves an alternate truck haul route to connect to County or State roads designed for truck haul loads, the proposal is less likely to be injurious to public health, safety, or welfare.

7. **Hours of Operation:** The applicant anticipates processing to occur 24-hours per day, with two shift changes at 6:00 AM and 6:00 PM.

Truck hauling must comply with the Duchesne County noise ordinance hours of operation.

If the applicant follows the noise standards found in the County nuisance ordinance, the proposal is less likely to be injurious to public health, safety, or welfare.

8. **Surrounding Land Use:** Applicants are not allowed to mine at the project location within 660 feet of any residence unless a residential property owner agrees in writing to a lesser distance. Surrounding property is private and Tribal sovereign land and is used for agriculture and energy development.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

**Findings:** The Duchesne County General Plan contains the following statements with respect to mining activities:

Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean.

In this case, the applicants intend to use the sand to support the energy and construction industries. Such projects are beneficial to the economy of the county and in compliance with the general plan.

The purposes of the Zoning Ordinance are set forth below:

8-1-2: PURPOSE:

A. The purpose of this title is to implement the goals and policies of the county general plan. This title contains standards, provisions and requirements intended to protect the health, safety and welfare of the citizens of the county by ensuring that neighbors, adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources. It is the intent of this title to provide a means of ensuring predictability and consistency in the use of land and individual properties, and to guide and direct the development of land.

B. These purposes are met by:

1. Providing the means of implementing the various policies and other provisions of the county general plan;
2. Generally directing and guiding land development so more intense development is located in areas of the county having the necessary services and facilities sufficient to meet the demands of the proposed development;
3. Promoting the public health, safety and general welfare by regulating the location and use of buildings, structures and land for residential, commercial and other specified uses;
4. Protecting landowners from potential adverse impacts from adjoining uses; and
5. Directing and managing, through the establishment of use districts, the type, distribution and intensity of activity.

**Findings: If the applicant meets the conditional use permit criteria and complies with the conditions of approval, the purposes of the Zoning Ordinance will be met.**

3. That the property on which the use, building, or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

**Findings: The proposed mining would take place on approximately 10 acres of a 600-acre parcel owned by XCL SandCo, LLC, which is large enough to accommodate the proposed use.**

**The applicant proposes to build a set of bulk storage domes, a washing structure, and two mobile in-pit radial stacking conveyors that will be over 40 feet in height. Duchesne County requires a conditional use permit for all structures over 40 feet in height. If the applicant follows the approved conditions of approval, the requirement for a conditional use permit for these**

**five structures will be fulfilled. These structures are also outside of the Roosevelt Municipal Airport airspace requirements for structure heights.**

**The anticipated conditions of approval, if adhered to, will enable the use to be conducted in a manner that will not be materially detrimental to adjoining and surrounding properties.**

B. Conditions:

1. In approving a conditional use permit, the planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of the county general plan and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. Minimum conditions shall be included for produced water disposal facilities, extraction of earth products and residential treatment or secure treatment facilities as indicated in section 8-13-5 of this chapter.
2. When approving a conditional use permit, the planning commission may impose such requirements and conditions as follows: location, construction, maintenance, odor control, operation, site planning, traffic control, dust control, noise, time limits and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

**8-13-5-2: SURFACE OR SUBSURFACE MINING AND CRITICAL INFRASTRUCTURE MATERIALS OPERATIONS**

- A. Dust Free Condition: Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the County, the Tri-County Health Department and the Utah Department of Environmental Quality (DEQ) that contains an inventory of dust control equipment and procedures that will be used at the site and a documented source of adequate water. Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the county, unless the crusher is considered exempt from permit requirements by DEQ. Watering or applying chemical treatments to active mining areas and driving surfaces during times of operation is considered maintaining a near dust free condition.

**Findings: The applicants must obtain TriCounty Health Department and DEQ approval of a dust control plan for this location. The applicant or authorized agent must follow this plan to control dust at active mining areas and driving surfaces, including haul roads. The County nuisance ordinance and Utah air quality rules require 24/7 dust control by applications of water and/or dust suppressants (such as magnesium chloride). If dust complaints received by Duchesne County, TriCounty Health, or DEQ, the mining and industrial sand processing operations shall cease until the event can be mitigated.**

B. Bond Required: A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements.

**Findings: The applicant proposes to post a bond with Duchesne County. As of January 31, 2024, no bond was on file at Duchesne County.**

C. Reconditioning: Reconditioning, in a manner agreed to by the County, the property owner and the applicant, to assure the surrounding property is protected along with the beauty of the landscape. Guidelines known as the Material Pit Finishing Standards on file at the Duchesne County Community Development Department are suggested for use in reclamation planning.

**Findings: The County maintains “Material Pit Finishing Standards” used to determine how reconditioning is to be accomplished. The applicant/property owner is subject to these standards. During operations, the property shall be maintained in a condition that is not hazardous, with any hazardous areas being signed and fenced. The applicant has provided a reconditioning plan which is included as an attachment to this report. The plan complies with the Material Pit Finishing Standards.**

D. Distance Requirement for Surface or Subsurface Mining and Critical Infrastructure Materials Operations: Rock crushing operations must be a minimum of one thousand three hundred twenty feet (1,320') from any city, town or residential use, measured from the center of the crusher location. In addition, the Surface or Subsurface Mining and Critical Infrastructure Materials Operation boundary shall be set back six hundred sixty feet (660') from the edge of the proposed disturbed area to the closest city or town boundary line, the closest point of a residential, educational, public, religious, or commercial structure or the closest point on the boundary of an enclosed area of a concentrated livestock facility. In addition, the proposed disturbed area or Surface or Subsurface Mining and Critical Infrastructure Materials Operation boundary shall be set back at least fifty feet (50') from a property line. The setback requirements may be waived in writing by the owner(s) of land within the setback area if such owner(s) consents to a lesser distance. These setback requirements do not apply to land uses owned and occupied by the owner(s) of the same parcel on which the Surface or Subsurface Mining and Critical Infrastructure Materials Operation would occur.

**Findings:** The proposed surface mining excavation must be set back at least 50 feet from the property line to meet the minimum standard of the ordinance and allow for gentle slopes between the finished grade and adjacent property grade. The mining area boundary exceeds the required 660-foot setback from the nearest residential, educational, public, religious or commercial structures.

**8-13-5-5: ADDITIONAL CONDITIONS**

E. Landscaping, Design

**Findings:** no landscaping is required to buffer the proposed use from surrounding uses, as the surrounding uses are agricultural and energy development related.

F. Parking

**Findings:** Plant site plans indicate adequate room for the parking of operations personnel. Ingress and egress locations will need to comply with Wildland Urban Interface standards. Parking areas must be constructed with a durable and dustless surface material.

G. Streets, Water, Sewer, Fire Protection:

**Findings:**

- a. **Streets:** See Findings A-1-6 on page 5.
- b. **Water:** Any drinking water produced by the well used as part of this proposal will need to be certified and approved by TriCounty Health.
- c. **Wastewater:** A septic system is proposed for the project area. Any facility connected to this onsite wastewater system will require approval by the wastewater authority (TriCounty Health) approval.
- d. **Fire Protection:** All roads, site structures and appurtenances must comply with the Wildland Urban Interface code, and other State or Federal regulations. Fire protection will also be addressed during the building permit process.

H. Signs:

**Findings:** XCL did not indicate the posting of any signs as part of this project. Signs must be approved by the Community Development Office and may need to be approved by the Department of Building Safety, prior to installation.

I. Nuisances:

**Findings:** The applicants must obtain TriCounty Health Department and DEQ approval of a dust control plan for this location. The applicant or authorized agent must follow this plan to control dust at active mining areas and driving surfaces, including haul roads. The County nuisance ordinance

**and Utah air quality rules require 24/7 dust control by applications of water and/or dust suppressants (such as magnesium chloride). If dust complaints received by Duchesne County, TriCounty Health, or DEQ, the mining and processing operations shall cease until the event can be mitigated.**

J. Operating Hours:

**Findings: see Finding A-1-7 on page 6.**

**8-13-6: TERM OF PERMIT:**

Unless there is substantial action under a conditional use permit within a period of eighteen (18) months of its issuance, the permit shall be considered null and void.

**8-13-7: REVOCATION OR MODIFICATION OF PERMIT:**

A. Authority: If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall hold a public hearing on the question of modification or revocation of a conditional use permit granted under the terms and the provisions of this title.

B. Conditions: A conditional use permit may be modified or revoked if the planning commission finds that one or more of the following conditions exist:

1. The conditional use permit was obtained in a fraudulent manner.
2. The use for which the conditional use permit was granted has now ceased for at least six (6) consecutive calendar months.
3. One or more of the conditions of the conditional use permit have not been met.

C. Modification by Planning Commission: Additionally, the conditions under which a conditional use permit was originally approved may be modified by the planning commission without the consent of the property owner or operator, if the planning commission finds that the use or related development constitutes or is creating a demonstrated nuisance. Should reclamation be necessary, complete restoration, to such an extent that the area will not depreciate the surrounding property or impair the beauty of the landscape, shall be accomplished within a twelve (12) month time frame.

**CONCLUSIONS**

1. The request will comply with the Conditional Use Permit requirements found in Title 8 Zoning Regulations of the Duchesne County Code, provided that conditions are imposed.
2. The request is valid.

**RECOMMENDATION**

Recommended Motion: I move for the approval of the conditional use permit requested by XCL SandCo, LLC for the operation of an industrial sands mine and processing facility, on

approximately 10 acres of Parcel # 00-0006-3358, located in the Upalco area, subject to the following conditions:

1. The applicant shall control dust and noise so neither becomes a nuisance.
  - a. The applicant shall conform to the dust control plan approved by the TriCounty Health Department. The applicant shall provide dust control at all times by application of water and/or dust suppressants such as magnesium chloride. If there are any dust complaints received by Duchesne County, TriCounty Health, or Utah Department of Environmental Quality, the industrial sand mine and processing operations shall cease until the event can be mitigated.
  - b. The applicant shall comply with Duchesne County noise ordinances, and truck haul traffic shall comply with the following hours of mining operations: (7:00 AM to 9:30 PM on weekdays, 8:00 AM to 9:30 PM on Saturdays and 9:00 AM to 9:30 PM on Sundays and holidays). Mining may occur at all hours unless complaints are received by Duchesne County.
  - c. Facility parking areas shall be constructed with a durable and dustless surface.
2. The applicant shall reclaim the property in accordance with the County's "Material Pit Finishing Standards" and protect the public from any hazardous conditions on the site by signage, berming and/or fencing. The applicant shall also follow their reconditioning plan submitted as part of this application. A bond shall be issued by the applicant in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning.
3. Before starting excavation at the project location, the applicant shall obtain both a construction stormwater permit and an industrial stormwater permit, if required, from the Utah Department of Environmental Quality, Water Quality Division, and provide a copy to the County.
4. The applicant shall consult with the Utah Division of Water Rights to ensure all water diversions used in the operations of this proposal are approved prior to the start of operations.
5. No wetland areas shall be disturbed unless permitted by the US Army Corps of Engineers or other authorities with jurisdiction. At least one riverine wetland is listed within the property boundary, per the National Wetlands Inventory.
6. The applicant agrees to maintain a 50-foot-wide buffer between the excavation areas and the property lines and a 660-foot buffer between the excavation areas and any existing residences [unless the residential property owner(s) agree in writing to a lesser distance]. If the applicants are unsure of property line locations, they shall be determined by a licensed surveyor.

7. Applicants shall meet with the Duchesne County Road Department to discuss all road improvements required by the applicant prior to operations, and compliance with the Duchesne County Transportation Master Plan. Written approval by the Duchesne County Road Department must be provided to the Duchesne County Community Development Department prior to operation.
8. Applicants shall not use any current or future County Road that is unapproved for truck haul traffic by the Duchesne County Road Department.
9. If the Duchesne County Road Department requires weight restrictions to the truck haul routes, the applicants will need to adjust accordingly. If road damage is determined to be caused by trucks hauling sand, the applicants shall coordinate with the County to fund and make repairs.
10. The applicant shall contact the Utah Department of Transportation and inform Duchesne County, in writing, of any improvements, if any, UDOT requires to State Route 87 due to increased truck haul traffic.
11. Building permits and final inspections are required for applicable structures prior to operation.
12. Applicant shall submit business sign plans to the Duchesne County Community Development Department, and/or the Duchesne County Department of Building Safety, for review and approval before installation.
13. Approval from TriCounty Health Department (the County's wastewater authority) is required for all wastewater facilities prior to operation.
14. A Duchesne County Business License is required before the start of mining operations.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read "m gottfredson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mike Gottfredson AICP  
Deputy Director of Community Development  
Duchesne County