

DUCHESNE COUNTY PLANNING COMMISSION MEETING

JUNE 5, 2024

REQUEST TYPE: Conditional Use Permit
APPLICANT: Blue Diamond Proppants, LLC
Jon Miles (owner)
PROPOSAL: Commercial Use- Industrial Sands
Surface Mine
LOCATION: Parcels # 00-0006-1881, 00-0006-2657,
00-0006-2483, 00-0029-3609
ZONING DISTRICT: A-5

REPORT CONTENTS

FINDINGS OF FACT.....	2
CONCLUSIONS	9
RECOMMENDATION	9,10

FINDINGS OF FACT

1. PROPOSAL DESCRIPTION

Blue Diamond Proppants LLC and Jone Miles, propose to operate an industrial sands surface mine on Parcels # 00-0006-1881, 00-0006-2657, 00-0006-2483, 00-0029-3609, south of Bluebell. As an industrial use the proposed operation is permitted within the A-5 zoning district, with a conditional use permit.

2. HISTORY OF EVENTS

May 13, 2024	The application was submitted.
May 15, 2024	The application was deemed complete.
May 22 & 29, 2024	Notice of Public Hearing published in Uintah Basin Standard.
May 21, 2024	Notice mailed to property owners within 300 feet of the subject property.
June 5, 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: Surface mining can be detrimental in terms of noise and dust during operations. Surface disturbance results in noise from the operation of equipment, windblown dust and dust from equipment movement.

If the applicants and operators comply with dust standards (administered by the TriCounty Health Department) and noise standards in the county nuisance ordinance, the proposal is less likely to be injurious to public health, safety or welfare.

Detrimental impacts can also occur if the mining area is not reclaimed properly. The county has “material pit finishing” standards that; along with the terms of the lease agreement with the property owner, will prevent the applicant/operator from leaving eyesore or hazardous conditions when mining is completed.

Detrimental impacts can occur if excavation results in sedimentation of waterways. Such protections are afforded through the DEQ industrial storm water permit process. The applicant will need to check with the DEQ Water Quality Division to determine if a storm water permit is required at this location.

There are wetlands in the project area. All wetland areas must be avoided unless permission to disturb wetlands is obtained from the US Army Corps of Engineers or other agencies with jurisdiction.

According to maps prepared by the Utah Division of Drinking Water, the property does not lie within any drinking water source protection zones.

Trucks would access 12000 W, with the ultimate destination for the sand being a site in Arcadia, using 11000 W and 1000 N (see sand haul route map). The applicants should coordinate with the Duchesne Road Department to ensure that these haul routes are acceptable. If the Duchesne County Road Department need to apply weight restrictions to the haul routes, the applicants will need to adjust accordingly. If road damage occurs, the applicants should coordinate with the counties to make repairs.

There are no traffic signals at 1000 N and 12000 W where trucks will enter and exit the highway.

There will be up to an estimated 80 trips per day. The applicant should consult with the Duchesne County Road Department to verify if this merits a traffic impact study, and whether it would require further infrastructure development prior to operation.

The county Nuisance Ordinance sets forth time limits during which noise is permitted (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). Such time limits should be applied in this case to ensure

that no noise impacts occur. The nearest home is located about 190 feet to the south of Parcel . The applicants anticipate that mining will occur up to seven days a week, between 7:00 AM & 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 (which complies with the Nuisance Ordinance limitations).

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 four parcels totaling 189.97 acres. This area would accommodate the proposed use.

The property is sufficiently large for the proposed industrial use. The proposed use can operate in a manner that is not detrimental to surrounding property owners if noise is controlled pursuant to the Duchesne County Nuisance Ordinance and County roads are upgraded to support the truck traffic. The applicants are required to set the mining areas back at least 50 feet from the property lines to provide adequate space for a transitional slope between natural grade and the finished grade. The applicants are also required to set the mining area back 660 feet from existing city limit lines and residential, educational, public, religious or commercial structures unless the property owner(s) grants a waiver. Aerial photos indicate that there are residential structures, but no educational, public, religious or commercial structures located within 660 feet of the mining area.

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 state DEQ that contains an inventory of dust control equipment and procedures that will be utilized 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 the Utah 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: TriCounty Health Department must approve a dust control plan prior to surface mining operations. The applicant or authorized agent must follow this plan to

control dust at active mining areas and driving surfaces, including roads between the paved county road and the mining site.

- 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: Duchesne County has not been apprised of any bond being issued for this project.

- 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 County Planning Department are suggested for use in reclamation planning;
- D. **Findings: The “Material Pit Finishing Standards” attached hereto are used by the County to determine how reconditioning is to be accomplished. The applicant and authorized agents are 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 lease agreement between the applicant and property owner calls for the applicants to leave the site in a clean and flat condition to allow for future development.**
- E. 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.
- F. **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 does not exceed the required 660 foot setback from the nearest home, and mining may not occur in these areas unless there is a waiver granted. There are no other**

educational, public, religious or commercial structures within the minimum setback area. There is no rock crusher in this case.

8-13-5-5: ADDITIONAL CONDITIONS

A. Landscaping, Design

Findings: No landscaping is required to buffer the proposed use from surrounding uses. There is a gate to the property.

B. Parking

Findings: No on-site parking is required due to the nature of the operation.

C. Streets, Water, Sewer, Fire Protection:

Findings:

- a. **Streets: The applicant proposes to use 11000 W, a County road, to access Highway 40.**
- b. **Water: All drinking water sources must be approved by TriCounty Health. TriCounty Health may require testing of the water source prior to commercial use. No drinking water source is proposed for this site.**
- c. **Wastewater: Any facility connected to an onsite wastewater system must be approved by TriCounty Health, the wastewater authority. None is proposed for this site.**
- d. **Fire Protection: All roads, site structures and appurtenances must comply with the Wildland Urban Interface code, and other State or Federal regulations.**

D. Signs:

Findings: Signs may not exceed 32 ft² and should not be illuminated. Signs must be approved by the Community Development Office and may need to be approved by the Department of Building Safety, prior to installation.

E. Nuisances:

Findings: The applicant must follow all junk, solid waste, dust, and noise ordinance requirements (see Findings for 8-13-5-2: SURFACE OR SUBSURFACE MINING AND CRITICAL INFRASTRUCTURE MATERIALS OPERATIONS in this report).

Impacts to public health, safety, and welfare due to nuisances will be sufficiently mitigated if the applicant follows the recommendations proposed in this report. If dust or noise complaints are received by Duchesne County, the applicant shall be notified to mitigate these issues.

F. Operating Hours:

Findings: All hours must follow the County's noise ordinance standards. The Duchesne County Nuisance Ordinance allows noise between the hours of 7:00 A.M and 9:30 P.M. on weekdays, 8:00 A.M. to 9:30 P.M. on Saturdays, and 9:00 A.M. to 9:30 P.M. on Sundays (see 8-13-4: FINDINGS AND CONDITIONS FOR APPROVAL in this report).

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 if conditions are imposed.
2. The request is valid.

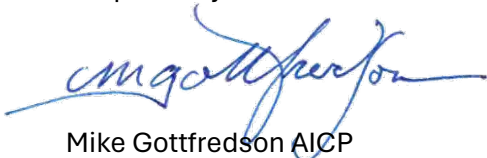
RECOMMENDATION

Recommended Motion: I move for the approval of the conditional use permit requested by Blue Diamond Proppants LLC and Jone Miles, propose to operate an industrial sands surface mine on Parcels # 00-0006-1881, 00-0006-2657, 00-0006-2483, 00-0029-3609, south of Bluebell, subject to the following conditions:

1. The applicant obtain approval for a dust control plan from TriCounty Health Department and provide the written approval to the Duchesne County Community Development Department prior to operation.
2. 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.
 - b. The applicant 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).
 - c. The applicant shall provide dust control at all times by application of water and/or dust suppressants such as magnesium chloride.

- d. If there are any dust complaints received from the public, the applicant will immediately work to address such complaints.
3. The applicant shall post the required bonding and 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.
4. Before starting excavation at the site, the applicant shall obtain an industrial stormwater permit, if required, from the Utah Department of Environmental Quality, Water Quality Division, and provide a copy to the County.
5. No wetland areas shall be disturbed unless permitted by the US Army Corps of Engineers or other authorities with jurisdiction.
6. The applicant agrees to maintain a 50-foot wide buffer between the excavation areas and the property lines. If the applicants are unsure of property line locations, they shall be determined by a surveyor. A 660-foot buffer shall be maintained between all residences, unless a waiver is granted.
7. Applicants shall obtain approval of their sand haul routes from the Duchesne and Uintah County Road Departments. If either the Duchesne or Uintah County Road Departments need to apply weight restrictions to the haul routes, the applicants will need to adjust accordingly. If road damage occurs due to trucks hauling sand, the applicants shall coordinate with the counties to make repairs.
8. Signs must follow Duchesne County Code 8-9-14, 8-13-5-5-D. To be compatible with the character of the Industrial zoning district, signs must comply with the following:
 - a. Placed on premise only (includes on a gate or fence);
 - b. Are not internally lit;
 - c. Does not exceed 32 square feet per sign;
 - d. Does not encroach into Highway 40 right of way.
9. Any drinking water and wastewater facilities must be approved by TriCounty Health Department.

Respectfully submitted:



Mike Gottfredson AICP
Deputy Director of Community Development, Duchesne County



Blue Diamond Proppants
1058 HWY 8,
Barron, WI, 54812

April 23rd, 2024

Mike Gottfredson
Duchesne County
Community Development Department
734 N. Center St.
Duchesne, UT, 84021

Conditional Use Permit – Blue Diamond Proppants LLC.

Dear Mr. Hyde and Mr. Gottfredson,

Blue Diamond Proppants LLC, is submitting the attached Conditional Use Permit application, for the purpose of Processing and washing industrial sands. Operations to be conducted upon lands with Property ID of : 00-0006-1881, 00-0006-2657, 00-0006-2483, 00-0029-3609.

Included:

1. Conditional Use Permit Application fee of \$200.00
2. Conditional Use Permit Application
3. Project Summary
4. Plan Area Overview
5. Reconditioning Plan
6. Dust Control Plan
7. Noise Level Verification

Please reach out with questions or comments anytime. We look forward to having this Conditional Use Permit reviewed for approval at the June 2024 hearing.

Sincerely,

Logan Hibbard
Operations Manager



Project Summary

Blue Diamond Proppants, LLC intends to excavate Industrial Sands (frac sand), on private property, in Duchesne County, owned by Miles Jon E (JT) HC 65 Box 62, Bluebell, UT 84007

- Excavating Operations will primarily consist of gathering and transporting surface deposits of sand.
- Due to the nature of the surface deposits, no crushing will take place at this time. Fugitive dust from the gathering and transportation of the surface sands will be controlled in conformity with common industry practices and will follow our attached dust control and mitigation plan.
- The mining operations will be conducted adherent to local, state, and federal laws, where applicable. Including, but not limited to county setback requirements. Should operations encroach on minimum county setbacks, waivers from the adjacent owners will be submitted, in accordance with county requirements.
- Trucking Hours of operation shall be 7:00AM to 9:30PM on weekdays, 8:00AM to 9:30PM on Saturdays and 9:00AM to 9:30PM on Sundays and holidays.

Estimated Trucking Metrics and Road Use from each site location

- Site location names-
 - Miles Jon E (JT)
 - From a trucking logistics standpoint, estimates are: ~10-12 total trucks. This would likely look like 2-4 at the property, 2-4 at the drop off location and 2-4 in transit.
- Below are pictures of proposed delivery locations and haul routes to get there.

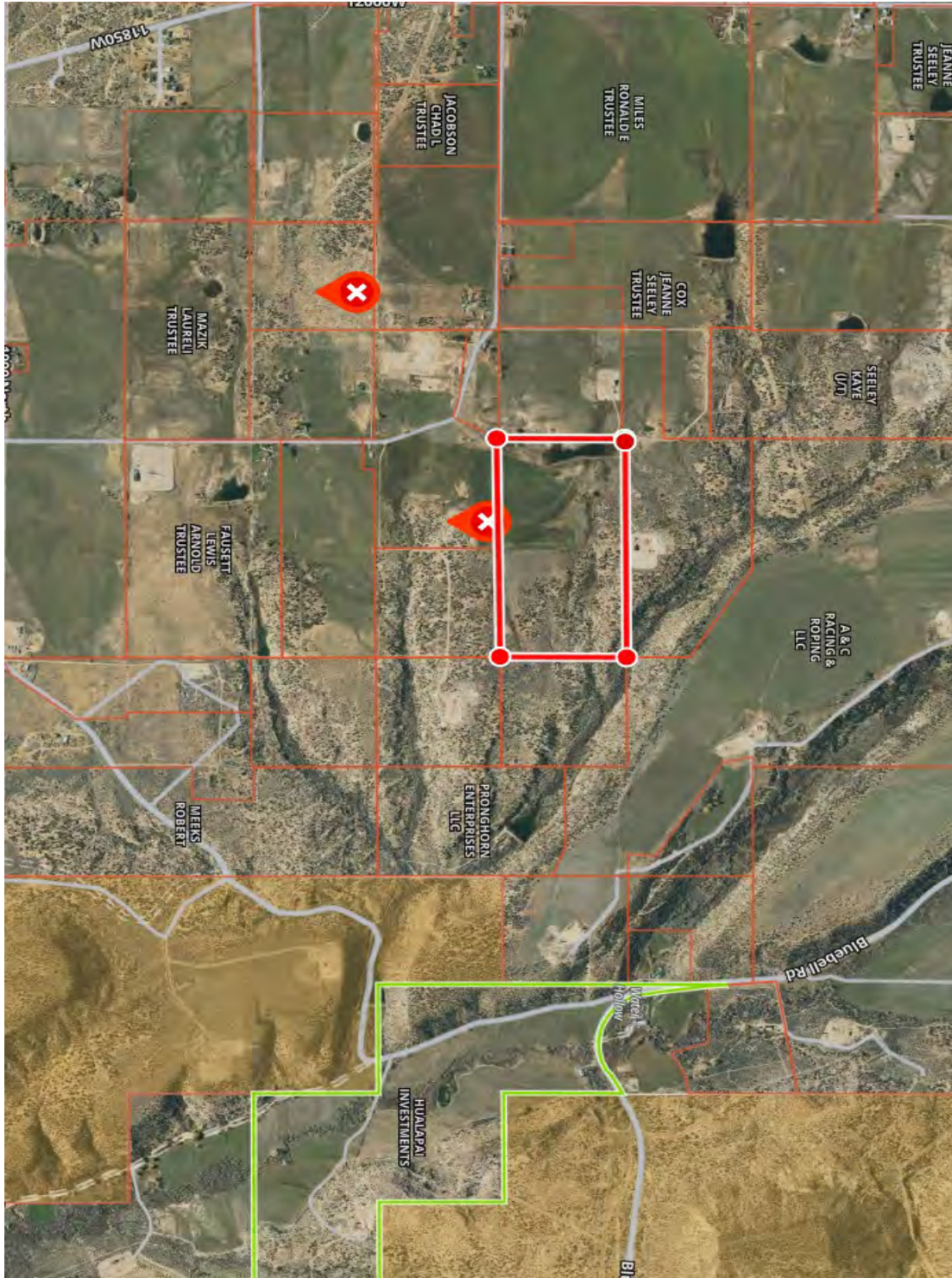
Parcel ID#00-0006-1881



Parcel ID#00-0006-1881



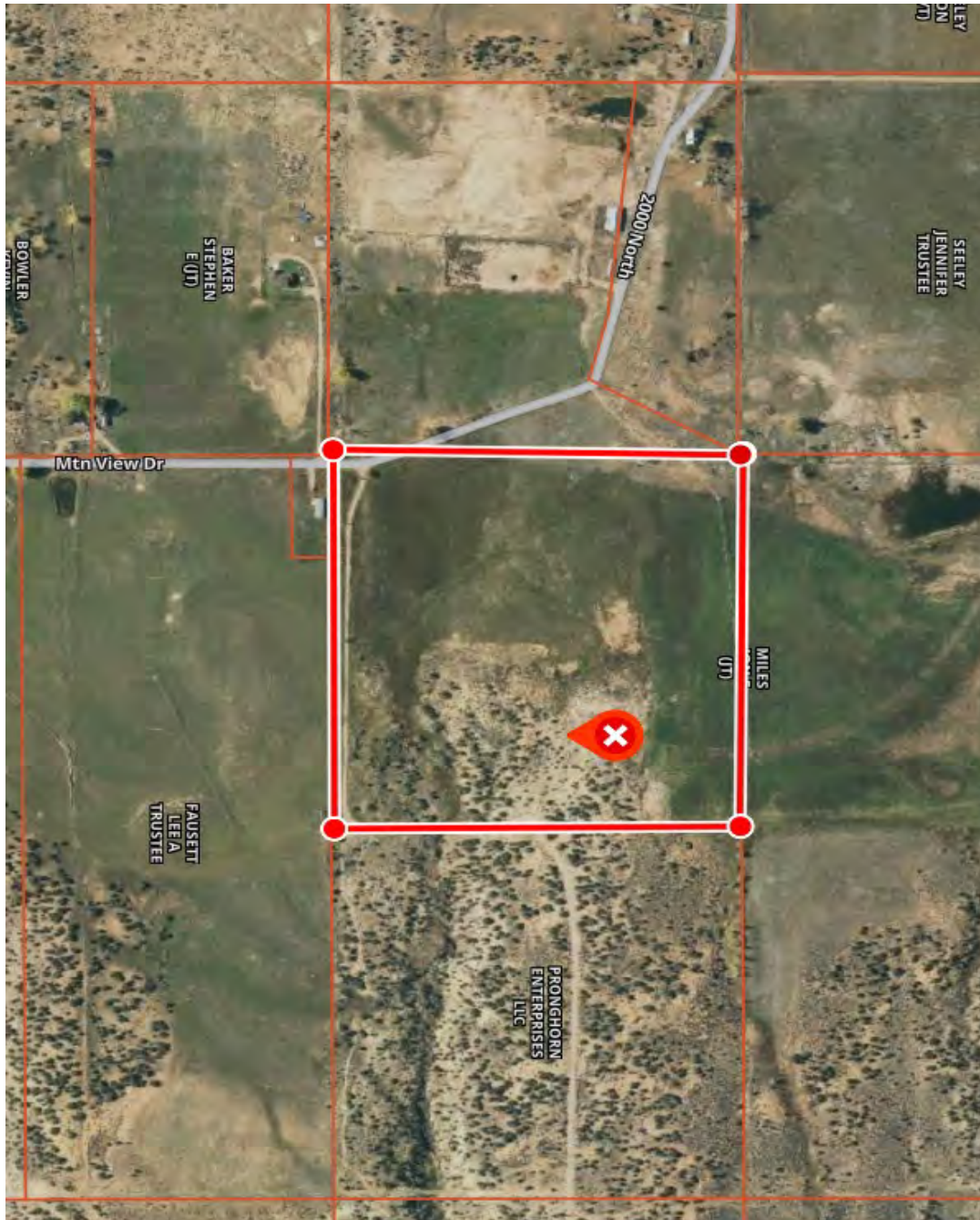
Parcel ID#00-0006-1881



Parcel ID#00-0006-2657



Parcel ID#00-0006-2657



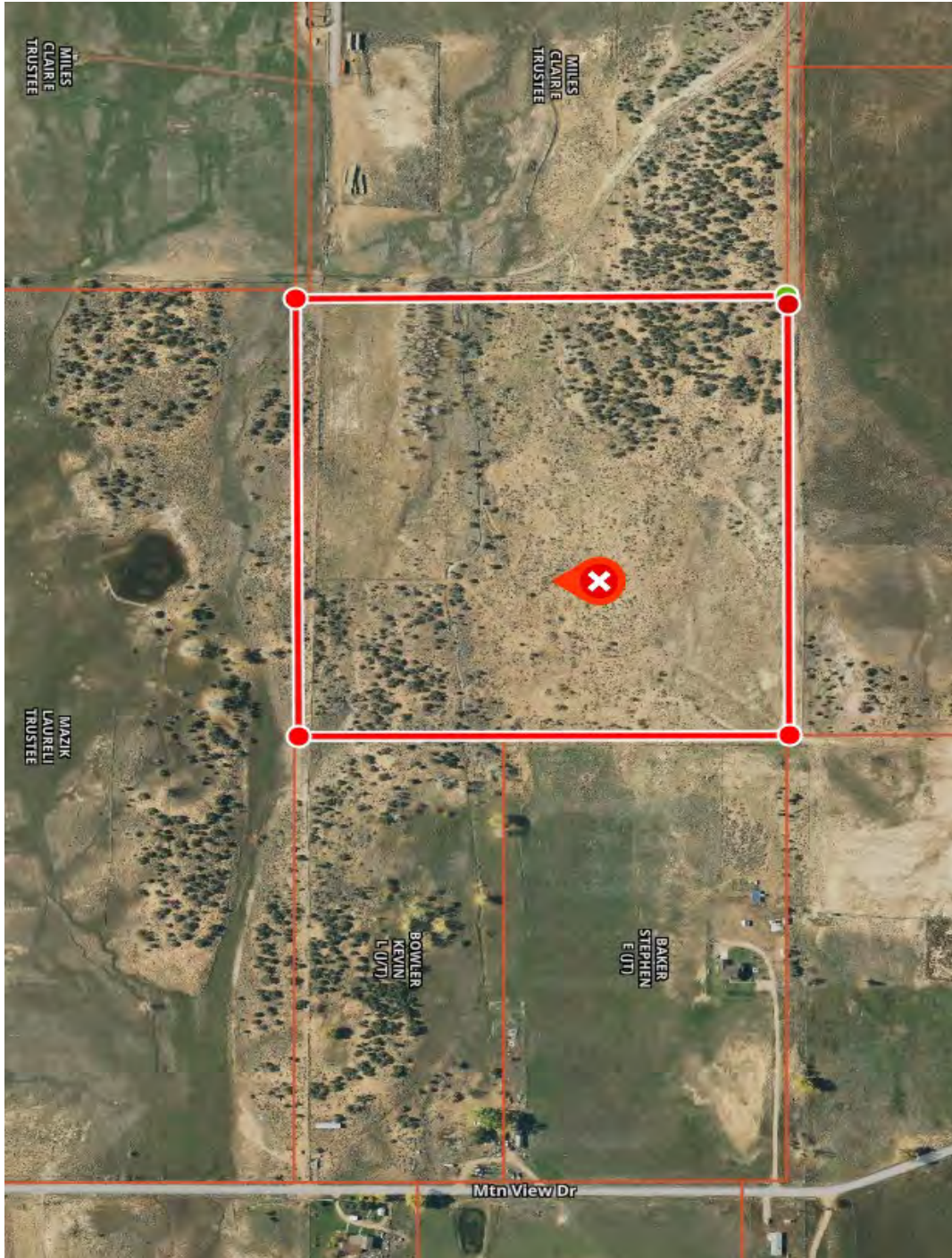
Parcel ID#00-0006-2657



Parcel ID#00-0006-2483



Parcel ID#00-0006-2483



Parcel ID#00-0006-2483



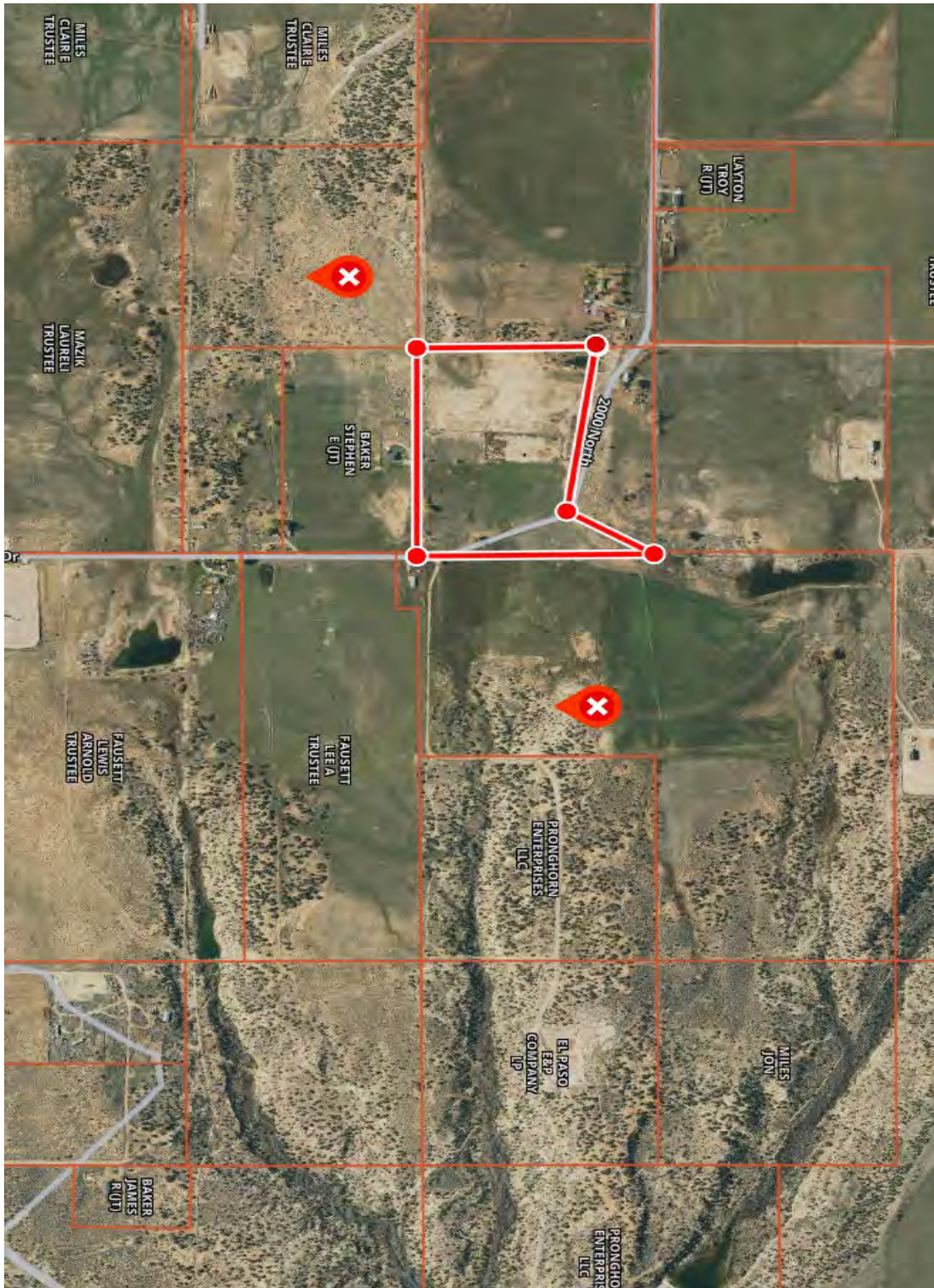
Parcel ID#00-0029-3609



Parcel ID#00-0029-3609



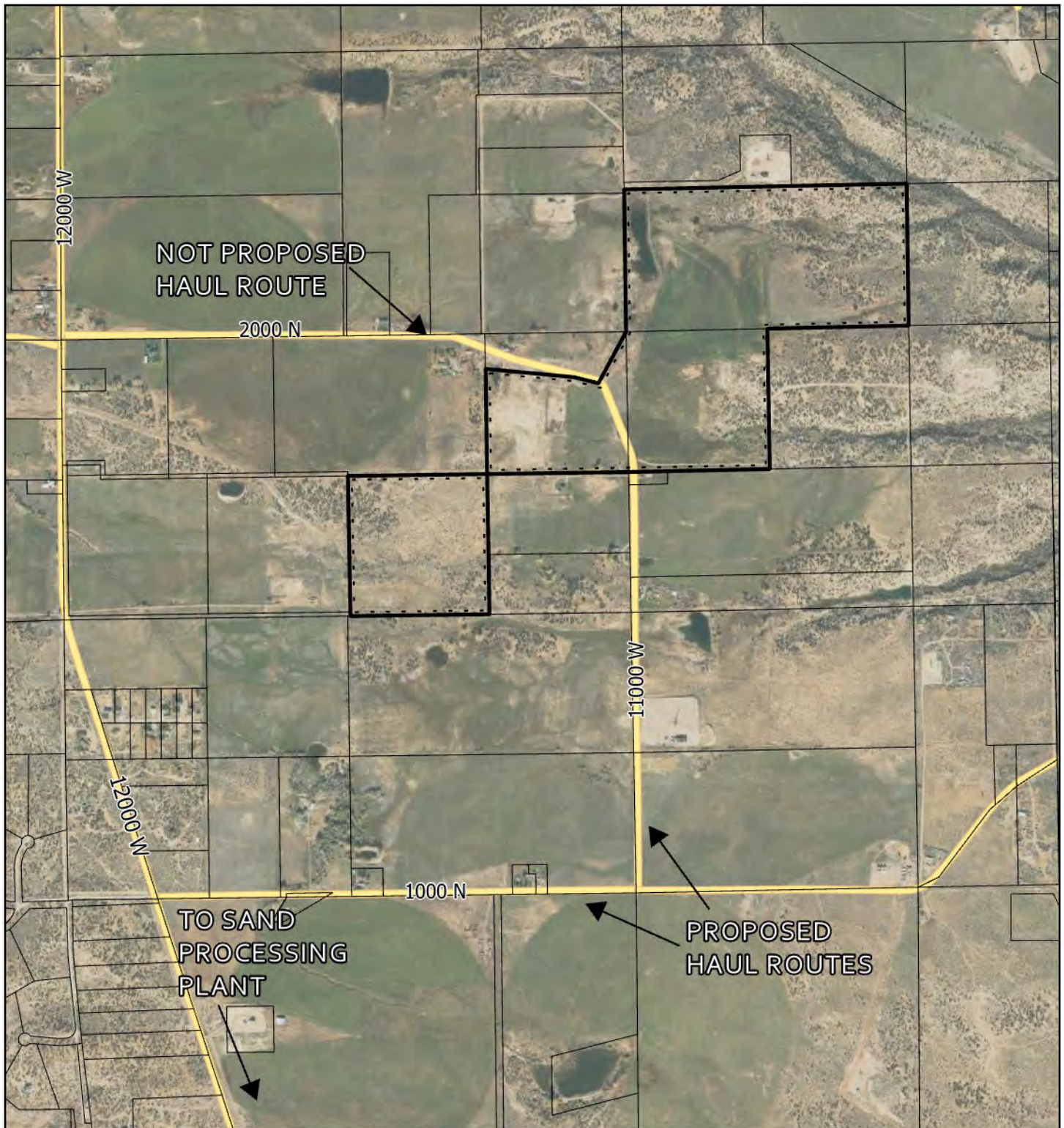
Parcel ID#00-0029-3609

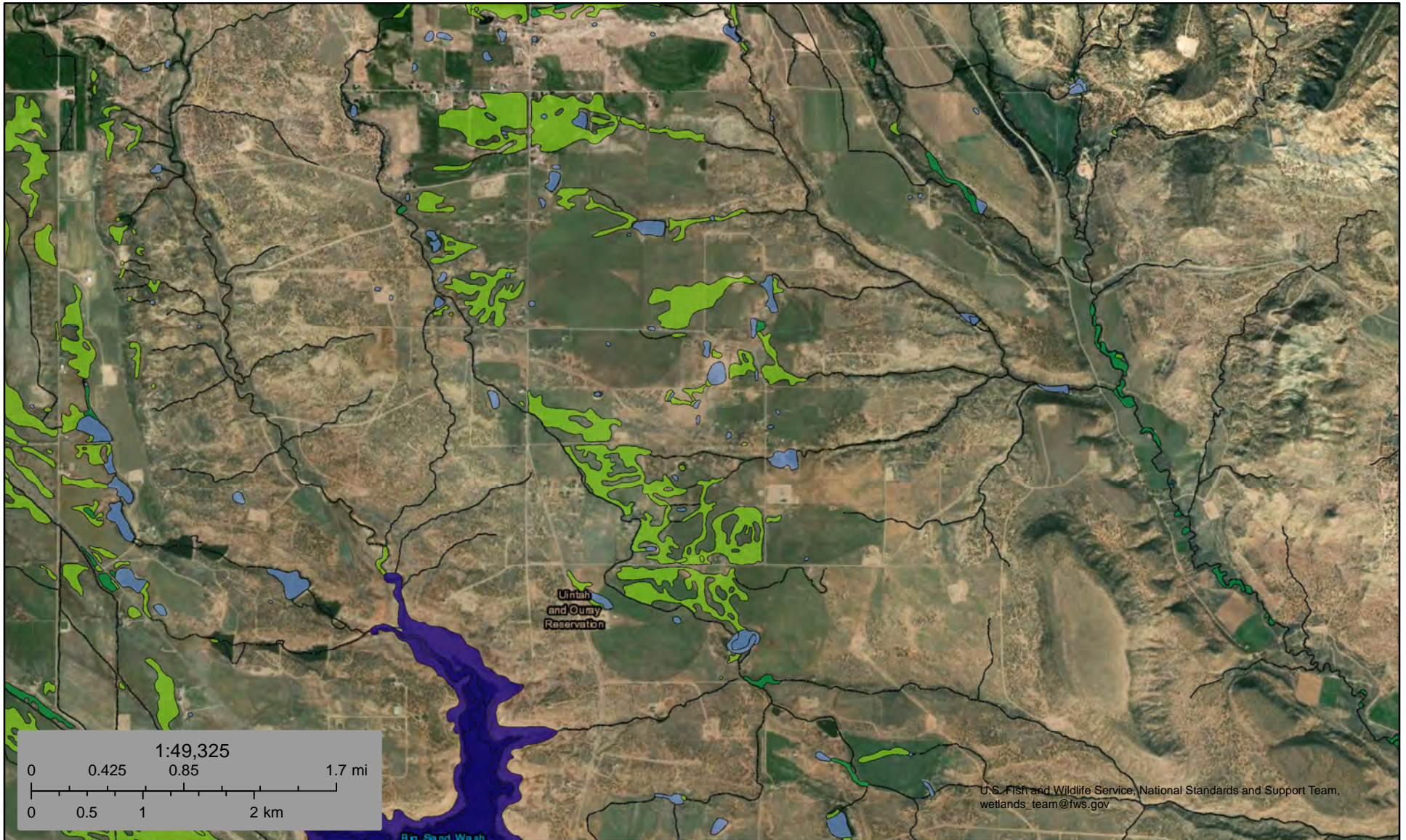


PROPERTY MAP

CONDITIONAL USE PERMIT APPLICATION

BDP MILES INDUSTRIAL SANDS SURFACE MINE












U.S. Fish and Wildlife Service, National Standards and Support Team,
wetlands_team@fws.gov

May 30, 2024

Wetlands

- | | | | | | |
|---|--------------------------------|---|-----------------------------------|---|----------|
|  | Estuarine and Marine Deepwater |  | Freshwater Emergent Wetland |  | Lake |
|  | Estuarine and Marine Wetland |  | Freshwater Forested/Shrub Wetland |  | Other |
| | |  | Freshwater Pond |  | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.