



DUCHESNE COUNTY
Community Development Department

LAND USE APPLICATION

EFFECTIVE MARCH 6, 2025

Instructions

Please fill out this form in its entirety. Submit the completed form and all applicable attachments to the Duchesne County Community Development Department for an application review. If deemed complete by the Department, the date for a Planning Commission decision will be assigned. Please note: a complete land use application does not equate to a land use decision, approval, or denial.

Project Name: Appeal of Horse 2 pad Administrative CUP for Oil and Gas drilling site
Applicant: Joe Skeen (Joseph S. Skeen) Owner: Joe Skeen (Joseph S. Skeen)
Address: (mailing) P.O. Box 857 Duchesne UT 84021 Address: (physical) 10414 S Cr 29 Duchesne, UT 84021
Email: [REDACTED] Email: [REDACTED]
Phone: [REDACTED] Phone: [REDACTED]
Project Location or Legal Description: parcel # 00-0009-8164 (oil well)
parcel # 00-0033-6901 (durs)
Current Land Use: _____ Proposed Land Use: _____
Culinary Water Connection: Yes ☐ No ☐ Zoning District: _____

Acknowledge

The above said applicant for themselves or through their agent hereby agrees to be bound by all provisions of the Subdivision and Zoning Ordinances of Duchesne County, and to strictly comply with the terms thereof. They further represent all information provided as part of this application is, to the best of their knowledge, true and correct.

Signature: [Signature]
Date: October 4, 2026

FOR INTERNAL USE ONLY

Approved by: _____

Date of Planning Commission Decision: _____

FEES

Land Use Request

	Fee	Fee Total
SUBDIVISION PRELIMINARY PLAT lot count _____	\$25.00	\$ _____
SUBDIVISION FINAL PLAT lot count _____	\$25.00	\$ _____
SUBDIVISION Plat Amendment (if public hearing required)	\$650.00	\$ _____
MINOR SUBDIVISION	\$300.00	\$ _____
VARIANCE OF ZONING ORDINANCE	\$500.00	\$ _____
ZONING DISTRICT CHANGE OR TEXT AMENDMENT	\$650.00	\$ _____
FLOODPLAIN DEVELOPMENT PERMIT	\$75.00	\$ _____
CONDITIONAL USE PERMIT	\$500.00	\$ _____
CONDITIONAL USE PERMIT FOR OIL AND GAS DRILLING AND PRODUCTION SITE	\$700.00	\$ _____
APPEAL OF STAFF DECISION TO PLANNING COMMISSION	\$200.00	\$ <u>200.00</u>
APPEAL OF PLANNING COMMISSION DECISION	\$500.00	\$ _____

Total \$ 200.00

The Community Development Department charges fees to compensate for the cost of processing land use applications. Payments may be made by cash, check (payable to "Duchesne County"), or credit card.

FORMAL NOTICE OF APPEAL

BEFORE THE APPROPRIATE APPEAL AUTHORITY OF DUCHESNE COUNTY, UTAH

IN THE MATTER OF THE CONDITIONAL USE PERMIT APPROVAL FOR THE HORSE 2 PAD (THREE WELLS)

- **Appellants / Affected Property Owners:** Joseph Smith Skeen parcel 00-0033-6901
- **Applicant / Operator:** WEM Operating ("WEM")
- **Project:** Horse 2 Pad Conditional Use Permit (Three Oil Wells) on parcel 00-0009-8164
- **Subject Decision:** Final Decision and Findings Report of the Zoning Administrator / Planning Commission Approving a Conditional Use Permit (CUP) for the Horse 2 Pad Oil & Gas Facility
- **Date:** September 25, 2026

I. STATEMENT OF APPEAL & CORE THEORY

Appellants hereby submit this formal legal appeal challenging the recent approval of a Conditional Use Permit (CUP) granted to WEM Operating ("WEM") for the proposed Horse 2 Pad, consisting of three (3) oil wells and associated production infrastructure.

Core Theory of Appeal: Responsible energy development is not what is being challenged. The dispositive legal issue is whether Duchesne County possessed a legally sufficient, project-specific evidentiary basis to make the mandatory affirmative finding required by **Duchesne County Code § 8-13-4(A)(1)**—specifically, that:

"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."

The administrative record confirms that the County approved the CUP while explicitly relying on unverified assumptions, a passive 660-foot setback checklist, and fundamental factual and geographic errors.

Upon receiving the County's Final Decision and CUP Approval, Appellants discovered critical unmitigated hazards and procedural defects that the County approved *without resolving*:

1. **Unilateral Pad Relocation & Unaddressed Prior Trespass:** Following initial boundary conflicts, WEM shifted the well pad design slightly further West to avoid overlapping adjoining private property. The County arbitrarily treated the boundary issue as "resolved," completely ignoring WEM's initial unannounced trespass, bulldozing, and spoliation of physical boundary markers without requiring formal boundary adjudication or certified survey verification.
2. **Material Spatial & Elevation Error (Downwind & Ground-Level Exhaust Trapping):** County representatives erroneously stated that Appellant's home sits *South* of the pad when it is directly **East**—placing it directly downwind. Furthermore, the standard 40-foot

flare tower height places the open flame at an elevation *lower than the base of Appellant's home*. Prevailing West winds will sweep toxic flare exhaust and uncombusted fumes horizontally directly into the home at eye level, completely defeating the purpose of flare elevation.

3. **Violations of State Rig Layout Rules (Utah Admin. Code R649-3-12):** State safety rules strictly prohibit primary escape routes, living quarters, and command trailers from being positioned downwind of wellheads and flare outlets due to toxic gas and fire hazards. Yet, the County permitted an occupied residential home to stand directly downwind in the exact hazard vector where state law forbids placing temporary equipment or worker escape routes—offering zero conditions, alarms, or mitigation.
4. **Complete Absence of Mandatory Metrics & Mitigation Standards:** The Findings Report and CUP approval lack any measurable performance standards or enforceable metrics for noise, light, toxic gas, or emergency notification.

II. LEGAL FRAMEWORK & CONTROLLING COUNTY STANDARDS

A. Mandatory Statutory Findings

Under **Duchesne County Code § 8-13-4(A)(1)**, a CUP cannot be lawfully granted unless the County makes an affirmative, evidence-based determination that the proposed land use at the specific location will not cause detriment to nearby property or public health and safety. Section 8-13-4(A)(3) further requires an affirmative finding that the property is adequate to allow the use to be conducted in a manner that *"will not be materially detrimental to adjoining and surrounding properties."*

B. Purpose of Conditional Use Permits: Checklist vs. Impact-Based Mitigation

As established in land-use authority, the fundamental purpose of a CUP is to allow uses that may be suitable in a zoning district but possess unique, site-specific characteristics requiring special oversight to protect the surrounding community.

Approach	Operational Mechanics	Planning & Legal Flaw
Checklist (Objective Standard)	Automatic approval if rigid numbers (e.g., 660-foot setback) are satisfied.	Ignores unique site geography, relative elevation, prevailing winds, and toxic downwind transport.

Impact-Based Review (Discretionary)	Evaluates actual site-specific effects on immediate populations and tailors mitigation conditions accordingly.	Required by Duchesne County Code § 8-13-1(C) and § 8-13-5-4(N)(2) to ensure safety before exposure occurs.
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Approving a project on erroneous directional data, ignoring flare elevation dynamics, and failing to set numerical performance metrics strips the County of its legal authority and duty to protect surrounding property owners.

III. CRITICAL PROCEDURAL & FACTUAL DEFECTS IN FINAL APPROVAL

A. Material Directional & Topographic Elevation Error: The 40-Foot Flare Tower Hazard

The County's approval relied on the false premise that Appellant's home sits South of the pad. In reality, the residence sits directly **East**—in the direct path of prevailing West-to-East wind vectors.

- **Topographic Trapping of Flare Exhaust:** Standard oil field flare towers stand approximately **40 feet high**. Due to local topography, a 40-foot flare places the open flame slightly *lower in elevation than the structural foundation/base of Appellant's residence*.
- **Eye-Level Toxic Exposure:** Rather than carrying combustion exhaust and hazardous fumes safely into the upper atmosphere above structures, prevailing West winds will blow toxic flare emissions horizontally directly into Appellant's home on a level plane. The County conducted no plume elevation or atmospheric dispersion modeling to evaluate this severe hazard.

B. Unilateral Pad Relocation, Prior Trespass, and Boundary Unresolved Issues

The Final Decision reveals that WEM moved the oil pad design slightly West to avoid physically overlapping adjacent private property.

- **Procedural Defect:** The County accepted this minor Westward shift as a complete "resolution" of boundary issues. However, this ignores WEM's initial unannounced trespass onto private property and the destruction of physical property line markers by heavy machinery.
- **Failure to Verify:** Shifting a pad Westward without a certified, independent boundary survey fails to confirm true setback distances from property lines under **Duchesne County Code § 8-13-4(A)(3)**.

C. Violation of State Well Pad Safety Principles (Utah Admin. Code R649-3-12)

Under **Utah Admin. Code R649-3-12**, state safety regulations mandate that drilling rig configurations and workpad layouts must maximize safety based on local terrain and prevailing winds. Specifically:

1. Rig orientation must ensure prevailing winds blow toxic gases or fires away from primary worker escape routes.
2. On-pad living quarters, command trailers, and temporary infrastructure must be located at a reasonably safe distance away from wellheads and flare lines.

The County's Fatal Failure: While state rules strictly prohibit placing temporary worker trailers or primary escape routes downwind of wellheads and flare outlets due to lethal gas and fire risks, the County approved a permanent, occupied residence sitting directly downwind in that exact high-hazard vector. The County provided zero mitigation, zero setback adjustments, and zero safety alerts for the residents trapped downwind.

IV. EMISSIONS & THE 660-FOOT FALLACY

A. Long-Term Operational Tonnage of Toxic Air Emissions

Official BLM environmental records for the Horse 3-well pad establish the continuous operational emissions during the production phase:

- **Long-Term Operational Phase Emissions (3-Well Operation):**
 - **Volatile Organic Compounds (VOCs):** 63.19 Tons/Year
 - **Nitrogen Oxides (NO_x):** 16.73 Tons/Year
 - **Carbon Monoxide (CO):** 27.56 Tons/Year
 - **Hazardous Air Pollutants (HAPs):** 4.97 Tons/Year
 - **Particulate Matter (PM_{10} / $PM_{2.5}$):** 6.96 Tons/Year Combined
 - **Sulfur Dioxide (SO_2):** 0.13 Tons/Year
 - **Total Operational Air Pollution: 119.54 Tons/Year** (0.332Tons/Day or 664lbs/Day)

Dumping **664 pounds of pollution per day** directly upwind and below the elevation of a home creates an intolerable public health threat.

B. Atmospheric Dispersion Dynamics & The 660-Foot Fallacy

The assumption that toxic gasses dissipate harmlessly within 660 feet is scientifically false:

1. **Advective Downwind Transport:** Horizontal wind transport dominates over molecular diffusion. A steady 5 mph westerly wind carries concentrated toxic plumes across a

660-foot buffer in under 90 seconds, depositing undiluted chemical streams directly onto the East-positioned residential property.

2. **Hydrogen Sulfide (H₂S) & Toxic VOC Spectrum:** The facility continuously emits H₂S, Benzene (Group 1 human carcinogen with no safe exposure threshold) Toluene, Ethylbenzene, Xylene, Formaldehyde, and n-Hexane. Continuous emissions cause severe health impairment (which includes but is not limited to cancer, respiratory illnesses, cardiovascular illnesses, nausea, headaches, delirium, neurological illnesses, equilibrium, tremors, convulsions), rapid olfactory fatigue (paralyzing the sense of smell at $\geq 100\text{ppm}$ - or less with continuous exposure - so victims cannot detect lethal concentrations), and acute respiratory distress.

C. Empirically Documented Exposure Incident

On August 25, 2026, a neighbor located **1.5 miles away** downwind and a neighbor located approximately 1600 feet downwind from an active 4-well pad in this region suffered acute chemical poisoning from leaking H₂S and industrial fumes, resulting in severe eye watering, acute nausea, continuous nasal discharge, and emergency response by DEQ inspectors and medical personnel. Placing 3 wells and a 40-foot flare approximately 800 feet upwind from a home—where flare exhaust and other emissions are carried at ground level—guarantees severe health damage.

V. MANDATORY MITIGATION STANDARDS & METRICS REQUIRED FOR CUP VALIDITY

The County's Final Decision contains no measurable standards for nuisance or safety control, violating **Duchesne County Code § 8-13-5-4(N)(2)**. To cure these legal defects, any CUP approval must mandate strict, measurable performance metrics:

A. Noise Level Metrics

- **Noise Ceiling:** Operational noise levels shall not exceed **45 decibels (dBA)** at a distance of **350 feet** from any noise source on the pad (including compressors, generators, and pump jacks).
- **Low-Frequency Noise:** Low-frequency sound and vibration shall be suppressed using hospital-grade mufflers and acoustic sound walls.

B. Dark Sky & Photometric Lighting Standards

- **Light Intrusion:** Site lighting must comply with strict rural **Dark Sky standards** to prevent light trespass onto neighboring residential properties. Typical property line limits range from **0.1 to 0.5 foot-candles (1.1 to 5.4 lux)**, ensuring that light bleeding into a neighbor's yard is no brighter than a standard porch light or a full moon.
- **Shielding:** All fixtures must be fully shielded, downward-directed, motion-activated, and maintained at the lowest wattage necessary for worker safety.

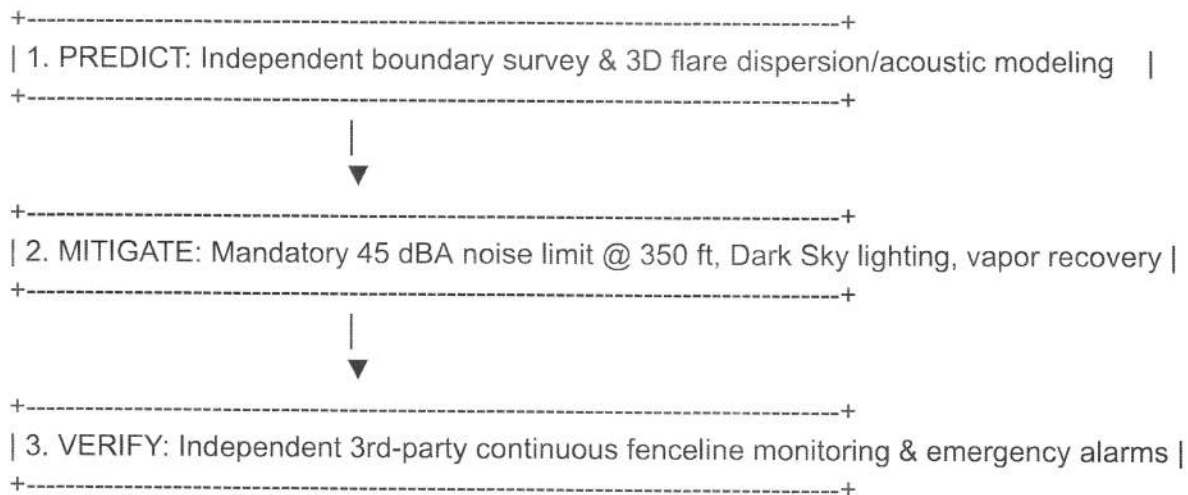
C. Independent, Continuous Fenceline Air & Gas Monitoring

- **Third-Party Provider:** Continuous monitoring must be installed, managed, and audited by an **independent third-party environmental firm** with no financial ties, contracts, or affiliations with WEM, its parent companies, or its hired subcontractors.
- **Monitored Compounds:** Real-time continuous sensing for Hydrogen Sulfide (H_2S), Benzene, total VOCs, and Lower Explosive Limit (LEL) combustible gases.
- **Automated Emergency Alarms:** The system must be tied to an automated direct-notification system (sirens and automated phone/text alerts) to notify downwind residents immediately if gas concentrations exceed safe human thresholds.

VI. LEGAL ARGUMENTS & ORDINANCE VIOLATIONS

1. **Failure of Substantial Evidence Under § 8-13-4(A)(1):** The County made a finding of "no detriment" based on inaccurate spatial orientation, ignored flare elevation physics, and unverified boundary lines.
2. **Violation of Due Process & Procedural Arbitrariness:** Accepting a minor pad shift as a "resolution" of boundary disputes while ignoring past trespass, destroyed survey markers, and downwind flare hazards violates administrative due process.
3. **Failure to Enforce Standard Protections (Ordinance 24-407):** In parallel approvals, Duchesne County requires pre-operational baseline noise/vibration testing and real-time verification. Waiving these metrics for the Horse 2 Pad is arbitrary and discriminatory.

VII. PREDICT → MITIGATE → VERIFY FRAMEWORK



VIII. REQUEST FOR RELIEF

Wherefore, Appellants respectfully request that the Appeal Authority grant the following relief:

1. **Immediate Stop-Work Order & Reversal:** Issue an immediate administrative stay halting all earthmoving and site preparation, and reverse or vacate the CUP approval for the Horse 2 Pad.
2. **Mandate Independent Boundary & Flare Elevation Studies:**
 - **Certified Boundary Survey:** Independent survey to re-establish property markers and verify true setback distances.
 - **Downwind & Flare Elevation Modeling:** AERMOD dispersion modeling evaluating 40-foot flare exhaust transport relative to the higher elevation of Appellant's home under prevailing West winds.
3. **Mandate Enforceable CUP Metrics & Independent Monitoring (If CUP is Not Denied):**
 - Operational noise strictly capped at $\leq 45\text{dBA}$ at 350 feet from sources.
 - Rural Dark Sky photometric compliance.
 - Mandatory **independent third-party continuous fenceline monitoring** (H_2S /VOCs) with automated resident emergency warning alarms and an immediate operational stop-work trigger upon exceedance.

Respectfully submitted,



Joseph Smith Skeen

Date: October 4, 2026

Affected Parcel: 00-0033-6901

PO BOX 857, Duchesne UT 84021

joe.skeen2@gmail.com

801-680-7526

References:

<https://geology.utah.gov/popular/great-salt-lake/commonly-asked-questions/>
<https://wwwn.cdc.gov/tsp/MMG/MMGDetails.aspx?mmgid=385&toxid=67>
<https://www.ksl.com/article/739207/lake-stink-and-lake-effect-snow>
<https://x.com/NWSSaltLakeCity/status/1224250263566815232>
<https://www.kuer.org/health-science-environment/2024-01-02/the-salton-sea-shows-why-utah-should-pay-attention-to-great-salt-lakes-stench>
<https://x.com/NWSSaltLakeCity/status/1224250263566815232>
https://www.instagram.com/reel/DZc_JpSpRIP/

Other specific references that include oil well specific studies:

<https://consumerwatchdog.org/wp-content/uploads/2024/02/OILandGASHarmsFactSheetEdited.pdf>

More

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<https://www.sciencedaily.com/releases/2018/04/180409103920.htm>

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<https://www.osha.gov/hydrogen-sulfide/hazards>

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<https://www.epa.gov/rmp/air-dispersion-models-release-scenarios>

https://response.restoration.noaa.gov/sites/default/files/ALOHA_Tech_Doc.pdf

<https://www.youtube.com/watch?v=49-c9HOkRn4&t=510s>

<https://response.restoration.noaa.gov/oil-and-chemical-spills/chemical-spills/response-tools/alohas-limitations.html>

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