



## PLANNING COMMISSION STAFF REPORT

Meeting Date: January 19, 2017

Agenda Item #: 5f

### Application Type:

Conditional Use Permit

### APPLICANT(S):

Promontory Point Resources

### PROJECT #:

CUP16-002

### ZONE:

Solid Waste Zone

### PARCEL #:

01-012-0160

### TYPE OF ACTION:

Administrative

### REPORT BY:

Scott Lyons,  
 Comm. Dev. Director

### BACKGROUND

The applicant is requesting a Conditional Use Permit to construct and operate a non-hazardous landfill. The proposed location is the southwest portion of the Promontory peninsula (T6N R6W Sections 13, 24, 25 and T6N R5W Sections 18, 19, 30). The landfill received its original Conditional Use Permit in 2003, but after several years renewing it with the Planning Commission that permit expired. For that reason they are back requesting approval of a new Conditional Use Permit. (Maps and plans are attached)

### ANALYSIS

#### County Code:

Land Use Management & Development Code Section 3-8-140(e) allows solid waste landfills as a conditional use. Conditional Use Permits are decided upon by the Planning Commission.

#### Land Use Ordinance Standards Review:

Box Elder County Land Use Management & Development Code section 2-2-100 outlines the following standards for review for Conditional Use Permits.

1. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures;
2. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and the community;
3. The proposed use at the particular location is compatible with the intent, function and policies established in the general plan, this Code and the particular zoning district in which the use is proposed.

To be more specific, the code states the following factors should be reviewed and considered:

1. Conditions relating to safety of persons and property.
  - a. The impact of the proposed facility or use on the health, safety, and welfare of the County, the area, and persons owning or leasing property in the area.

*Staff does not have sufficient information at this time to make a determination.*

*PPR Response:*

- *The engineering controls and operating procedures that will be implemented during construction, operation, and closure of the facility to protect human health and the*



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*environment are described in the attached Promontory Landfill Class I Landfill Application dated August 2008 under which a Conditional Use Permit was issued. A Permit Modification and Design Report Phase I Promontory Landfill May 2016 was prepared to reflect current engineering and design that will further enhance protection to human health and the environment, attached.*

- *The two aforementioned reports also contain information that describe the geohydrologic assessment, land use compatibility, stormwater runoff, alternative waste handling plans, procedures for excluding non-acceptable waste, contingency plans for emergencies, training of personnel, etc.*

**b. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area.**

*The applicant must submit an operations plan, a fugitive dust plan, a closure plan, and a mitigation agreement with the County Commission. These plans should cover proposed safeguards. Any adverse effects the Planning Commission can think of should be addressed with the applicant.*

*PPR Response:*

- *The Operations Plan is provided in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-1 to 5-13.*
- *The Fugitive Dust Control Plan is provided as an attachment to this response. In summary measures will be taken during construction and operation of the site to prevent fugitive particulate matter from becoming airborne such as planting vegetative cover, providing synthetic cover, watering, chemical stabilization, wind breaks, or other equivalent methods or techniques.*
- *The closure and post-plans are provided in Promontory Landfill Class I Landfill Application, August 2008, Pages 6-1 to 6-3 and in Appendix G of the Permit Modification and Design Report Phase I Promontory Landfill dated May 2016.*
- *PPR met with Scott Lyons on December 14, 2016 and requested information on the process and requirements for a mitigation agreement. PPR will prepare and submit a mitigation agreement with the Board of County Commissioners upon receipt of the requirements for the mitigation agreement.*

**c. Building elevations and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.**

*None of the site is subject to flooding. Building elevations will be submitted at the time of building permit application. Grading plans were requested by the County Engineer and are being prepared.*

*No PPR response required.*

**d. Increased setback distances from lot lines where the Planning Commission determines it to be necessary to ensure the public safety.**

*This is something the Commission may want to address with the applicant. There are no specific requirements for this type of use. The state permit requires a 1,000-acre buffer area,*



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*but no specific setbacks as to how that buffer is applied. The site plan shows the following setbacks from the solid waste cells to all property lines:*

*North: 9,000 feet*

*South: 1,000 feet*

*East: 1,600 feet*

*West: 1,000 feet*

*PPR Response:*

- *The setbacks portrayed on the site plans may be moved or altered as approved by DEQ.*

- e. *Appropriate design, construction, and location of structures, buildings, and facilities in relation to any earthquake fault or other seismic hazard, which may exist on or near the property, and limitations and/or restrictions to use and/or location of use due to site conditions, including but not limited to wetlands, flood plains or landslide area.*

*Staff has no evidence of the above listed or other natural hazards in the proposed area.*

*No PPR response required.*

2. **Conditions relating to the compatibility of the use.**

- a. **The suitability of the specific property for the proposed use.**

*Staff is not aware of any health, safety, or welfare issues that cannot be mitigated that affect the suitability of the proposed site.*

*No PPR response required.*

- b. **The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity.**

*The surrounding development is currently agriculture, a gravel pit, and mineral extraction to the north and east. The west and south are railroad and the Great Salt Lake.*

*No PPR response required.*

- c. **Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.**

*This could be considered subjective and the public hearing may provide more insight.*

*PPR Response:*

- *Significant research and investigation has been conducted to show that the facility will not be injurious to potential or existing development. Additionally, a permit to operate a Class I landfill along with a Conditional Use Permit were issued prior indicating that the facility was not deemed injurious.*

- d. **The number of other similar conditional uses in the area and the public need for the proposed conditional use.**

*There are no other similar conditional uses in the area. The only other landfill in the County is the Little Mountain county owned landfill. Per county code the applicant "shall show a demonstrated need for the facility within Box Elder County."*

*PPR Response:*

- *The following items support the need for a landfill in this area.*
  - *The county has rezoned the area to allow construction of the landfill.*



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- The county has a prior Conditional Use Permit for this facility that has just expired, Promontory Landfill Class I Landfill Application dated August 2008, Appendix B.
  - The DEQ has permitted the facility and therefore, they saw a need for this facility.

**3. Conditions relating to health and safety.**

*These should be addressed in the operations, fugitive dust, contingency, and closure plans. These should also be addressed as part of the state permit.*

*PPR Response:*

- *Information regarding health and safety can be found in the following documents and the respective pages.*
  - *Operations Plan - The Operations Plan is provided in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-1 to 5-13.*
  - *Fugitive Dust - The Fugitive Dust Control Plan is provided as an attachment to this response*
  - *Contingency Plan - The contingency plan is provided as part of the Operation Plan in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-5 to 5-9.*
  - *Closure Plan - The closure and post-plans are provided in Promontory Landfill Class I Landfill Application dated August 2008, Pages 6-1 to 6-3 and in the Permit Modification and Design Report Phase I Promontory Landfill May 2016, page 2-4 and Appendix G.*
- *In addition to the inclusion of health and safety information in the above referenced documents, PPR will report any conditions that may endanger human health or the environment within 72 hours per 3-8-120 C. 4.*

**4. Conditions relating to environmental concerns.**

*These should be addressed in the operations, fugitive dust, contingency, and closure plans. These should also be addressed as part of the state permit.*

*PPR Response:*

- *In addition to the inclusion of health and safety in the above referenced documents PPR will report any conditions that may endanger human health or the environment within 72 hours per 3-8-120 C. 4.*

**5. Conditions relating to compliance with intent of the General Plan and characteristics of the zone district.**

*None.*

*No PPR response required.*

**6. The aesthetic impact of the proposed facility or use on the surrounding area.**

*The aesthetic impact of the landfill may be something to discuss with the applicant as well. This would be the time to decide if fencing, landscaping, tree screening, or any other measures are appropriate.*

*PPR Response:*



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- *PPR will maintain the site in a manner that is consistent with the natural landscape.*

7. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.

*A new water system is proposed on site. A new septic system is proposed on site. No information regarding power has been submitted. The causeway is to be used for access to the site, some county roadway will still be impacted. The agreement between the landowner and Union Pacific for use of the causeway has been requested but has not yet been submitted.*

*PPR Response:*

- *PPR is working with Rocky Mountain Power for the power to the site.*
- *The causeway will not be used for landfill operations; the county road will be used for access to the site. PPR is working with the county on a road improvement plan. A summary of which is attached to this letter.*

8. The safeguards proposed or provided to ensure adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation.

*These should all be addressed as part of the overall site plan. The submitted site plan is in a concept format and does not address all these items in detail. At the time of this report staff does not have a detailed final site plan.*

*PPR Response:*

- *A site plan is provided as an attachment to this letter.*

9. The safeguards provided or proposed to prevent noxious or offensive omissions such as noise, glare, dust, pollutants and odor from the proposed facility or use.

*These should be addressed as part of the site plan and other plans (operations, fugitive dust, mitigation, state permit). This concept plan has not yet addressed these items in detail.*

*PPR Response:*

- *Safeguards and procedures to prevent noxious or offensive omissions are provided in the Promontory Landfill Class I Landfill Application dated August 2008, Operation Plan Pages 5-1 to 5-13.*
- *A Fugitive Dust Plan has been prepared and enclosed with this submittal.*

Box Elder County Land Use Management and Development Code Section 3-8-120 requires the following of Conditionally Permitted facilities:

- A. A conditional use permit shall be obtained prior to constructing or operating a solid waste facility within the Solid Waste Zone. No presumption of approval shall be made regarding an application. All applications for conditional use permits made to the Planning Commission shall include all drawings, maps, specifications, statements and records as required by the Box Elder County Land Use Management & Development Code and this chapter. Applications that are incomplete upon submission shall be returned to the applicant. The landowner and operator shall be responsible to insure all conditions are complied with.

*PPR Response:*



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- Drawings, maps, specifications, statements, and records are provided as attachments to the letter.

**B. Prior to any conditional use permit being issued, the applicant shall show a demonstrated need for the facility within Box Elder County.**

PPR Response:

- *The county has rezoned the area to allow construction of the landfill and therefore, saw a need for the facility.*
- *The county has a prior Conditional Use Permit for this facility that has just expired, Promontory Landfill Class I Landfill Application dated August 2008, Appendix B.*
- *The DEQ has permitted the facility and therefore, they saw a need for this facility.*

**C. All conditional use permits issued within a Solid Waste Zone shall be reviewed by the Planning Commission who shall impose such requirements and conditions as are necessary for protection of adjacent properties and the public welfare. As a minimum all conditional use permits shall have the following conditions:**

1. The solid waste facility is permitted for ancillary and support facilities necessary to conduct its business such as offices, maintenance facilities, laboratories, records storage facilities, process stations and equipment, fuel and chemical storage, and support services to maintain a workforce.  
*No PPR response required.*
2. The operator of the municipal solid waste facility shall maintain all facilities and activities in such fashion to assure conformity to all Box Elder County land use, health, building, plumbing, mechanical and electrical codes, National Fire Protection Association Standards (NFPA), and other County ordinances, rules and regulations.  
*No PPR response required.*
3. Copies of the licenses and permits issued by the State of Utah, Department of Environmental Quality, Division of Solid and Hazardous Waste shall be filed with the County Department of Engineering. The facility shall not operate without the proper permits being in force.  
*Copies of permits have been submitted.*
4. The operator of the solid waste facility shall maintain a contingency plan and shall report to Box Elder County and the Bear River Health Department any conditions that may endanger human health or the environment. Any such information shall be reported orally as soon as practicable once the operator of the solid waste facility becomes aware of the circumstances of such incident and in writing within 72 hrs.

PPR Response:

- *The contingency plan is provided as part of the Operation Plan in the Promontory Landfill Class I Landfill Application dated August 2008, Pages 5-5 to 5-9.*
5. The operator of the solid waste facility shall take all reasonable steps to minimize and correct any adverse impacts on the public health and environment. At a minimum, the operator may be required to address on-site monitoring; which may be required for assessment of impacts to air, water, soil, vegetation and public health exposures on all property under the control of the solid waste facility. Any air, soil or groundwater monitoring assessments shall be provided to the Box Elder County Community Development Department and the Bear River Health Department. Box
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Elder County reserves the right to monitor and assess all subject properties that may be impacted at its discretion.

*No PPR response required.*

6. The operator of the solid waste facility shall allow Box Elder County or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
- enter at reasonable times upon the solid waste facility premises where a regulated facility and/or activity is located or conducted, or where records must be kept under the conditions of this permit;
  - have access to copy any records that must be kept under the conditions of this permit;
  - inspect any facilities, equipment, practices, or operations regulated or required under this permit; and
  - sample or monitor for the purpose of assuring permit compliance or as otherwise directed by Box Elder County, any substances or parameters at any location.

*No PPR response required.*

7. The provisions of the permit are severable. If any provisions of the permit, or the application of any provision of the permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected.

*No PPR response required.*

8. The conditional use permit shall be reviewed upon any change in the facilities operation. Box Elder County, the landowner or the operator may review the permit at any time.

*No PPR response required.*

9. This conditional use permit is revocable by the Planning Commission at any time due to failure of the permittee to observe any condition specified or failure to observe other requirements of the Box Elder County Land Use Management and Development Code, the Box Elder County Code, or the Utah State Code.

*No PPR response required.*

10. If the conditional use permit is revoked, the operator must immediately suspend all waste acceptance and complete corrective actions. Any waste operations must be approved by the County Commission until a conditional use permit is approved.

*No PPR response required.*

11. Loose materials shall be off-loaded in a covered structure to prevent fugitive waste from escaping into the landscape and off site. Bailed waste may be off loaded at the cell. The operator may submit an alternative plan and guarantee to be approved by the Planning Commission that will allow handling of loose waste without a covered structure for off-loading.

*No structure for this purpose is shown on the site plan. Does this mean all waste coming to this facility is bailed?*

*PPR Response:*

- The waste will be hauled to the site via trucks or transfer trailers. All trucks will be tarped, covered or enclosed and remain as such until the waste is off loaded at the working face.*



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12. The operator will submit a fugitive dust plan and guarantee to be approved by the Planning Commission that will insure containment of fugitive dust.  
*The Fugitive Dust Control Plan is attached.*
13. Before startup, an operations plan shall be submitted to the Box Elder County Planning Commission for review. The plan shall be updated and reviewed every five years with the Box Elder County Planning Commission. Each five-year plan shall expire and all operation shall cease until a new plan is approved.  
*The Operations Plan is attached.*
14. The landowner shall submit a State approved closure plan to Box Elder County which will include post-closure activities. 1 year prior to closure or at the time that the solid waste facility is 90% filled, whichever is earlier, the landowner shall submit an updated State approved closure plan to Box Elder County. Box Elder County must approve any changes before closure activities may begin.  
*The state approved Closure Plan is attached.*
15. The operator and landowner of the solid waste facility shall comply with the licensing and inspection requirements of Box Elder County Code and the Utah State Code.  
*PPR Response:*
- *PPR will comply with the licensing and inspection requirements of Box Elder County and the Utah State Code.*
16. All internal roads shall be constructed with a dust free surface or treatment.  
*PPR Response:*
- *The internal roads will be constructed with a dust free surface or will be treated to reduce dust emissions.*
17. Any waste that is blown as a result of the transportation or processing of waste from the operation of the facility shall be cleaned up daily.  
*PPR Response:*
- *The fugitive waste plan is provided in the Promontory Landfill Class I Landfill Application dated August 2008, Appendix L.*
18. The construction drawings of cells shall be submitted to the Box Elder County Department of Engineering for approval prior to construction.  
*PPR Response:*
- *The construction drawings of the cells are provided in Permit Modification and Design Report for Phase I of the Promontory Landfill Facility, May 2016.*
19. The operator of the solid waste facility shall complete a mitigation agreement with the Board of County Commissioners.  
*A mitigation agreement has not yet been submitted. The information requested in the response below was emailed to Ann Garner and Brett Snelgrove with PPR on December 21, 2016.*  
*PPR Response:*
- *PPR met with Scott Lyons on December 14, 2016 and requested information on the process and requirements for a mitigation agreement. PPR will prepare and submit a mitigation*
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*agreement with the Board of County Commissioners upon receipt of the requirements for the mitigation agreement.*

- The closure and post-plans are provided in Promontory Landfill Class I Landfill Application dated August 2008, Pages 6-1 to 6-3 and in the Permit Modification and Design Report for Phase I of the Promontory Landfill Facility, May 2016, Page 2-4.*
- A copy of the Payment Bond for the closure and post closure of the facility is attached to this submittal.*

**20. The operator of the solid waste facility shall build a perimeter security fence of a sufficient size to prevent unauthorized access.**

*PPR response:*

- A perimeter fence of a height of at least five feet will be placed around the perimeter of the facility to prevent unauthorized access.*

### **FINDINGS:**

Based on the analysis of the Conditional Use Permit application, staff concludes the following:

1. The Box Elder Land Use Management and Development Code allows for solid waste landfills in the SW Zone subject to Conditional Use Permit approval by the Planning Commission.
2. Some items in code Sections 2-2-100 (Conditional Use Permits) and 3-8-120 (Permitted and Conditional Uses in the Solid Waste Zone) have not yet been submitted for review. Specifically an updated application, an updated Site Plan, an approved Mitigation Agreement, and an updated Roadway Improvement Plan.