

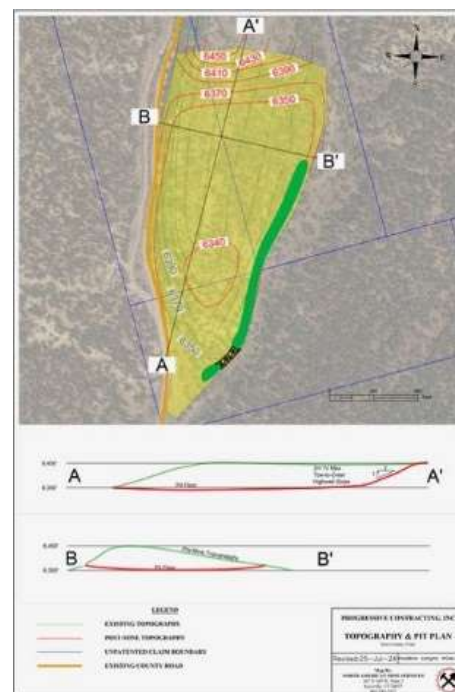
Issue Brief: What IS the Plan?

At the February 6 public hearing, the County Planner took note of several features of the Application as they stood at the time of the hearing. These include:

- The Applicant's intent to begin on a 20 acre portion of the proposed 200 acre site, in the mouth of Nelson Canyon, subject to prior approval of Utah OGM and the US BLM
- The Applicant's intent to run 10-20 truckloads per day between the site and Cedar City during the active (as yet unspecified) duration of initial operations.
- The reliance on an MOU with Iron County that was *based on the previously specified amount of traffic on Modena Canyon Road*, and requiring contributions to the cost of road improvements at the expense of Iron County taxpayers. At the hearing, the Applicant proposed to increase traffic volume to at least **40 loads** per day, evidently without prior consultation with the County
- Recognition that the [NEPA assessment of environmental impact to be conducted by BLM](#) would be limited to the proposed 20 acre site, and not to the 200 acre site being considered by the County.

Also at the February 6 hearing, the County Planner displayed two images that particularly relate to the location and dimensions of the proposed operations:

- A map showing the location of the proposed 200 acre site, annotated to show a 200 foot setback from Modena Canyon Road and a (totally unacceptable) 100 foot setback from the western side of the so-called "Ghost Rocks", a documented site of raptor nesting, which would be left undisturbed by the Applicant (shown here with a key and rotated to match orientation with...
- A professionally prepared topographical plan for the proposed 20 acre site, illustrating the original intent to grade the area east of Modena Canyon Road to a level equal to or below the level of the road.



The County Planner explained that the Applicant recognized and shared the view that the setback protections were necessary to protect the sensitive nature of the canyon environment. There was no discussion of the topographical plan, which is rendered obsolete by the setback agreement in three significant ways:

- The plan no longer calls for removal of the ridge adjacent to the road
- Approximately 1/4 of the 20 acre site illustrated is no longer available for mining
- It is not clear how access to and operation of a 20 acre site can be fit at the specified location and remain within the boundaries of the 200 acre site outlined for CUP.

As there was no site plan submitted, as required, with the application for CUP, the now-obsolete topographical plan is the only illustration on record of the planned location and dimensions of the 20 acre site. Assuming the topographical site plan was provided to BLM in the application for NEPA review, that application is now also obsolete.

The original application contained a map, apparently as provided to state and/or federal authorities, illustrating the plan to transfer mine products by truck to Cedar City for transfer to rail cars. At the public hearing, the PCI representative said he was working to gain access to a rail spur in Modena instead. While to persons familiar with the area may find it difficult to conscience the idea of an 80 foot dump truck loading crushed silicates onto railcars in the middle of Modena, every 15-20 minutes, 11 hours a day, for years, the county considers this irrelevant to the proposal review.



Section Chapter 17.28.050 of the Code of Ordinances states that a CUP shall be granted **IF** an application meets certain conditions, including acceptable environmental impact and sufficiency of the proposed site for the intended use. As the application has been fundamentally altered, it is now clearly insufficient to support a finding that it meets the requirements of the ordinance for a CUP. To the contrary, there is very strong evidence that it does not.

On February 13, the Iron County Planning Commission informed a group of previous commenters that they would have until February 20 to provide additional written comments, limited to issues not previously addressed. A list of twelve excluded issues was provided, about which all that could be known was already known. Recipients were informed that additional comments would be provided to the Applicant, who would then review them and propose mitigation strategies. The Commission will then review a proposed CUP on March 6, apparently without disclosure of the actual plan or any opportunity for public review and comment.

Possible Mitigation

As there is not sufficient non-conflicting information on the public record on which to make decisions, the Applicant should submit complete applications to the three reviewing government agencies, with complete, accurate and consistent plans, which can then be subjected to proper review.

The County Engineer should be asked to review a new MOU for changes to Modena Canyon Road that would safely support approximately 100 truck trips per day, does not unreasonably interfere with the rights of surrounding landowners and other road users, if that is possible, or require significant cost to the taxpayers of Iron County for the sole private benefit of the Applicant.

If the plan allows for the possibility of trucking forty loads of crushed silicates per day into the center of Modena for loading into rail cars, then the health and safety risks to Modena residents must be properly evaluated and the residents of Modena must be given the right to public hearing.