BOX ELDER COUNTY
July 21, 1994

The Board of Planning Commissioners of Box Elder County, Utah met in regular session in the Commission Chambers of the Box Elder County Courthouse, 01 south Main Street, in Brigham City, Utah, at 7:00 p.m. on July 21, 1994.

A quorum was not present. No meeting was held.

COUNTY COMMISSIONERS
R. LEE ALLEN
ALLEN L. JENSEN
JAMES J. WHITE

BOX ELDER COUNTY
STATE OF UTAH

OFFICERS
CARLLA, J. SECRIST, COUNTY AUDITOR-TREASURER
MARIE G. KORTH, COUNTY RECORDER-CLERK
ROBERT E. LIMB, COUNTY SHERIFF
JON J. BUNDERSON, COUNTY ATTORNEY
MONTE R. MUNNS, COUNTY ASSESSOR
DENTON BEECHER, COUNTY SURVEYOR

July 20, 1994

AGENDA
BOX ELDER COUNTY PLANNING COMMISSION
MEET PLACE: COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

1. Public agenda for the Box Elder County Planning Commission meeting scheduled for Thursday, July 21, 1994, at 7:00 P.M.

2. Notice given to the newspaper this 20th day of July, 1994.

3. Approval of the minutes of June 30, 1994.

4. Scheduled Delegations:

   A. Rezoning for residential private school
      John Loosle, Family Preservation

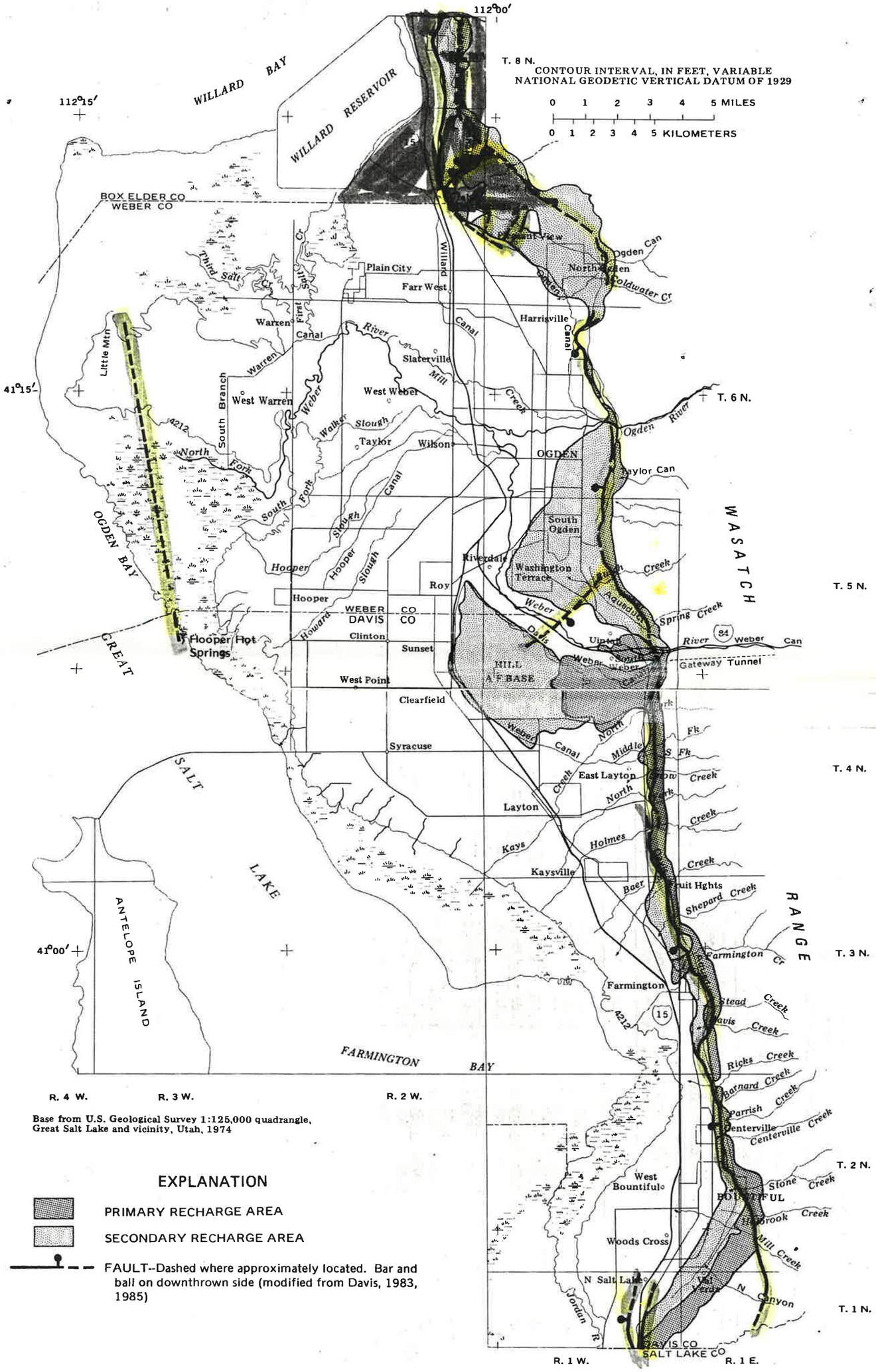
   B. Zone change request for Thatcher area
      (follow up business)

   C. Darrell Nielsen - $20,000.00 Bond
      Response to 20 conditions by Planning Commission
      (follow up business)

   D. Gun Range - Willard area

   E. LeVee Hemsley for a Zoning Committee to look into Planning from Perry to South Box Elder County line.

5. Old Business from last meeting.



Base from U.S. Geological Survey 1:125,000 quadrangle, Great Salt Lake and vicinity, Utah, 1974

EXPLANATION

PRIMARY RECHARGE AREA

SECONDARY RECHARGE AREA

FAULT--Dashed where approximately located. Bar and ball on downthrown side (modified from Davis, 1983, 1985)

Figure 3.--Recharge areas and major fault zones.

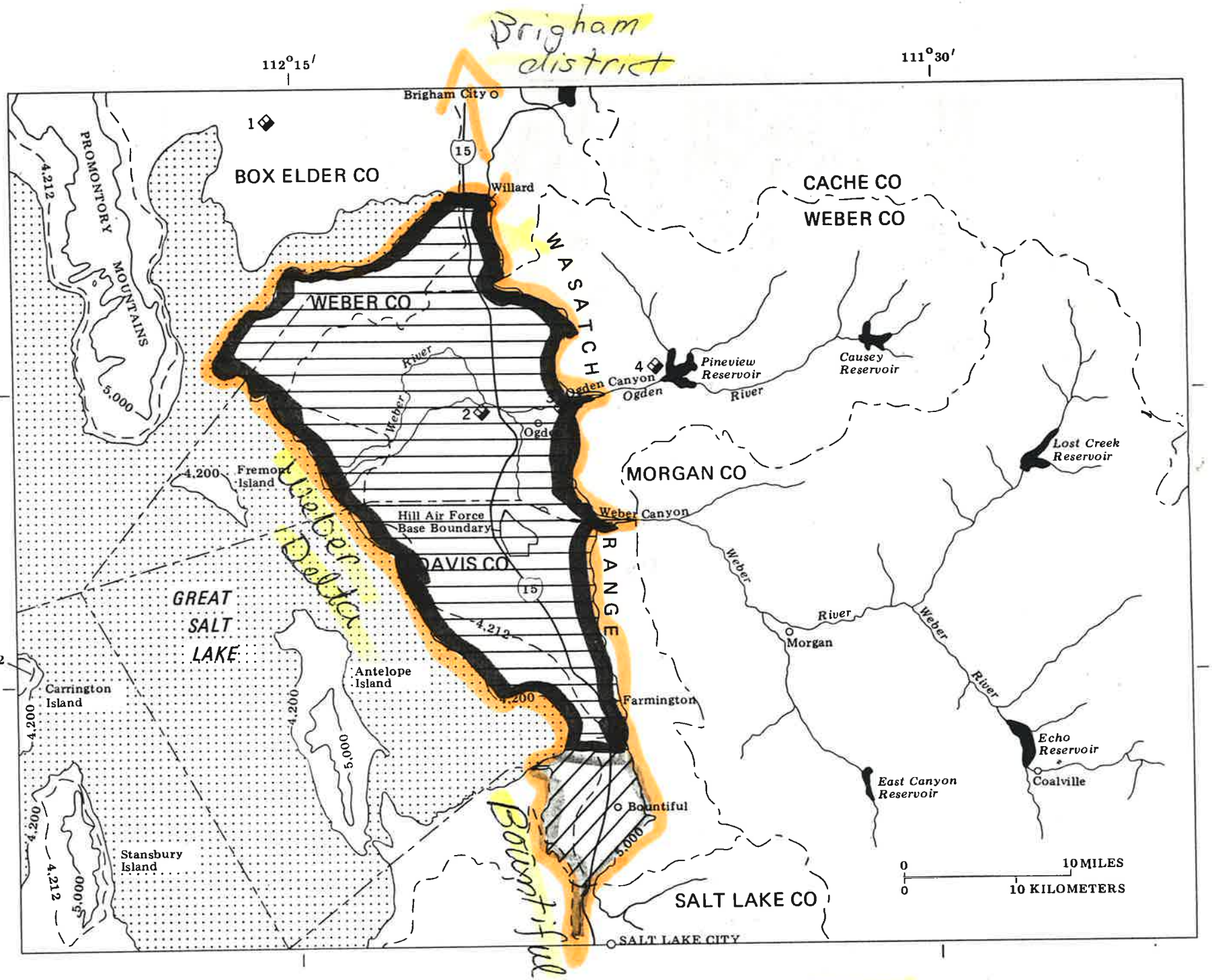


Figure 1.--Location of the East Shore area of Great Salt Lake.

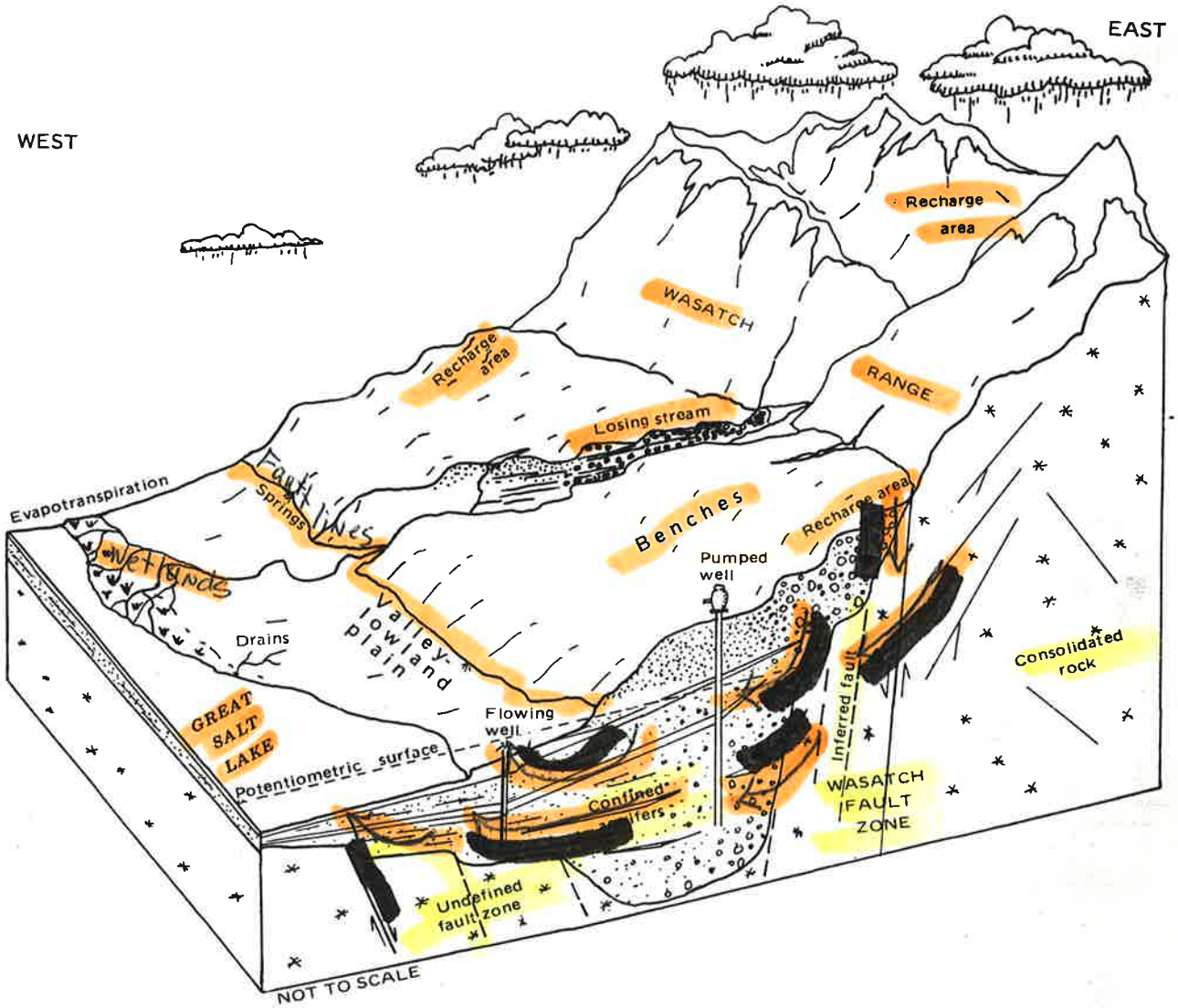


Figure 2.--Generalized block diagram showing water-bearing formations, probable directions of ground-water movement (arrows), and areas of recharge and discharge.

Refer to May 6, 1993
Planning Commissioners Meeting Held 7 Pm
Item No 17 - Termination of Permits "7-1-3"
also letter from Parson May 20th

Chapter 6.

Conditional Uses

6 - 1 Purpose of Conditional Use Provisions.

Certain uses which may be harmonious under special conditions and in specific locations within a district, but be improper under general conditions and in other locations, are classed as conditional uses within the various districts and require conditional use permits for approval.

6 - 2 Permit Required.

A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this Ordinance. A conditional use permit may be revoked upon failure to comply with conditions precedent to the original approval of the certificate.

6 - 3 Application.

A conditional use permit application shall be made to the building inspector as provided in this Ordinance. He shall submit the application to the Planning Commission, except that the Planning Commission may authorize the zoning administrator to grant or deny conditional use permits, subject to such limitations or qualifications as are deemed necessary.

Applications for a conditional use permit shall be accompanied by maps, drawings, statements, or other documents as required by the Planning Commission.

6 - 4 Fee.

The application for any conditional use permit shall be accompanied by the appropriate fee as determined by the Governing Body.

6 - 5 Public Hearing.

No public hearing need be held. However, a hearing may be held if the zoning administrator or planning commission shall deem a hearing to be necessary and in the public interest.

6 - 6 Determination.

The Planning Commission, or upon authorization the Zoning Adminstrator, may permit a conditional use to be located within any district in which the particular conditional use is permitted by the use regulations of this Ordinance. In authorizing any conditional use the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such as to establish:

ATT 8

(1) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity, and,

Donna Ball

CHAPTER 7

CONDITIONAL USES

7.1 GENERAL

7.1.1 PURPOSE AND INTENT. The purpose of this chapter and the intent of the County in its adoption is to promote the health, safety, convenience, and general welfare of the present and future inhabitants of the County. This chapter accomplishes the aforesaid purpose and intent by providing sufficient flexibility to allow in certain areas compatible integration of uses which are related to the permitted uses of the district or are of a temporary nature only, but which may be suitable and desirable only in certain locations in that district due to conditions and circumstances peculiar to that location and/or upon certain conditions which make the uses suitable and/or only if such uses are designed, laid out, and constructed on the proposed site in a particular manner. While flexibility in allowing uses which would otherwise be generally unsuitable to a given district is an important goal of this chapter, it is also recognized that constraints on governmental decision-making are a legal imperative. This chapter, therefore, also provides a framework of standards within which those governmental decisions must be made.

7.1.2 CONDITIONAL USE PERMIT REQUIRED. A conditional use permit shall be required for all uses listed as conditional uses in this Code.

7.1.2.1 For the following types of conditional uses, final plan or plat approval shall constitute the conditional use permit:

CHAPTER 14

SENSITIVE AREA OVERLAY ZONE, SA

14.1 PURPOSE AND INTENT

The purpose of the Sensitive Area Overlay Zone. SA, is to designate and describe those areas within Box Elder County that possess physical and/or environmental characteristics which require special public consideration of applications for uses which might affect: the structure or the land; the management of surface or subsurface water; safety of future land occupants due to increased fire, earthquake, or storm hazards from the proposed development; or, the uneconomic extension of public facilities and services. Of specific concern is development in flood-prone areas, earthquake zones, landslide areas, areas of steep slope or unstable soils, wetlands, noise or other pollution sensitive areas. Other sensitive areas also may require careful assessment prior to alteration or impact.

14.1.1 It is the intent of these regulations to permit the widest possible latitude in the use of property, while at the same time requiring design solutions which will avoid detrimental impacts on sensitive natural areas, as well as provide protection from adverse natural forces and hazards.

14.2 PERMITTED USES

The following uses are permitted in the SA District:

14.2.1 Tilling of the soil;

14.2.2 Raising of crops; and

14.2.3 Horticulture and gardening, excluding agricultural industries.

14.3 CONDITIONAL USES

The SA District is an overlay district whose sole effect is to require additional review of proposed uses in the underlaying districts. To this end, any

permitted use in a district overlaid by an SA District, with the exception of those uses permitted in Section 14.2 above, is a conditional use. Conditional uses authorized in districts overlaid by the SA District remain conditional uses.

14.4 GENERAL

The "Sensitive Area District, SA" zoning district if not marked on the zoning map per se, shall nonetheless include areas of Box Elder County designated as:

14.4.1 100 year flood plain;

14.4.2 Geological hazards including earthquake areas, unstable soil conditions, slopes in excess of 15%, and areas subject to flooding;

14.4.3 Areas of high water table and ground water including wetlands, high water table, perched water, drainage ways and swampy conditions.

14.4.4 Other environmentally sensitive areas may be described by metes and bounds and included in this district.

CHAPTER 10

MULTIPLE USE, AGRICULTURE AND RURAL RESIDENTIAL DISTRICTS

10.1 PURPOSE

10.1.1 **MULTIPLE USE DISTRICTS.** The purposes of providing a multiple use district is to establish areas in mountain, hillside, canyon mountain valley, desert and other open and generally undeveloped lands where human habitation should be limited in order to protect land and other open space resources; to reduce unreasonable requirements for public utility and service expenditures through uneconomic and unwise dispersal and scattering of population; to encourage use of the land, where appropriate, for forestry, grazing, agriculture, mining, wildlife habitat, and recreation; to avoid excessive damage to watersheds, water pollution soil erosion, danger from brushland fires, damage to grazing and livestock raising, and to wildlife values; to avoid the premature development of lands by discouraging intensive development until the ultimate best use of the land can be recommended by the Planning Commission to the County Commission; and to promote the health, safety, convenience, order. prosperity, and general welfare of the inhabitants of the community.

10.1.1.1 MU-160, Minimum Lot Size: 160 acres or quarter section.

10.1.1.2 MU-80, Minimum Lot Size: 80 acres.

10.1.1.3 MU-40, Minimum Lot Size: 40 acres.

CHAPTER 20

RURAL RESIDENTIAL DISTRICT RR-20 (or RESIDENTIAL DISTRICT R1-20)

20.1 PURPOSE

20.2.1 RURAL RESIDENTIAL DISTRICT RR-20 (OR RESIDENTIAL DISTRICT R1-20). The purposes of providing an RR-20 rural residential district, or residential district R1-20 residential district are:

20.1.4.1.1 To promote and preserve in appropriate areas conditions favorable to large-lot family life,

20.1.4.1.2 Maintaining a rural atmosphere;

20.1.4.1.2 The keeping of limited numbers of animals and fowl; and

20.1.4.1.3 Reduced requirements for public utilities, services and infrastructure.

20.1.4.2 This district is intended to be primarily residential in character and protected from encroachment by commercial and industrial uses.

20.1.4.3 Minimum Lot Size: 5 acres

20.2 CODES AND SYMBOLS

In following sections of this chapter, uses of land or buildings which are allowed in various districts are shown as "permitted uses." If a use is not allowed in a given district, it is not named in the use list.

20.3 USE REGULATIONS

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or

locations where combinations of commercial, business, entertainment and related activities may be established, "general commercial districts" are proposed for large central city business areas including a wide range of commercial activities; and "central development districts" where combinations of commercial and residential development exist and require special regulations or planning for development.

MANUFACTURING-INDUSTRIAL LAND USE

It is essential that manufacturing enterprises, trucking terminals, warehousing, salvage or wrecking yards, and other uses often grouped together as "Industrial" be located, developed, and served in harmony with the overall land use plan. Scattering these uses over wide areas of the county and in diverse locations within municipalities leads to land use conflicts, extra costs in provision of public utilities and services, and excessive expenditures for transportation facilities, in some cases, of course, the required location of the use is determined by raw materials or other factors, such as sugar processing plants located near the beet fields, and Thiokol in an isolated location.

Industrial areas are shown on the General Plan map where most appropriate to provide space for manufacturing, warehousing, truck terminals, and other industrial type uses. These are near municipalities, except where natural resource development or safety requires other location. It is recommended that industrial development areas, where feasible, should be annexed to municipalities in order to help pay costs of local government from which they require many services, directly or indirectly, and to reduce costs of public services and facilities.

MINING, MINERAL EXTRACTION, GRAVEL PITS LAND USE

Development of the county's resources is important to present and future citizens. Restraint should be exercised in procedures and timing to prevent gross conflict with other land uses and community values. Settling and concentration ponds, tailings, and pits should be engineered and managed for environmental compatibility, pleasing appearance and re-establishment into harmonious natural settings when an operation is completed. The residents and the visitors to county areas should not be subjected to ugly scars on the mountains, cluttered wastelands other unpleasant results of insensitive treatment of the landscape. Particularly distorting are the gravel excavations within view of the main circulation routes in the county. Man made scars along the Wasatch Mountains should be restored to a satisfactory aesthetic condition.

AGRICULTURAL LAND USE

The amount of land used for agriculture in the county should be increased, both for the economic benefits from such uses and for the desirable environmental effects which green and growing crops have in semi-arid communities.

Water development for increased agricultural use and productivity is considered essential for the present and future stability of the county's economic base. Water management is the key for water availability in the future. Traditional flood irrigation should be upgraded to pressure systems in order to maximize its effectiveness.

It is-believed that only by having green fields and uncluttered open spaces surrounding the municipalities of the county can the best environment for living and working be preserved and enhanced. If agriculture is taken away from the land for residential and industrial purposes, the future may be economically sound, but socially and aesthetically unacceptable to citizens who have many other choices of where to live. Any

LAKESIDE

Located on the west shore of Great Salt Lake this railroad siding area has a potential for industrial development. Already National Lead's magnesium plant in Tooele County is providing a pipeline to extract brine from the north side of the causeway. An access route, from Snowville and Freeway I-80 N on the north through Lakeside to Tooele County and Freeway I-80 on the south, is proposed to improve circulation west of Great Salt Lake.

LUCIN

This railroad location is the center of much premature land subdivision activity where water and access present very real problems and where limited productive benefit is derived from the land. It is proposed that this area be classified as multiple use to preserve it in large parcels of land until positive use and development are assured. Improved access from Wendover is proposed.

PARK VALLEY & ROSETTE

The large scale ranching of the Park Valley & Rosette area is fundamental to the county's agricultural base and should be protected. There may well be a demand for some higher density residential development which would be appropriate near the highway, church, and store in park valley to reinforce the community structure. Multiple-use is proposed for the vast outlying area.

PROMONTORY POINT

This railroad and scenic area has little population growth potential due to remoteness. The industrial and mineral extractive processes in the area are largely developed. GSL's operation is related to Weber County. The recreational potential should be explored and the present agricultural development preserved.

RIVERSIDE

The unincorporated community of Riverside is a rural focal point in northern Bear River Valley. It has access to Freeway I-15. A commercial area is proposed for convenience of residents and travelers. A compact urban residential core area is proposed along with a surrounding rural residential district to avoid leapfrogging and scattered development which would fractionalize the communities ability to render required services. As growth occurs a sewer will be necessary.

SOUTH WILLARD

The area between the Weber County line and the City of Willard is agricultural, but urbanization pressure is intruding to the degree that either it must be stopped to protect the area, or the agricultural interests sacrificed for urbanization. It is proposed that the area be preserved as agricultural until such time as the residents decide to change the area by incorporating as a new town and developing a new General Plan.

WEST CORINNE

Future agricultural growth is possible in the area of West Corinne as a result of reclamation procedures, the proposed agricultural development should be preserved and protected from conflicting or disrupting land uses.

OKADA: Who is paying their attorney:

THORPE: Willard City.

BREITENBEKER: I guess Willard, they are the ones who said they had talked to this attorney.

JENSEN: Are the people of South Willard, out of the corporate limits down there, are they in favor of something like this?

THORPE: Some are, some aren't.

GROVER: I want to give you a whereas there, my boss is one of them. Jack Parsons has got one of the biggest gravel pits you would never find down there on that hill, but it's not a gravel pit. It come before this Planning Commission as a Subdivision. And that's what he's digging out of the mountain down there. How you going to stop it?

BREITENBEKER: Well, no, now wait - -

GROVER: Yes it is, because he come with the plans down there, W. R. White did.

BREITENBEKER: Yes, but W. R. White, the subdivision is an after effect of the gravel pit.

GROVER: Yes, but he got the approval.

BREITENBEKER: That's right, but the gravel pit was approved first as a gravel pit.

GROVER: Yes, but it ain't a gravel pit anymore.

THORPE: Then it should have had a time frame put on it.

GROVER: It is, since when? How many terraces has he built down in there?

BREITENBEKER: That's what we approved of, the fact that this was a pit, and he actually had it approved as a gravel pit. The subdivision was what White says he was going to do when the pit doesn't operate any more.

THORPE: In whose lifetime?

BREITENBEKER: I don't know.

GROVER: That's all that's down there for, is a gravel pit.

BREITENBEKER: That's right.

GROVER: They're going to say no more gravel pits, OK, White's got a subdivision going, I can do the same thing.

JENSEN: And Gibbons and Reed would like to open another one down there, too.

State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

Northern Area
55 East 100 North, Suite D
Logan, Utah 84321-4624
801-752-8755

May 19, 1993

R. Fay Facer
Jack B. Parson Companies
PO Box 3429
Ogden, UT 84409

Dear Mr. Facer:

The State Engineer's office has reviewed the plans you submitted with a letter dated May 10, 1993. The section views show that some water may be impounded by rejected material and undisturbed soils. The State Engineer would not have jurisdiction over the impoundments where no material is placed to cause impoundment of water. However, several sections show that rejected material would be placed in a manner to impound water in the terraces. This placement is artificial and, therefore, before the impoundments are made, approval of plans and specifications for the placement of this material is required by the Division of Water Rights, Dam Safety Section.

Sincerely,

Robert M. Fotheringham, P.E.
Northern Regional Engineer

RMF:gf

Copy: Parsons, B.C.
FAX (801) 723-5218

LarWest International Engineering
130 South Main, Suite 200
Logan, Utah 84321
Phone (801) 753-0153
FAX (801) 753-0619

April 11, 1994

Box Elder/Willard City Flood Control District
P.O. Box 95
Willard, UT 84340

ATTN: **Mr. Ron Nelson**
RE: **Inspection of Gravel Mining Operation and Flood Control Measures**

Dear Mr. Nelson,

On the 9th of April Ron Nelson and I met with Robert Williams, chairman of the South Willard Water Company, and reviewed his concerns with the subject operation. Later Randy Anderson of Parsons joined with Ron and me on the site.

The following observations and comments are an outgrowth of this inspection:

- There have been several plan revisions since I reviewed them approximately one year ago. The FCD has not received any updated set of plans.
- Lack of communication with the South Willard Water Company by the Parson Company is apparent, since there seems to be a great deal of concern on the part of the water company.
- It appears that provisions are being provided as Level 1 gravel is mined for flood control. This is evident by the west diking left in-place and the attempt to place top soil on it for revegetating purposes.
- Visual observations seem to confirm that water exiting existing channels from the drainage ways would find its way to the newly created retention basin known as Level 1. Future periodical inspections should include more detailed analysis, such as instrument level shots to determine the pathway of storm water.
- Lack of detailed construction documents (plans and specifications), however, makes it difficult to determine the final disposition of the flood control measures. For example, will there be an outlet structure and an accompanying pipe delivering storm water away from the newly created retention basin?
- Logs of boring holes in the operation area showing the depth of gravel and intercepting clay layer would be helpful.
- It was reported that only a $20,000 bond was required. This amount seems extremely low and without apparent basis.

Sincerely,

LarWEST Engineering,

Gale H. Larson, P.E.

Post-It™ brand fax transmittal memo 7671	# of pages ▸ 1
To Ron Nelson	From Gale Larson
Co. FCD	Co. LarWEST
Dept.	Phone # 801-753-0153
Fax # 723-1437	Fax # 753-0619

TAKE Pride IN UTAH DON'T SPOIL A GOOD THING

❑ What is TAKE PRIDE IN UTAH?

A partnership of federal, state and private agencies. Its goal is twofold. First, to make us aware of the beauty that Utah holds. Second, to remind us of the opportunities to enjoy and preserve that beauty for future generations.

Get the most out of Utah's outdoors. Give something back.

❑ Utah's Outdoors

It's the most colorful address there is. A world of scenic splendor and opportunity. Breathtaking mountains. Tree-lined basins dotted with shimmering lakes. Majestic vistas of sculptured desert stone and sand punctuated by skies of brilliant blue. To more than a million and a half of us, this wondrous place is home. This is Utah!

Utah is worth protecting. Here are a few suggestions that will help keep our great outdoors pristine, perfect and enduring.

❑ Give Something Back

Every year, millions of visitors from all points on the globe flock to our state to breathe crisp mountain air, hike our trails and splash in our rivers and lakes. Because Utah gives us so much, we owe it to ourselves to find ways to give something back.

❑ Pack It In—Pack More of It Out

Litter offends us all. It interrupts the natural drama and cheapens the value of the outdoor experience. To make the stay more enjoyable for you and those who follow, always remove all trash items from the area and dispose of them properly—even if it wasn't you who left them there.

❑ Stay on the Straight and Narrow

Whether the journey is on foot, wheels or horseback, stay on the path and obey posted instructions. On the roads less traveled, we make all the difference.

❑ Leave No Mark

Nature creates its own record. Deep canyons are formed by small streams. Time, wind and rain sculpt rolling hills where lofty peaks once challenged the deepening sky. The marks are there. The handiwork is thoughtful. Occasionally man creates a record, too. Carved in trees. Painted on rocks. Gouged out of the landscape. A canvas of disregard. When visiting Utah's unspoiled places, please don't leave your mark.

❑ Use It Wisely

Utah is blessed with rich abundance. Clear water. Fresh air. Fertile soil. We depend on Utah and Utah depends on us. As we share in the plentiful resources, we must share in the responsibility to keep our state clean, safe and productive. Take pride in our efforts.

Don't Spoil a Good Thing.
TAKE PRIDE IN UTAH.

SOUTH WILLARD WATER CO.
P.O. BOX 82
WILLARD, UTAH 84340

APRIL 21, 1994

TO: BOX ELDER COUNTY PLANNING COMMISSION

SUBJECT: STATUS OF STATE WATER STUDIES AS CONCERN THE PARSON WILLARD NORTH PIT AREA

ATTACHED IS A SUMMARY OF THE WATER RELATED STUDIES NOW IN PROGRESS BY THE STATE DRINKING WATER AND NATURAL RESOURCES DIVISIONS. THESE PROJECTS WERE REQUESTED BY SOUTH WILLARD WATER CO. AND ADDRESS THE POTENTIAL WATER PROBLEMS ASSOCIATED WITH THE GRAVEL EXCAVATION ACTIVITIES AT THE PARSON NORTH WILLARD PIT AREA.

JON BUNDERSON, COUNTY ATTORNEY, HAS RECENTLY ADVISED THAT THE CONDITIONAL USE PERMIT ISSUED BY THE PLANNING COMMISSION ON JULY 15, 1993, IS NOT WITHIN THE AUTHORITY OF THE PLANNING COMMISSION AND SUCH PERMITS MUST BE ISSUED BY THE COUNTY COMMISSIONERS. THE COUNTY COMMISSIONERS HAVE ADVISED THAT THEY WILL BE LOOKING TO THE PLANNING COMMISSION FOR RECOMMENDATIONS BEFORE TAKING ACTION ON THE PERMIT.

IT IS REQUESTED THAT THE PLANNING COMMISSION CONSIDER THE FOLLOWING ACTIONS PRIOR TO RENDERING ANY FORMAL RECOMMENDATIONS:

1) ADVISE THE COUNTY COMMISSIONERS THAT THEY WILL "HOLD" ON ANY RECOMMENDATIONS AS RELATING TO THE PARSON WILLARD NORTH PIT AREA UNTIL THE STATE WATER RELATED STUDIES NOW UNDERWAY ARE COMPLETED, AND

2) REQUIRE A COMPREHENSIVE ENVIRONMENTAL IMPACT STATEMENT FROM PARSON'S AS CONCERNS THE PARSON NORTH WILLARD PIT SITE.

3) **IF** A CONDITIONAL USE PERMIT IS REISSUED TO PARSON'S PRIOR TO COMPLETION OF THE STATE WATER RELATED STUDIES, A LIABILITY BOND IN THE AMOUNT OF $100 MILLION BE REQUIRED OF PARSON'S COVERING HEALTH CONDITIONS THAT MIGHT ARISE FROM WATER CONTAMINATION TRACED TO THE PARSON' OPERATIONS.

PARSON'S HAVE STATED THAT THEY WILL NOT BE CRUSHING GRAVEL AT THE PARSON WILLARD NORTH SITE UNTIL LATE SUMMER-EARLY FALL. THIS 120-150 DAY PERIOD WILL ALLOW FOR COMPLETION OF THE STATE WATER RELATED STUDIES AND WOULD PROVIDE TIME FOR PARSON'S TO SUBMIT A COMPREHENSIVE ENVIRONMENTAL IMPACT STATEMENT. THIS WOULD ALSO PROVIDE TIME FOR THE PLANNING COMMISSION TO ASSEMBLE DETAILED STATEMENTS FROM THE ADJACENT LANDOWNERS AND CONCERNED RESIDENTS OF THE SOUTH WILLARD AREA.

THE COMPOSITE OF THESE STUDIES AND COMMENTS SHOULD PROVIDE THE PLANNING COMMISSION WITH SUFFICIENT INFORMATION TO RENDER AN INFORMED RECOMMENDATION TO THE COUNTY COMMISSIONERS.

ROBERT E. WILLIAMS
PRESIDENT, SOUTH WILLARD WATER CO.

SOUTH WILLARD WATER CO.
P.O. BOX 82
WILLARD, UTAH 84340

APRIL 21, 1994

SUMMARY OF STATE WATER RELATED STUDIES AS CONCERNS THE PARSON'S WILLARD NORTH PIT SITE

CULINARY WATER:

THE STATE DIVISION OF DRINKING WATER HAVE AGREED TO PROVIDE TECHNICAL INPUT TO THE SOUTH WILLARD WATER CO., DRINKING WATER SOURCE PROTECTION PLAN (DWSP). THIS PLAN PROVIDES THE BASIS TO PROTECT DRINKING WATER SOURCE PROTECTION ZONES AND MANAGEMENT AREAS FROM CONTAMINANTS THAT MAY HAVE AN ADVERSE EFFECT ON THE HEALTH OF PERSONS RESIDING IN THE SOUTH WILLARD AREA. A SOURCE PROTECTION PLAN IS REQUIRED OF ALL PUBLIC WATER SYSTEMS.

THE PRINCIPLE EFFORTS OF THE STATE WATER ENGINEER WILL BE DELINEATION STUDIES ON BOTH WELLS OF SOUTH WILLARD WATER CO. TO INCLUDE: GEOLOGIC DATA, AQUIFER TESTS, WELL AND PUMP PERFORMANCE, HYDROGEOLOGIC METHODS TO DELINEATE PROTECTION ZONES, AND A HYDROGEOLOGIC REPORT OF POTENTIAL CONTAMINATION SOURCES.

THIS STUDY IS PLANNED FOR COMPLETION BY AUGUST, 1994, WITH COORDINATION OF THE NATURAL RESOURCE PROJECTS.

ASSIGNED ENGINEER: MARK JENSEN, ENVIRONMENTAL SCIENTIST, STATE DIVISION OF DRINKING WATER.

AQUIFER STUDY:

THIS STUDY IS TO BE UNDERTAKEN BY THE STATE DIVISION OF NATURAL RESOURCES, STATE GEOLOGICAL SURVEY, IN COORDINATION WITH THE DIVISION OF DRINKING WATER.
WE ARE IN THE FINAL STAGES OF FORMAL PROJECT DEFINITION WHICH SHOULD BE COMPLETED EARLY MAY, 1994. THE PRIMARY FOCUS OF THE STUDY WILL CENTER ON WATER FLOW THROUGH THE CONFINED (OR UNCONFINED) AQUIFER TO ASSIST SOUTH WILLARD WATER CO. TO MANAGE THEIR MANAGEMENT ZONES OR MANAGEMENT AREAS.

THIS STUDY SHOULD BE COMPLETED BY AUGUST, 1994.

ASSIGNED GEOLOGIST: MIKE LOWE, STATE GEOLOGICAL SURVEY

Jeff Thorne COPY

IN THE FIRST CIRCUIT COURT, STATE OF UTAH
COUNTY OF BOX ELDER, BRIGHAM CITY DEPARTMENT

WILLARD CITY Plaintiff VS DARRELL NIELSEN dba K D SAND & GRAVEL Defendant	) *) *) *) *) *	FINDINGS OF FACT CONCLUSIONS OF LAW AND JUDGMENT OF ACQUITTAL Case # 916000240 MC

In this case the defendant has been charged with three (3) counts of violation of Willard City Ordinance # 12-300-1-01. This ordinance regulates the hours and days of operation of the defendant's gravel pit operation and applies to all excavations.

The court finds that the defendant did operate said pit outside the limits of the ordinance on all three counts. Therefore, the Court must consider the defendant's defense based on the claim that the ordinance violated the police powers of the city in limiting hours of operation and days of operation.

The court must first determine the objectives of the ordinance and whether the limitation of hours and days was a reasonable basis for promoting those objectives.

The court finds the objectives were to control:

1. Excessive noise
2. Excessive dust
3. Excessive traffic within the city.

The court finds that all of the above objectives are proper for the city under the police powers. The next question is: Was the limitation of hours and days of operation of gravel pits and

commerical excavations a reasonable classification of probable source of excessive noise, dust or traffic?

There was a lack of any evidence that such problems were existing with the defendant's pit operation or any other similar pit operation at the time the ordinance was passed.

The court finds the defendant's pit under regular operation does not produce excessive noise, dust, or traffic.

The court finds that Darrell Nielsen is one of the owners of K & D Sand & Gravel. K & D Sand and Gravel is a rock and gravel extraction business which is situated completely within the corporate limits of Willard City. Ingress and egress to the K & D Sand Gravel Pit is obtained by traveling on a private haul road connecting to U.S. Highway 89-90. This private haul road is not owned by Willard City nor maintained by Willard City, nor does the roadway have any home adjoining it. The roadway is a hard surfaced asphalt road.

The loudest noise created from the gravel pit operations was caused by the gravel trucks' use of the Jacob brake as the loaded gravel trucks leave the pit and go down the haul road towards Highway 89-91. At one location a home owned by Craig Toone is approximately 150 feet south of a fence line south of a fence line south of a creek bed adjacent to the haul road. The noise level at the home would be 41 to 53 dBA. This noise level would last from 50 to 60 seconds. This noise level is substantially less (by 15 dBA) than any reconized noise levels prohibited by federal, state or local governments. The noise from the trucks driving on the haul road from the K.D. Pit is

substantially less than the noise emanating from Highway 89-91.

The court finds that the maximum number of trucks which could be loaded at K & D Sand & Gravel Pit would be ten per hour (one every six (6) minutes). If one were to assume that themaximum capabilities at the gravel pit would continue at ten trucks each hour, the trucks' noise from the gravel pit would only increase the highway noise one Leq. Thus, the noise from K & D Gravel Pit trucks would be negligible compared to the noise which is created by the existing volume of traffic on Highway 89-91 through Willard City.

The court finds that there are no conditions produced by conceivable operations at the gravel pit that result in noise impacts exceeding any recognized noise standards or regulations. In particular, the conditions along Highway 89 exceed anything attributable to the gravel pit trucking by at least 15 decibels. The K & D Pit gravel operation and truck traffic do not contribute in any significant manner whatsoever to the volume of traffic or noise emanating from the existing traffic on Highway 89-91.

The State of Utah Department of Enviornmental Quality Division of Air Quality monitored dust emissions in the Willard area for the months of July, August, and September, 1990. The national and state standards prohibit emissions greater than 150 micrograms per cubic meter. The highest measured values during this time frame were 10 micrograms per cubic meter in July, 37 in August and 27 in September, 1990. The K & D Sand & Gravel Pit was in operation during this period of time, as were several other

gravel pits in the area, The court finds that there was no dust problems created by the K & D Pit or by any other gravel pits in the area.

All gravel pits within the Brigham City, Perry and Willard areas compete in the same markets for sales. The Parson Gravel Pit in South Willard and the Fife Pit east of Willard located within county jurisdiction have no hours of operations, nor does the gravel pit in Perry, Utah. The court finds the hours of operation on the Willard gravel pits places those owners in a competitive disadvantage in the market, in that most gravel is hauled during the construction months of the summer and in order to meet large projects, it is often necessary to haul gravel longer than the 11 hour days permitted by Willard's ordinance. The restriction of hours of operation on the pits located within the Willard area creates a substantial economic disadvantage to those owners as compared to permits which do not have restricted hours of operation.

In bidding on contracts a supplier has to know he has a firm agreement and that he can get the gravel to the site in a timely manner. Willard City, by restricting hours of operation, effectively prohibited Darrell Nielsen from furnishing gravel on large construction projects.

Conclusion:

The Court finds that the attempt to control excessive

noise, dust, and traffic by setting time limits on operations of gravel pits was too remote from the probability of reaching itsobjective to be found reasonable. Therefore, that portion of the ordinance limiting hours and days of operation, Section F, is held to be unconstitutional.

Defendant is found not guilty on all three counts.

Dated this December 14, 1992.

Robert W. Daines, Judge

Case No: 916000240 MC

Certificate of Mailing

I certify that on the 11th day of December, 1992, I sent by first class mail a true and correct copy of the attached document to the following:

JEFF THORNE
Atty for Defendant
98 NORTH MAIN
BRIGHAM CITY UT 84302

JACK MOLGARD
Atty for Plaintiff
P.O. BOX 461
BRIGHAM CITY UT 84302

Circuit Court Clerk

By: Elizabeth McCarley
Deputy Clerk

State of Utah
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF DRINKING WATER

Michael O. Leavitt
Governor
Dianne R. Nielson, Ph.D.
Executive Director
Kevin W. Brown
Director

150 North 1950 West
P.O. Box 144830
Salt Lake City, Utah 84114-4830
(801) 536-4200
(801) 536-4211 Fax

Fay Facer

15 March 1994

Mr. Bob Williams, President
South Willard Water Company
P.O. Box 82
Willard, Utah 84340

Dear Mr. Williams:

It was good to meet with you, Arv Fackrell, Fay Facer, and the operations manager for the gravel pit on Tuesday, 8 March 1994. It was also very good to see your new well and other parts of your water system. I came to South Willard at the request of Arv Fackrell to make a preliminary assessment of your Drinking Water Source Protection zones and the potential for ground-water contamination from a gravel pit near your new well near the storage tanks.

Based on this preliminary assessment, the gravel pit located south and southeast of the new well does not appear to be a cause of contamination to the new well at the present time. However, as the gravel pit expands closer to and more uphill from your well, the potential to impact the well and surrounding ground water will increase. This preliminary assessment only addresses the ground-water in the area of your new well, and no attempt was made to address other environmental concerns near the gravel pit. Mr. Fackrell stated that some residents had complained about the drinking water during the last few months, but he was not aware of any laboratory data to support the complaints. The South Willard Water Company was in violation of State Drinking Water rules in February for bacteriologic samples; however, Mr. Fackrell believes this may be due to sampling errors.

Although there does not appear to be an impact from the gravel pit on your new well at the present time, I recommend that The South Willard Water Company and Jack B Parsons Companies continue to work together to protect the ground water serving your wells. With this letter I have enclosed a list of potential contamination sources and guidelines for conducting a source inventory. Some activities in gravel pit operations which could cause ground-water contamination include washing gravel, oil changing or spilling from machinery, using oil or diesel fuel to control dust on roadways, asphalt chemicals leaching into the ground water,

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location of the pit in the ground-water recharge area and in the potential recharge area for your wells, and the possibility of faults running beneath the gravel pit and near the well. Many of these activities can be controlled or eliminated in order to reduce the potential for ground-water contamination.

Please call me at 536-4199 if you have any questions about this letter or about the Drinking Water Source Protection Program.

Sincerely,

Mark E. Jensen

Mark E. Jensen
Environmental Scientist
Division of Drinking Water

MEJ

Enclosure

cc: R. Fay Facer, Jack B Parson Companies

BEAR RIVER HEALTH DEPARTMENT
655 East 1300 North • Logan, Utah 84321
Phone: (801) 752-3730
Fax: (801) 750-0396

Fay Facer

March 28, 1994

Mr. Stanley Parkin
7985 South Hwy. 89
South Willard, Utah 84340

RE: Asphalt samples taken at Parson's South Willard gravel pit

Dear Mr. Parkin:

As promised, I am sending copies of the lab reports on the asphalt samples I took from the Parson pit on February 15, 1994. The results show that the contaminants tested for are well below any regulatory levels. Therefore, no further action will be taken.

I do not feel that the quantity of material that was stored at the Parson pit would have any adverse effect on your well. It was stored well outside the 1500 foot zone of protection required for shallow (less than 100 feet deep) public water supplies.

If you have any questions regarding this matter, please contact me at (801) 753-5135.

Sincerely,

Keith J. Larsen, R.S.
Environmental Health

sm

cc: Fay Facer, Jack B. Parson Company
Ralph Bohn, Section Chief, State Dept. of Solid Waste

817 West 950 South
Brigham City, Utah 84302
Phone: 734-0845
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125 South First West
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