

IRON COUNTY, UTAH
82 North 100 East, Suite # 102
Cedar City, Utah 84720

– CONDITIONAL USE PERMIT – *draft 6mar25*

Date: March 6, 2025

APN: BLM Leased Property

The Applicant, **Progressive Contracting Inc.**, has duly submitted a request for a Conditional Use Permit for **Surface Mining**, to the Iron County Planning Commission. The Iron County Planning Commission having reviewed, discussed, and voted on the Conditional Use Permit application as submitted by the Applicant and having determined that the applicable ordinances and statutes have been complied with and that good cause exists for granting a Conditional Use Permit.

Now therefore, the Iron County Planning Commission does hereby grant the Applicant a Conditional Use Permit as related to certain real property described herein:

Approximately 200.0 acres addressed near 12000 N Modena Canyon Rd, Beryl, UT - within the NW¼ SW¼; NE¼ SW¼; SW¼ SW¼; SE¼ SW¼ Section 14, and NW¼ NW¼ Section 23, T33S, R19W, SLB&M, Iron County, UT (BLM Property w/ no APNs).

All of said property being located in Iron County, State of Utah, and said Conditional Use Permit being granted for the use of “Surface Mining” – Pozzolan Mining/Facilities (Project), in the zone presently classified as A-20 (Agriculture 20 Acres), and said Conditional Use Permit granted subject to the following terms, provisions, and conditions, to wit:

1. **Authorization.** This permit authorizes development (construction and operation) of the project described in the application as “Modena Canyon Mine – surface mining of pozzolan materials” and “excavation, crushing and screening the raw product, including transporting said product in and out of the Project property” as located and shown on the site plan/application, together with all materials and appurtenances identified in the application, forms, and maps as submitted, and hereby become part of this Conditional Use Permit. The surface mining operation is anticipated to occur on approximately 200.0 acres identified herein, with stock piles, crushing, fuel tanks, equipment and construction trailer permitted on site. Crushers, screening plant, scales and necessary equipment are hereby permitted to process and sell the material, including a small portable trailer for use as a scale house. Porta-potty’s are authorized for sanitation.
2. **Compliance.** Applicant shall comply with all applicable Federal, State, and Iron County, Utah, laws, rules, and regulations related to the operation of a Surface Mining Site/Facility, including the land use permits from BLM for Project activities, Utah Division of Oil, Gas & Mining, Department of Environmental Quality (Air Quality and Water Quality Divisions) and MSHA. The Applicant must obtain a valid permit from the State of Utah’s Division of Oil, Gas and Mining and will be subject to compliance with all requirements of that permit. Applicant must provide the Zoning Administrator a copy of these permit, as applicable.

3. **Liability.** The Applicant hereby agrees to bear all liability from the project operations and project area and to notify any affected property owner of adjacent property or easement holder of any adverse impact to such surrounding properties. Applicant shall protect the ground water. All storage tanks shall be located at or above the original ground level and potentially hazardous materials shall be stored in State approved containers.
4. **Mining Practices.** Applicant shall place a berm around any fuel storage areas and keep the slopes of banks for piles and storage in a safe condition during operations and storage phase of the Project. As part of the reclamation and restoration, the site shall be restored and contoured as directed by Utah Oil Gas & Mining, BLM, MSHA and OSHA, as appropriate. Proper mine boundary markers, signs or fencing shall be maintained around the mining areas for safety and identification purposes.
5. **Set Backs.** Petitioners shall maintain surface operations an adequate distance from adjacent properties to prevent damage to adjacent properties, which properties include but are not limited to, fences, ditches, irrigation systems, roads, easements, rights-of-way, and utilities. In no case shall the banks, berms or storage materials be closer than twenty (20) feet from any adjacent properties. Except for the main ingress/egress Project road, the designated setback for any Project activity shall be the greater of either two hundred (200) feet from the Modena Canyon Road and one hundred (100) feet east from the east edge of the unique geological formations within the north six hundred (600) feet of the Project area.
6. **Hours of Operation.** The Applicant shall have no Project associated hauling, trucking or transportation connected activities outside of the Project property between the hours of 7:00 PM and 7:00 AM. Occasional hauling between 7:00 PM and 7:00 AM must be considered rare and infrequent. Project operations within the Project area may occur without time or hour restrictions.
7. **Ownership/Lease.** The Applicant shall provide County Staff with notice of any change in ownership or lease and give notice to any new owners/operators/leasees of the Conditional Use Permit.
8. **Reclamation.** Applicant shall provide a plan of reclamation for the disturbed area to be approved by Iron County and the Utah Division of Oil, Gas & Mining, in accordance with the property lease agreement. Reclamation plans shall include the plan to establish vegetation where materials have been removed. The Project reclamation area must be stabilized as needed to prevent the blowing of excess dust and dirt and to minimize erosion. Furthermore, any components that are abandoned or unused for more than two years shall constitute a public nuisance, subject to abatement at the expense of the Applicant. Failure to abate such nuisance after 30 day notice to do so shall authorize the County to remove the components at the Applicant's expense.
9. **County Road Ingress/Egress.** Applicant shall coordinate with the Iron County Engineer any requirements for encroachment in the public right-of-way (Modena Canyon Road). Applicant shall maintain a method to minimize track out of earthen materials onto any public road. Applicant is subject to the “Memorandum of Understanding for Road Maintenance” between Iron County and PCI Contruction Inc., previously executed (December 18, 2024). Trucks hauling product from the Project shall not exceed forty (40) per day.

10. **Dust Plan.** Applicant shall submit an acceptable onsite dust plan for construction and Project operations to the Iron County Building/Zoning Department, incorporating an on-site water truck to keep haul roads, parking areas, materials extraction and internal roads from generating dust that could be blown or drift onto adjacent properties. Applicant shall be proactive in responding to any potential dust problems.
11. **Lighting.** All outside and security lighting shall be temporary and of a type, height, and design to direct lighting downward, shielding, to the greatest extent practical and directed away from adjoining properties. Minimal lighting is desired to preserve the ‘night sky’ effect.
12. **Grading and Hydrology.** An acceptable grading and storm drainage plan, detailing run off, erosion control, contaminants potential, culverts, retention/detention basins, etc., as necessary, shall be prepared and submitted to the Iron County Building Department and the Iron County Engineer.
13. **Refuse Collection/Solid Waste.** The storage, collection, and disposal of solid waste shall be accomplished so as to prevent fire and health hazards, rodent harborage, insect breeding, accidents and odor. Approved solid waste containers shall be located and utilized according to Iron County Solid Waste requirements. Collection areas shall be screened with a view-obscuring fence or landscape and properly identified. Additional trash receptacles should be placed in strategic locations closer to lodging and recreational use areas.
14. **Vegetation Removal.** In order to minimize fugitive dust and unnecessary soil erosion, Applicant should limit the removal of existing vegetation to only that necessary to construct accommodations permitted herein. Applicant should exercise all care to preserve existing vegetation. Fugitive dust impacts from the Project site shall be closely monitored during Project activities and dust control methods shall be utilized as necessary to minimize fugitive dust from the Project site.
15. **Agreement.** All of the application, forms, and maps as submitted are part of the CUP. By signing this Conditional Use Permit, the applicants agree to adhere to the conditions contained herein.
16. **Recording.** This Conditional Use Permit shall be signed by the Applicant and recorded with the Office of the Iron County Recorder in a form required by that office. This CUP is not considered in effect until all required plans and permits are submitted and approved, and a recorded copy of the CUP is returned to the Iron County Building/Zoning Department.
17. **Transferability.** This CUP runs with the property described herein and is non-transferable to any other location.
18. **Acknowledgement.** Applicant hereby acknowledges and agrees that the existing uses of neighboring properties include agricultural, recreational and residential uses and that these and other uses may have associated noise, odors, access, grazing, blowing debris and other incidental impacts commensurate with the normal operation of these uses. Applicant recognizes and understands the “coming to the nuisance” doctrine and hereby agrees to hold harmless Iron County and neighboring property owners in the continued and future prudent exercise of these uses and for those uses permitted for the zoning districts as they currently exist.