



*****SPECIAL MEETING*****

11:30 a.m.

Call to order

Review and approval of agenda.

11:30 a.m.

Regular Action Items

- 1. Benson Canal Enclosure Project Conditional Use Permit** – A request for approval of a Conditional Use Permit to install and operate a utility facility for a water distribution line. The proposed utility facility will replace open canals with an underground pressurized irrigation pipeline for the Benson Irrigation Company. The project involves multiple properties in the Agricultural (A10) zone with an approximate address of 2797 North 2400 West, Benson.

Board Member Reports

Staff reports

Adjourn

PUBLIC PARTICIPATION GUIDE: PLANNING COMMISSION

This document is intended to guide citizens who would like to participate in a public meeting by providing information about how to effectively express your opinion on a particular matter and the general powers and limitations of the Planning Commission.

WHEN SPEAKING ON AN AGENDA ITEM

Once the Commission opens the public hearing or invites the public to comment on a public meeting agenda item, approach the podium to comment. Comments are limited to 3 minutes per person, unless extended by the Chair of the Planning Commission.

When it is your turn to speak:

1. State your name and address and the organization you represent, if applicable.
2. Indicate whether you are for or against the proposal.
3. Make your statement.
 - a. Include all pertinent facts within your knowledge;
 - b. Avoid gossip, emotion, and repetition;
 - c. Comments should be addressed to the Commission and not to individuals in the audience; the Commission will not allow discussion of complaints directed at specific individuals;
 - d. A clear, concise argument should focus on those matters related to the proposal with the facts directly tied to the decision you wish the Commission to make without repeating yourself or others who have spoken prior to your statement.

LEGISLATIVE (PUBLIC HEARING) VS. ADMINISTRATIVE (PUBLIC MEETING) FUNCTIONS

The Planning Commission has two roles: as a recommending body for items that proceed to the County Council for final action (legislative) and as a land use authority for other items that do not proceed to the County Council (administrative).

When acting in their legislative capacity, the Planning Commission has broad discretion in what their recommendation to the County Council will be and conducts a public hearing to listen to the public's opinion on the request before forwarding the item to the County Council for the final decision. Applications in this category include: Rezones & Ordinance Amendments.

When acting in their administrative capacity, the Planning Commission has little discretion and must determine whether or not the landowner's application complies with the County Code. If the application complies with the Code, the Commission must approve it regardless of their personal opinions. The Commission considers these applications during a public meeting and can decide whether to invite comment from the public, but, since it is an administrative action not a legislative one, they are not required to open it to public comment. Applications in this category include: Conditional Use Permits, Subdivisions, & Subdivision Amendments.

LIMITS OF JURISDICTION

The Planning Commission reviews land use applications for compliance with the ordinances of the County Land Use Code. Issues related to water quality, air quality, and the like are within the jurisdiction of the State and Federal government. The Commission does not have authority to alter, change, or otherwise act on issues outside of the County Land Use Code.

STAFF REPORT: BENSON CANAL ENCLOSURE PROJECT CUP

19 November 2018

This staff report is an analysis of the application based on adopted county documents, standard county development practices, and available information. The report is to be used to review and consider the merits of the application. Additional information may be provided that supplements or amends this staff report.

Agent: Brad Bearson

Parcel ID#: Multiple (Attachment A)

Staff Determination: Approval with conditions

Type of Action: Administrative

Land Use Authority: Planning Commission

PROJECT LOCATION

Reviewed by Angie Zetterquist

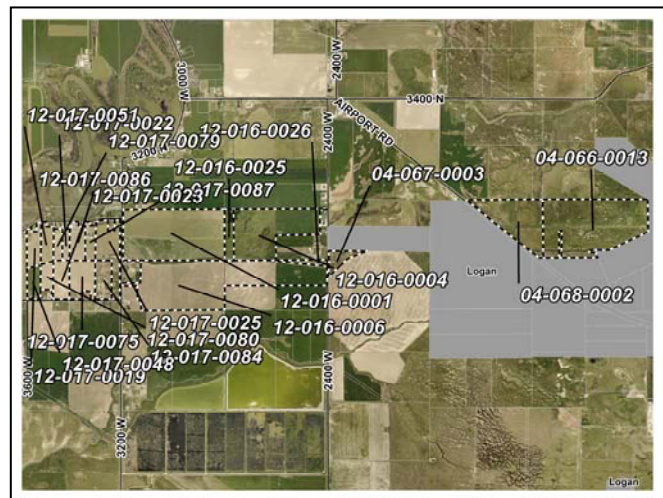
Project Address:

Benson Canal
~2797 North 2400 West, Benson

Current Zoning: Agricultural (A10) **Acres:** 382.63

Surrounding Uses:

North – Agricultural/Residential
South – Agricultural/Residential/Logan City
East – Agricultural/Residential/Logan City
West – Agricultural/Residential/Logan City



FINDINGS OF FACT (30)

A. Request description

1. The Benson Canal Enclosure Project Conditional Use Permit (CUP) is a request to replace existing open irrigation canals with an underground pressurized irrigation pipeline for the Benson Irrigation Company ("the project"). The project will replace approximately 10.4 miles of open canal with 11.5 miles of pipeline and includes the construction of a pond and a centralized pumping station.
2. As per the definition of the proposed use type, 5610 Utility Facility, Distribution, Water Transmission Line, the CUP request only applies to the portions of the proposed irrigation pipeline with a diameter greater than 18-inches.

3. The application was submitted with recorded easements, including one notice of prescriptive easement, for each of the parcels included under this CUP request in lieu of an agent letter signed by each property owner.
4. In an effort to expedite the CUP application per the applicant's request, the Development Services Office contracted with J-U-B Engineers, Inc. (JUB) to review materials submitted with the application packet. Materials reviewed by JUB include design specifications for the construction work. The applicant's engineering team, Franson Civil Engineers, has been working closely with JUB to address comments and concerns related to the submitted materials. (Attachment A) *See condition #1*
5. The project is described in the applicant's Letter of Intent (Attachment B) and an Environmental Assessment (EA) completed by the U.S. Department of the Interior, Bureau of Reclamation, Provo Area Office (PRO-EA-18-002). The EA was prepared as the project is seeking federal funding.
 - a. The Benson Irrigation Company (BIC) is a nonprofit that was established in the mid-1800's to provide water to agricultural users in the Benson area. Currently, there are 65 shareholders irrigating approximately 2,496 acres. Sources for the irrigation water include diversions from Logan River and supplemental water purchased from Logan City.
 - b. According to the EA, a study done by Utah State University in 2008 found that the BIC open canal system is experiencing a 37% water loss annually due to seepage in the canals. The project is anticipated to increase efficiencies resulting in retention of 2,130 acre feet of water each year that was lost from seepage and evaporation. In addition to minimizing this loss of water each year, the project includes the following stated purposes:
 - i. Reduce impact of periodic droughts;
 - ii. Conserve energy from reduction in pumping by individuals;
 - iii. Reduce need to purchase additional water from Logan City;
 - iv. Reduce reliance on other canal companies; and
 - v. Improve water quality in the Middle Bear River and Cutler Reservoir by reducing irrigation runoff containing excess fertilizer.
 - c. The EA evaluated alternatives to the pipeline including lining the existing canals or installing a gravity pipeline. However, both alternatives were eliminated as they did not meet the stated purposes or needs of the project.
 - d. New Construction
 - i. As stated above, 10.4 miles of open irrigation canals will be replaced with 11.5 miles of pipeline. The pipeline will be constructed with polyvinyl chloride pipe (PVC) with a pipe diameter ranging from 6-to-27 inches. The pipeline will be a large loop system with a combined flow capacity of 25 cubic feet per second.
 - ii. To pressurize the system, a pond and centralized pumping station will be constructed on parcel #04-066-0014, located within the Logan City boundary. Under the current system, shareholders who sprinkle-irrigate individually pump water out of the canals to provide adequate pressure to operate their sprinklers. The proposed centralized pumping station will pressurize the whole canal system replacing the individual pumps. This will reduce costs for the individual farmers and encourage shareholders who flood-irrigate to switch to the higher efficiency sprinkler irrigation method.
 - iii. Per the EA, the construction schedule could be completed by Fall 2019 based on a Fall 2018 start. There will be six equipment and material storage staging areas along the pipeline route to facilitate construction. Staging areas have been selected to minimize disturbances to soil and vegetation. The construction schedule includes the full scope from clearing, grading, and excavating the pipeline construction corridor to clean up

and installing plants for soil stabilization. Construction is primarily planned for the winter months to allow for disturbed ground to be revegetated in the spring. *See condition #2*

e. Operation

- i. The operation is an unmanned utility facility and, based on the EA, operation of the BIC's pipeline system would remain essentially unchanged but maintenance will be reduced significantly. Operation of the pipeline for agricultural use would occur from about April 15 to October 15 annually. In the fall, irrigation turnouts and the pipelines would be designed to drain every fall to prevent freezing. Then in the spring, each turnout would be inspected for leaks or other needed repairs when the system is turned on. Maintenance on the pond will include annual spring inspections including rodent control, bank stability, and the outlet works and pump station.
 - ii. Existing open canals that are being abandoned will remain open to handle storm water.
6. The proponent has been conducting outreach since March 2017 when it was discussed at the annual shareholder meeting of the Benson Irrigation Company. In addition, a public meeting was held on March 8, 2018, with approximately 150 attendees including individual shareholders and members of the surrounding agricultural and residential communities. When the draft EA was completed, an open house was held on August 21, 2018, and a 14-day comment period was conducted.
7. Any expansion or modification of the proposed use must obtain the approval of the Land Use Authority. *See condition #3*

B. Conditional Uses *See conclusion #1*

8. §17.06.050-B, Conditional Uses, directs the Land Use Authority to review conditional use permit (CUP) requests based on the standards and criteria that are defined therein and include:
 - a. Compliance with law;
 - b. Health, safety, and welfare;
 - c. Adequate service provision;
 - d. Impacts and mitigation.

C. Compliance with law *See conclusion #1*

9. The County Land Use Ordinance stipulates that:
 - a. The proposed conditional use must comply with the regulations and conditions specified in the County Code and other applicable agency standards for such use.
 - b. The proposed conditional use must be consistent with the intent, function, and policies of the Cache County General Plan, Ordinance(s), and land use, and/or compatible with existing uses in the immediate vicinity.
10. §17.02.060, Establishment of Land Use Authority, authorizes the Planning Commission to act as a Land Use Authority for a CUP. *See conclusion #2*
11. The parcels located in unincorporated county and included as part of CUP request have been determined to be potentially legal based on a preliminary parcel review and were found to be in the same configuration as of August 8, 2006, except as follows:
 - a. 04-066-0013 & 04-068-0002: Configuration changed after August 8, 2006, due to boundary line adjustments in August 2008. The boundary line adjustments do not impact legality.
 - b. 12-016-0025: Boundary line adjustments in March 2013 and July 2016 changed the August 8, 2006, configuration, but do not impact the parcel's legality.
 - c. 12-017-0051 & 12-017-0080: Parcel 12-017-0051 was divided without land use authority in December 2006 to create 12-017-0080. The parcels are restricted. However, even though the division was done without land use authority, §16.02.030 allows for agricultural

divisions without land use approval in conformance with state law so long as the parcel will not be used for any nonagricultural purpose. Additionally, parcels divided under this section of code may obtain clearance for agricultural structures, but will require a legal subdivision for non-agricultural development such as residential or commercial. The proposed irrigation pipeline is an agricultural development and the restricted status of the parcels will not impact the project.

12. §17.07.030, Use Related Definitions. The proposed use is best defined under “Use Type 5610, Utility Facility, Distribution, Water Transmission Line”. Per the definition in §17.07, Utility Facility, Distribution is a general term for uses including a water/waste water transmission line, which is defined as a transmission line for water (culinary or irrigation water) or wastewater greater than 18” in diameter. This type of use is not required to comply with the minimum lot size requirement for the district in which it is located.
13. §17.09.030, Schedule of Uses by Zoning District, permits this use as a CUP in the Agricultural (A10) Zone if reviewed and approved in accordance with the conditional use review procedures of §17.06 Uses as noted.

D. Health, safety, and welfare *See conclusion #1*

14. The County Land Use Ordinance stipulates that:
 - a. Proposed CUP uses must not be detrimental to the public health, safety and welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. A conditional use shall be considered detrimental if:
 - i. It causes unreasonable risks to the safety of persons or property because of vehicular traffic or parking, or other similar risks, and/or;
 - ii. It unreasonably interferes with the lawful use of surrounding property.
15. The primary activities as identified within the Benson Canal Enclosure Project CUP Letter of Intent and EA are proposed to only occur on the subject parcels and will not cause unreasonable risks to the safety of persons or property and it does not unreasonably interfere with the lawful use of surrounding properties.
 - a. Based on the information submitted by the applicant, the proposed pipeline improvements located on private property within unincorporated county do not require approval of a zoning clearance or building permits. Should the plans change, or for structures proposed on private property within unincorporated county, approval of a zoning clearance and building permits will be required to ensure compliance with the applicable codes. *See condition #4*

E. Adequate service provision *See conclusion #1*

16. The County Land Use Ordinance stipulates that:
 - a. The proposed conditional use must not result in a situation that creates a need for essential services that cannot be reasonably met by local service providers, including but not limited to: Roads and year round access for emergency vehicles and residents, fire protection, law enforcement protection, schools and school busing, potable water, septic/sewer, storm water drainage, and garbage removal.
17. Access: The applicant has provided documentation of easements for each of the impacted properties under this CUP request. Further, access to those subject properties will be from 2400 West and 3200 West, both county roads, and Airport Road, which has portions in both the County and in Logan City. The impacted county roads receive maintenance.
 - a. §12.02.010 Roadway Standards – Requirements for roadway improvement are provided in the current Manual of Roadway Design and Construction Standards (Road Manual).

18. The Road Manual specifies the following:
 - a. §2.4-A-1-c-iii – Unmanned utility facilities are exempt from meeting roadway standards. *See conclusion #3*
19. The project scope will involve work on multiple County roads and within county rights-of-way. Prior to construction on county roads or within county rights-of-way, the applicant must obtain approval of the necessary Encroachment Permits, which are reviewed and approved by the County Engineer. Construction within the county right-of-ways will require MUTCD compliant traffic control plans as required by the County Engineer. *See condition #5*
20. Parking:
 - a. §17.22 Off Street Parking Standards – Uses included under Use Index 5000, Public, Institutional, and Utility Uses, require a Parking Analysis be conducted to determine the required number of parking spaces needed. However, under §17.22.020 [C], use type 5610 Utility Facility, Distribution, is exempt from the parking analysis requirement. *See conclusion #3*
 - b. Parking needs for this project will be limited to the construction period and occur on private property or along county roads. During construction, the applicant must ensure that construction vehicles do not impede traffic on county roads. *See condition #6*
 - c. After construction, the applicant indicated that there will be no parking needs as there are no employees regularly onsite; employee visits will occur during site maintenance.
21. Refuse:
 - a. Any refuse generated on site during construction will be removed by the employees. Logan Environmental had no comments on this request.
22. Fire: §16.04.080 [C] Fire Control – The County Fire District did not have concerns or comments on the project.

F. Impacts and mitigation *See conclusion #1*

23. Utah Code Annotated §17-27a-506, Conditional uses, item 2-a specifies that “A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.”
24. The County Land Use Ordinance stipulates that:
 - a. Reasonably anticipated detrimental effects of the proposed conditional use must be substantially mitigated by the proposal or by the imposition of reasonable conditions to achieve compliance with applicable standards.
 - b. Examples of potential negative impacts include but are not limited to odor, vibration, light, dust, smoke, noise, impacts on sensitive areas as defined by the Code, and/or disruption of agricultural practices.
25. Known or reasonably anticipated detrimental effects of the use are as follows:
 - a. Stormwater: Replacing open canals with an underground pipeline can have a known or reasonably anticipated detrimental effect of removing a conduit for stormwater another purpose served by the open canals. In the EA, it is stated that although the open canals will be abandoned, they will be left to accommodate stormwater and maintenance for that purpose will continue by Cache County, Logan City, and Benson.
 - b. Air Quality: During the construction period, it is anticipated that the activities will cause detrimental effects to surrounding users including dust. The EA identifies that BMP must be followed to mitigate for the temporary impacts on air quality during construction including: application of dust suppressants and watering to control fugitive dust; minimizing the extent of disturbed surfaces; and restricting earthwork during high wind periods.

- c. Reclamation/invasive species: Construction activities can introduce invasive species that can reasonably be anticipated to have a detrimental effect on the surrounding properties. The EA requires that appropriate steps be taken to prevent the spread of undesirable plants and animals within areas affected by construction activities including: equipment inspection and decontamination and use of certified “noxious weed free” seed for restoration and reclamation. Applicant must work with the County Weed Control Department on a noxious weed control plan. *See condition #7*
- d. Sensitive Areas: The parcels proposed as part of the CUP request contain the following sensitive areas as recognized by the County. Additional sensitive areas have been analyzed as part of the Environmental Assessment provided by the U.S. Department of the Interior, Reclamation Bureau (EA). The sensitive areas as recognized by the County are as follows:
 - i. Wetlands: Areas of wetlands are shown on the County’s GIS map on parcels located within the CUP request area. The EA also recognized the potential presence of wetlands and had a wetland delineation study conducted as part of the EA which confirmed three wetlands within the project area. The study was conducted by Canyon Environmental LLC with the report issued June 6, 2018, and is attached as Appendix C of the EA. The proponent must comply with the recommendations and conclusions of the delineation study and obtain any necessary approvals from the Army Corps of Engineers. *See condition #8*
 - ii. Cultural Resources: In the EA, the Benson Canal system itself has been identified as a potential cultural resource (Site 42CA143). Cultural resources are defined as physical or other expressions of human activity or occupation that are over 50 years in age. Based on the findings in the EA, the project will have an adverse effect on the identified historic site. The State Historic Preservation Office (SHPO) agreed with the determination on July 16, 2018. Consequently, a Memorandum of Agreement (MOA) between the SHPO and the proponent is required to address and minimize adverse effects of the project. The MOA must be executed prior to project implementation. *See condition #9*
 - iii. Portions of the project are located adjacent to an Agriculture Protection area.
 - iv. The proponent must comply with all requirements identified in the EA addressing additional sensitive areas identified as part of that analysis. *See condition #10*

G. Public Notice and Comment—§17.02.040 Notice of Meetings

- 26. Public notice was posted online to the Utah Public Notice Website on 7 November 2018.
- 27. Notice was published in the Herald Journal on 10 November 2018.
- 28. Notices were posted in three public places on 7 November 2018.
- 29. Notices were mailed to all property owners within 300 feet and cities within 1-mile of the subject property on 8 November 2018.
- 30. At this time, no written public comment regarding this proposal has been received by the Development Services Office.

CONDITIONS (11)

These conditions are based on the Cache County Land Use Ordinance and on the findings of fact as noted herein:

- 1. All comments and conditions of JUB’s review are included as conditions of approval. *See A-4*
- 2. Equipment and material storage staging areas are not permitted on public rights-of-way or on county owned property. *See A-5-d-iii*

3. The applicant shall operate the utility facility in accordance with the Letter of Intent and Environmental Assessment provided and any expansion or modification of the proposed use must obtain the approval of the Land Use Authority. *See A-7*
4. The applicant must obtain the required zoning clearances and building permits for proposed structures prior to construction. A Land Disturbance Permit is required for any future development. *See D-15-a*
5. The applicant must obtain the required encroachment permits for work on county roads or within county rights-of-way prior to construction. *See E-19*
6. Construction or maintenance vehicles parked along County roads must not impede or block traffic. *See E-20-b*
7. Prior to recording the permit a noxious weed control plan must be provided for the review and approval of the County Weed Department and must be approved. The seed mix to be used for reclamation must be approved by the County Weed Department prior to application of the mix. *See F-25-c*
8. The applicant must comply with the recommendations and conclusions contained in the Wetland Delineation Study, dated June 6, 2018, included as Appendix C in the Environmental Assessment and obtain any necessary approvals and permits from the Army Corps of Engineers. A copy of any required approvals or permits must be provided to the Development Services Office. *See F-25-d-i*
9. As an identified cultural resource, the applicant must execute and comply with the requirements of the Memorandum of Agreement with the State Historic Preservation Office. A copy of the MOA must be provided to the Development Services Office. *See F-25-d-ii*
10. The applicant must comply with all regulations of the State and Federal governments for reclamation, wetlands, cultural resources, et cetera, and submit a copy of any required permitting to the Development Services Office.
11. Prior to recordation, a copy of the Storm Water Pollution Prevention Plan (SWPPP) Notice of Intent for the affected areas must be provided to Development Services Department.

CONCLUSIONS (3)

Based on the findings of fact and conditions noted herein, the Benson Canal Enclosure Project CUP is hereby approved as follows:

1. It has been reviewed by the Planning Commission in conformance with, and meets the requirements of, the Cache County Land Use Ordinance, and; *See B,C, D, E, F*
2. As per §17.02.060, Establishment of Land Use Authority, the Planning Commission is authorized to act as the Land Use Authority for this CUP request. *See C-10*
3. As per §2.4-A-1-c-iii, unmanned utility facilities are exempt from meeting roadway standards, and, as per §17.22.020-C-2, are also exempt from parking standards. *See E-18, E-20-a*

**BENSON CANAL ENCLOSURE PROJECT CONDITIONAL USE PERMIT
PARCELS WITHIN UNINCORPORATED CACHE COUNTY**

- 04-066-0013
- 04-067-0003
- 04-068-0002
- 12-016-0001
- 12-016-0004
- 12-016-0006
- 12-016-0025
- 12-016-0026
- 12-017-0019
- 12-017-0022
- 12-017-0023
- 12-017-0025
- 12-017-0048
- 12-017-0051
- 12-017-0075
- 12-017-0079
- 12-017-0080
- 12-017-0084
- 12-017-0086
- 12-017-0087

LETTER OF INTENT – CONDITIONAL USE PERMIT

BENSON CANAL ENCLOSURE PROJECT.

Listed below are the details for the proposed Pressurized Irrigation System. Also incorporated in this filing is an Environmental Assessment which details the project, including all alternatives.

1. Explain your request in detail.

- a. The proposed irrigation system will replace the open canal that has historically been used to deliver irrigation water to shareholders of the Benson Irrigation Company with a pressurized, underground system of pipe. The benefits of this improvement are numerous: this improvement will improve the aesthetics and usability of the farmland by transforming a previously existing open irrigation ditch with an underground pipeline; will prevent water loss through evaporation, leakage from the ditch, and improper diversion; and allow the delivery of pressurized water rather than requiring shareholders to have pumps at each point of diversion to pressurize irrigation water. The pipeline will be 30 inches below the surface, and will vary in diameter from 21 inches to 27 inches.
- b. There are no employees that will be required to maintain this project.
- c. The project will be operating 24 hours a day, 7 days a week.
- d. This project requires no anticipated employee or customer traffic, requires no parking, and will not send or receive deliveries.
- e. There will be no signage posted as a result of the project.
- f. The equipment needed for the operation of this project is the installed pipeline and any valves that may be required for diversion or for emergency shutoff. General construction vehicles and equipment will be used during the course of installation of the project, and potentially during the course of any repairs.
- g. No waste will be generated by the proposed use.

2. Site plan.

See attached Benson Canal Enclosure drawings and Environmental Assessment.

3. Building Elevations

No new above-ground construction is proposed.