

April 2020

Background information on the Promontory Point Landfill; the only privately owned Class I landfill facility in Utah

Information in this document has been obtained from the following sources:

- GRAMA requests with the U.S. Army Corps of Engineers and the Division of Waste Management and Radiation Control
- Review of Promontory Point Resources, LLC file at the Division of Waste Management and Radiation Control
- Court filings
- Personal conversations with public and private resources

2001- John and Charlie Young are approached by Kerry Zundel (Box Elder citizen) with a business opportunity to create a landfill on Promontory Peninsula as a way to diversify their landholdings. The landfill would not interfere with the Young's ranching operation and would essentially receive baled waste with eventual reclamation of the land so the Youngs and Chournos could continue with their grazing operation on the reclaimed and non-operational portions of the site. The Youngs would contribute 1,000 acres of their land, Sam Chournos, an adjacent Promontory landowner would also contribute 1,000 acres of land, and the package would be marketed by Zundel to Box Elder County to explore possible interest for its waste disposal. A provision in the agreement among the investors would allow the Youngs and Chournos to get their land back after 5 years if nothing becomes of the prospect. The entity is formally organized in April 2001 and called Promontory Point Land Resources, LLC. Kerry Zundel is appointed the manager.*

2003- Jay Harwood, developer and owner of Pacific West, LLC, joins with Promontory Point Land Resources LLC to form Promontory Landfill, LLC in June 2003. Harwood is appointed as the entity manager and navigates the evolution of the landfill site and formalizes the proposal package submitted to the Utah Department of Environmental Quality/Division of Solid and Hazardous Waste. *

* Information in these two paragraphs obtained from a source deemed to be reliable.

March 2004 - Utah Department of Environmental Quality/Division of Solid and Hazardous Waste grants initial Class I permit to Promontory Landfill, LLC.

2006 - 2008 – Several years pass without any progress on the landfill site evolution. Box Elder County chooses Little Mountain near Corrine for waste disposal. The Youngs attempt to get their land back in 2008 but are denied by Harwood and Zundel, because the property has been conveyed from the original entity Promontory Point Land Resources, LLC to Promontory Landfill, LLC and the Youngs do not have sufficient control of either entity to force the return of their land. *

* Information in this paragraph obtained from court filings.

2008-2009 – Harwood, as Promontory Landfill’s manager, markets landfill and permit to the Shoshone Tribe who is interested in purchasing the land for a “green waste” operation. Shoshone Tribe purchases the land and the permit from Promontory Landfill, with 1 year to pay the balance but defaults on the deal.

2010 - Harwood forms another entity, Utah Landfill & Ballast, LLC in February 2010, then as its manager purchases the property and Class I permit from the Shoshones and assumed the debt obligation to Promontory Landfill, LLC, of which Harwood is also the manager. The site becomes known as Utah Landfill & Ballast with a new partner, a relative of Kem Gardner (developer), who will provide financing and help pursue rail service for the property.

September 2011 – Class I permit renewed under the ownership of Utah Landfill & Ballast, LLC with an expiration date of 2021.

2014-2015 – Harwood markets landfill package to private investment group managed by Eric Urbani, who is interested in “green energy”. Before a deal can be finalized, Harwood conveys landfill property and Class I permit from Utah Landfill & Ballast, LLC back to Promontory Landfill, LLC to satisfy the debt obligations from the previous sale to the Shoshones. Promontory Landfill, LLC then enters into an agreement to sell landfill property and permit to Promontory Point Resources, LLC (PPR) that is owned by the parent company Allos Environmental. Eric Urbani is identified as Managing Partner of Promontory Point Resources.

2015-2017 –Between 2015 and 2017, the landfill owners submitted two permit modification requests for the existing Class I permit. The first modification changed the name from Utah Landfill & Ballast, LLC to Promontory Landfill, LLC. The second modification changed the name from Promontory Landfill, LLC to Promontory Point Landfill and changed owner/operator to Promontory Point Resources, LLC (PPR). The second modification also addressed landfill design construction and financial assurance for closure/post-closure costs. UDEQ/Division of Waste Management and Radiation Control (DWMRC) approves the second round of modifications in March 2017.

December 2015 – PPR makes application to Union Pacific RR for rail service at Promontory.

2016- 2017 - The Youngs pursue legal proceedings in an attempt to reclaim their land under the circumstances. The claims of the Youngs are denied by Utah First District Court and subsequently by the Utah Court of Appeals.

March 10, 2016 – Approval of H.J.R. 020 Joint Resolution Approving Class V Landfill for Promontory Point Resources, LLC (PPR) sponsored by Rep. Lee B. Perry (Perry,

UT) and Sen. Peter C. Knudson (Brigham City). In sub-committee meetings and on House and Senate floor voting, representations are made that the Promontory Point Landfill is an ongoing operation with good operating history despite the fact the landfill has never been operational.

September 7, 2016 – Box Elder Planning Commission approves a resolution to issue Industrial Revenue Bonds (IRB) to be used to finance the acquisition, construction and equipping of a landfill facility for Promontory Point Resources, LLC (PPR) or any related company authorizing the issuance and sale of such bonds in the principle amount of not to exceed \$35M and to mature in not more than 30 years.

October 2016 – Utah Private Activity Bond Authority (PAB) part of the Governor’s Office of Economic Development rejects PPR’s initial request for bonding authority for a Class V facility. At that time, PPR had not yet submitted its application for a Class V permit to the UDEQ/DWMRC until March 2017. PPR modifies and resubmits its request to the PAB on December 6, 2016 for Class I permit bonding. The amended application reduces the requested bond allocation for \$35M to \$16,265M. Eric Urbani, Managing Partner of Promontory Point Resources addresses the Board and indicates that the company has raised \$20M of equity from investors for the project. In a 5-4 vote by the PAB money is approved for construction of Class I landfill for an allocation of \$16.25M to be issued through tax-exempt bonds through Box Elder County. PPR is obligated to begin paying interest on those bonds in June 2018.

March 17, 2017 - Promontory Point Resources, LLC (PPR) applies for Class V permit.

May 2017 – PPR begins construction of the Class I facility footprint on the landscape. As explained by UDEQ, there are several outstanding issues that must be resolved before the landfill can begin accepting waste at the Promontory Point Landfill:

- Class I landfills are noncommercial facilities that can accept municipal solid waste, commercial waste, industrial waste, construction/demolition waste, special waste such as incinerator ash, and conditionally exempt small-quantity generator hazardous waste. A Class I permit requires that among other things, a facility meets the following conditions before it can accept waste:
 1. The facility must obtain sole contracts with local governments within Utah for waste generated within the boundaries of the local government. Each contact shall be approved by the Director of DWMRC prior to acceptance of the waste at the site.
 2. The facility must demonstrate financial assurance, meaning they have the funding to cover closure and post-closure costs.
 3. The landfill installs monitoring wells in accordance with a ground water monitoring plan to protect human health and the environment.

July 10, 2017 – DWMRC and independent contractor SC & A find deficiencies in the required *Needs Assessment Report* for the Class V permit application, including potential adverse environmental impacts from the project. Additionally, UDEQ points out that the state currently has four Class V landfills with more than 1,600 years' worth of capacity to meet industrial waste needs of the state. DWMRC requests additional information from PPR. Several negative public comments received on Class V permit application.

October 25, 2017- PPR submits a Class I permit modification request to UDEQ to relocate three down gradient monitoring wells.

December 2017- PPR submits a *Needs Assessment Report Addendum* to address deficiencies in the Class V application. Independent contractor SC& A reviews addendum.

Early 2018 – Allos Environmental, the parent company to PPR, acquires Chicago Grade Landfill in Templeton, CA and Santa Maria Transfer Station in Nipomo, CA, both serving San Luis Obispo County. Are funds generated from the sale of the bonds issued by Box Elder County as approved through the PAB process used to acquire these assets?

January 13, 2018 – Notice of Public Comment from DWMRC on Promontory Point Resources, LLC (PPR) Class I permit modification request. The major modification changes the three downgradient monitoring well locations to within 500 feet of the landfill unit boundary. (During construction on the site that began in May 2017 pre-approved locations for the downgradient wells were disturbed forcing PPR to resubmit a request for approval with a new plan to identify where those sites would be and would meet approval by DWMRC. Public comment period ends February 14, 2018.)

February 16, 2018 – Promontory Point Resources, LLC (PPR) withdraws Class V permit application until further notice.

March 1, 2018- SC&A finds that the *Needs Assessment Report Addendum* improves on the previous report but does not provide a robust market analysis, and has some remaining data gaps and therefore does not establish the need for the facility.

March 5, 2018 – Letter from PPR's counsel demanding that UDEQ remove all information related to the Class V application from its website and other online sources, cease public communications relating to the Class V application and cease finalization of reports and comments on the *Needs Assessment Report Addendum* and threatening suit if the UDEQ did not "provide adequate assurances".

August 2018 – Union Pacific RR submitted a permit application to construct a communal track rail project on Promontory Point to the U.S. Army Corps of Engineers. (ACOE). The communal track would have provided connections to the Promontory Point Landfill and another area business. However, soon after a pre-application meeting with the ACOE, where concerns about the rails connection to the landfill were expressed, UPRR withdraws its application amidst reports that Allos Environmental had backed out of the project.

December 18, 2018 – DWMRC letter to PPR requesting PPR to submit supplemental information addressing concerns from specific public comments on the Class I modification application for the relocation of the downgradient monitoring wells.

January 15, 2019 – PPR submits reply comments ostensibly addressing the concerns that members of the public raised regarding the deficiencies of the proposed groundwater monitoring system.

May 29, 2019 – DWRMC provides limited opportunity for commenters to submit surreplies responding to PPR's replies.

July 1, 2019 – FRIENDS of Great Salt Lake (FRIENDS) submits a Request for Permit Termination with DWRMC asking that PPR's permit be terminated for permit violations.

July 10, 2019 – DWRMC issues permit modification approving PPR's groundwater monitoring system.

August 6, 2019 – FRIENDS files Petition for Review challenging DWRMC's decision to approve PPR's groundwater monitoring system.

February 6, 2020 – DWRMC approves municipal waste contract between PPR and Box Elder County.

March 5, 2020 – FRIENDS files Petition for Review challenging the legality of PPR's municipal waste contract with Box Elder County.

2021- Promontory Point Resources, LLC (PPR) Class I permit up for renewal