

**SOUTH WEBER CITY COUNCIL AGENDA 2<sup>nd</sup> AMENDMENT**

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**PUBLIC NOTICE** is hereby given that the City Council of SOUTH WEBER CITY, Utah, will meet in a regular public meeting commencing at 6:00 p.m. on Tuesday, September 14, 2021 in the Council Chambers at 1600 E. South Weber Dr. You may also email [publiccomment@southwebercity.com](mailto:publiccomment@southwebercity.com) for inclusion with the minutes.

**OPEN** (Agenda items may be moved in order or sequence to meet the needs of the Council.)

1. Pledge of Allegiance: Councilman Halverson
2. Prayer: Mayor Sjoblom
3. Public Comment: Please respectfully follow these guidelines.
  - a. Individuals may speak once for 3 minutes or less: Do not remark from the audience.
  - b. State your name & address and direct comments to the entire Council (Council will not respond).

**PRESENTATIONS**

4. Youth City Council Introduced and Sworn In

**ACTION ITEMS**

5. Approval of Consent Agenda
  - a. August 17, 2021 Minutes
  - b. August 27, 2021 Minutes
  - c. August Check Register
6. Ordinance 2021-12: Internal Accessory Dwelling Units

**DISCUSSION ITEMS**

7. Code Enforcement Policy and Priorities
8. Dust Mitigation

**REPORTS**

9. New Business
10. Council & Staff
11. Adjourn

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Recorder, 1600 East South Weber Drive, South Weber, Utah 84405 (801-479-3177) at least two days prior to the meeting.

THE UNDERSIGNED DULY APPOINTED CITY RECORDER FOR THE MUNICIPALITY OF SOUTH WEBER CITY HEREBY CERTIFIES THAT A COPY OF THE FOREGOING NOTICE WAS MAILED, EMAILED, OR POSTED TO: 1. CITY OFFICE BUILDING 2. FAMILY ACTIVITY CENTER 3. CITY WEBSITE <http://southwebercity.com/> 4. UTAH PUBLIC NOTICE WEBSITE <https://www.utah.gov/pmn/index.html> 5. THE GOVERNING BODY MEMBERS 6. OTHERS ON THE AGENDA

**DATE:** 09-09-2021

**CITY RECORDER:** Lisa Smith

To: South Weber Mayor & City Council  
From: Trevor Cahoon, Community Services Director  
  
Re: Dust Mitigation

**PURPOSE**

Discussion on dust mitigation efforts, tools, and conditions.

**BACKGROUND**

In 2003 the [City](#) and the two owners of the gravel pits located in South Weber entered into a Fugitive Dust Agreement. In order to better understand the tools that are available for enforcement City Staff will review the terms and conditions within this agreement, what current mitigation efforts that are employed, dust recuperation methods already employed, and what state enforcement looks like for the dust issues that are within the City.

## RESOLUTION 2003-036 Fugitive Dust Agreement

**WHEREAS**, particulate matter is defined as tiny particles of solid or semi-solid material found in the atmosphere; and.

**WHEREAS**, prior to July 1987 the Environmental Protection Agency and The State of Utah Department of Environmental Quality - Division of Air Quality used a national primary ambient air quality standard for particulate matter equal to 265 micrograms per cubic meter - maximum 24 hour concentration not to be exceeded more than once per year; and

**WHEREAS**, this standard applied to the entire range of suspended particulates without regard to size or chemical composition; and

**WHEREAS**, the suspended particulates measured under the pre-July 1987 E.P.A. standard measured both particles larger than 10 micrometers which are usually due to "fugitive dust" (sand and dirt blown by winds from roadways, fields, and construction sites and contain large amounts of silica or sand like materials), and particles smaller than 10 micrometers - PM10 - which are generated by a burning process that include fly ash (from power plants), carbon black (from automobile and diesel engines), and soot (from fireplaces and wood stoves); and

**WHEREAS**, particulate matter inhaled by humans are segregated by size during deposition within the respiratory system and PM10 penetrate deeper and remain longer in the lungs than larger particles and contain large quantities of organic materials that may have significant long-term health effects; and,

**WHEREAS**, the Environmental Protection Agency and The State of Utah Department of Environmental Quality - Division of Air Quality adopted a new standard in July 1987 wherein particulate matter would only be measured in the ambient air as PM10 (particulates with an aerodynamic diameter less than or equal to a nominal 10 micrometers); and

**WHEREAS**, particles larger than 10 micrometers will travel in the wind and escape from property boundaries and are known as "fugitive dust" and The State of Utah, Department of Environmental Quality - Division of Air Quality monitors only PM10;

**WHEREAS**, the State of Utah authorizes cities to declare what shall constitute a nuisance, and abate the same and impose fines upon persons who may create, continue or suffer nuisances to exist; and

**WHEREAS**, the South Weber City Council determines that it is in the best interest of the residents to monitor and regulate "fugitive dust", and

**WHEREAS**, Staker & Parsons Companies and Geneva Rock Products (hereinafter referred to as "the Operators") operate gravel extraction operations that generate particulate matter that is larger than 10 micrograms that may become airborne and escape their boundaries, and

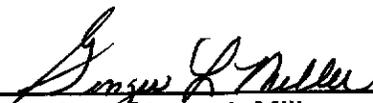
**WHEREAS**, the City desires to exercise some control over certain particulate matter larger than 10 micrograms that may become airborne and escape their boundaries, and

**WHEREAS**, the Operators and South Weber City agree that an agreement is an acceptable mechanism, in lieu of the City adopting a specific fugitive dust ordinance, for addressing any fugitive dust associated with the Operators' sand and gravel operation within the City.

**BE IT THEREFORE RESOLVED** by the South Weber City Council that the Mayor is authorized to sign the attached agreements.

This resolution was adopted by the City Council of South Weber City, Utah, on **9 December 2003**.

MAYOR:   
Joseph E Gertge

Attest:   
City Recorder: Ginger L Miller

*Geneva*

**FUGITIVE DUST MONITORING AGREEMENT**

This Monitoring Agreement (the "Agreement") is made by and between the City of South Weber (the "City") and Geneva Rock Products, Inc., the operator of a sand and gravel pit located in the City (the "Operator")(collectively, the "Parties").

**RECITALS**

A. Suspended particulate matter is generally defined as tiny particles of solid or semi-solid material found in the atmosphere.

B. Prior to July 1987, the U.S. Environmental Protection Agency and the State of Utah, Department of Environmental Quality, Division of Air Quality, regulated certain particulate matter using a national primary ambient air quality standard equal to 265 micrograms per cubic meter, per 24 hour period, not be exceeded more than once per year.

C. The City desires to exercise some control over certain particulate matter larger than 10 micrometers that may become airborne and escape from the Operator's property boundary ("Fugitive Dust").

D. The Parties desire to enter into this Agreement as a mutually acceptable mechanism, in lieu of the City adopting a specific Fugitive Dust ordinance, for addressing any Fugitive Dust associated with the Operator's sand and gravel operations within the City.

**AGREEMENT**

In consideration of the Recitals and mutual promises contained herein, the Parties agree as follows:

1. **Self-Monitoring:** The Operator shall obtain and operate, at its own cost, air sampling equipment capable of measuring concentrations of Fugitive Dust. The Operator shall conduct its Fugitive Dust sampling twice each month on dates identified by the City each month with at least two days between testing for calibration and set up of equipment, with reasonable accommodations. Operator shall conduct its sampling within the designated sampling area west or southwest of its sand and gravel operations ("Designated Sampling Area"), as specifically reflected on the map attached hereto as Attachment A. The Operator may conduct its sampling at a location (or locations) within its Designated Sampling Area that is reasonably representative of the general Designated Sampling Area. With the consent of the City, the Operator may modify the size and/or location of the Designated Sampling Area.

The Operator shall measure and record the Fugitive Dust concentration within its Designated Sampling Area for each sampling event.

Nothing in this agreement shall preclude the City from conducting its own independent air sampling, which sampling shall be conducted consistent with generally accepted protocol, which results shall be provided to the Operator.

2. **Self-Reporting:** The Operator shall record the results of the sampling within its Designated Sampling Area, certify the accuracy of those records, and report any Exceedance (as defined in Paragraph 3) to the City. In addition, upon specific request, the Operator shall make available to the City for inspection its Fugitive Dust sampling records prepared pursuant to this Agreement.

3. **Concentration Dust Standard & Sampling Protocol:** The Operator and the City agree to a stipulated standard of 265 micrograms per cubic meter for purposes of this Agreement. A sampling event reflecting a concentration of Fugitive Dust within its Designated Sampling Area in excess of 265 micrograms per cubic meter for a twenty-four (24) hour period shall constitute an exceedance (an "Exceedance") for purposes of this Agreement.

The Operator will comply with generally accepted sampling protocol to ensure quality assurance and quality control. In addition, recognizing the potential data validity and source identification problems associated with sampling in high wind speeds, and consistent with Utah Division of Air Quality's Administrative Rule 307-309-3, any sampling that would otherwise be an Exceedance will not constitute an Exceedance when wind speed during that sampling event exceeds twenty-five (25) miles per hour and the owner or operator is taking appropriate actions to control fugitive dust from its operational activities. In the event any sampling that would otherwise be in exceedance, but does not constitute an exceedance by virtue of windspeed exceeding twenty-five (25) mph, the City may request that the operator conduct an additional sampling event.

4. **Stipulated Penalty Schedule:** The Operator shall pay to the City a penalty consistent with the Penalty Schedule attached as Attachment B for any Exceedance at its Designated Sampling Area.

5. **Adjustments for Consistent Non-Exceedances:** If the Operator has no Exceedance for a period of one year, then it may reduce the frequency of its sampling from a twice per month to once per month, (as set forth in Paragraph 1 of this Agreement).

6. **Fugitive Dust Ordinance Exemption:** The Parties agree that as between themselves this Agreement shall be the mechanism for addressing the Fugitive Dust associated with the Operator's sand and gravel operations within the City. In the event the City adopts a new ordinance relating to Fugitive Dust and/or the subject matter of this Agreement, or revises its current nuisance ordinance relating to blowing dust and soil (Section 4-2-2(B)(16)) in a manner that would impact Fugitive Dust and/or the subject matter of this Agreement, the Operator shall be exempted from any such new or revised ordinance during the term of this Agreement. In the event the Operator is not exempted from any such new or revised ordinance, the Operator shall not be precluded or

prejudiced from challenging the legality, validity or applicability of any such new or revised ordinance.

7. **Term & Termination:** This Agreement shall become effective as of the date of the last signature affixed to this Agreement (the "Effective Date"). The duration of this Agreement shall be for a period of twenty-five (25) years, starting from the Effective Date, or upon cessation and reclamation of the operator's pit, which ever comes first. If either party breaches this Agreement, the sole remedy of the other party shall be to terminate this Agreement. If either party breaches this Agreement, the other party may terminate this Agreement by providing written notice of termination; upon receipt of the notice of termination the allegedly breaching party shall have a thirty (30) day period in which to cure the alleged breach.

8. **Successors and Assigns:** This Agreement shall be binding on, and shall inure to the benefit of, the Parties hereto and their respective successors and assigns.

9. **Construction of Agreement:** This Agreement shall be construed as a whole in accordance with its fair meaning and in accordance with the laws of the State of Utah. The terms of this Agreement have been negotiated by the Parties, and the language of the Agreement shall not be construed in favor of or against any particular party. The headings used herein are for reference only and shall not affect the construction of this Agreement.

This Agreement shall be construed and applied independent of any other Fugitive Dust Monitoring Agreement, or similar agreement, the City may have with any other sand and gravel operator within the City. The Operator shall not be penalized or held liable for, and this Agreement shall not be terminated, voided or deemed breached by, the acts or omissions of any other sand and gravel pit operator within the City.

10. **Entire Agreement:** This Agreement and any exhibits attached hereto represent the sole and entire agreement between the Parties and supersede all prior agreements, negotiations, and discussions between the parties hereto and/or their respective counsel with respect to the subject matter covered hereby.

11. **Agreement May Be Executed In Counterparts:** This Agreement may be executed in counterparts, which together shall constitute a fully executed original.

12. **Amendment to Agreement:** Any amendment to this Agreement must be in writing signed by duly authorized representatives of the Parties and stating the intent of the Parties to amend this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates indicated below, effective as of the later of the dates indicated below.

Dated: 9 Dec 03

Attest: *George L. Miller*

**CITY OF SOUTH WEBER**

By: *Joseph E. Hertge*

Its: *Mayor*

Dated: 1-21-04

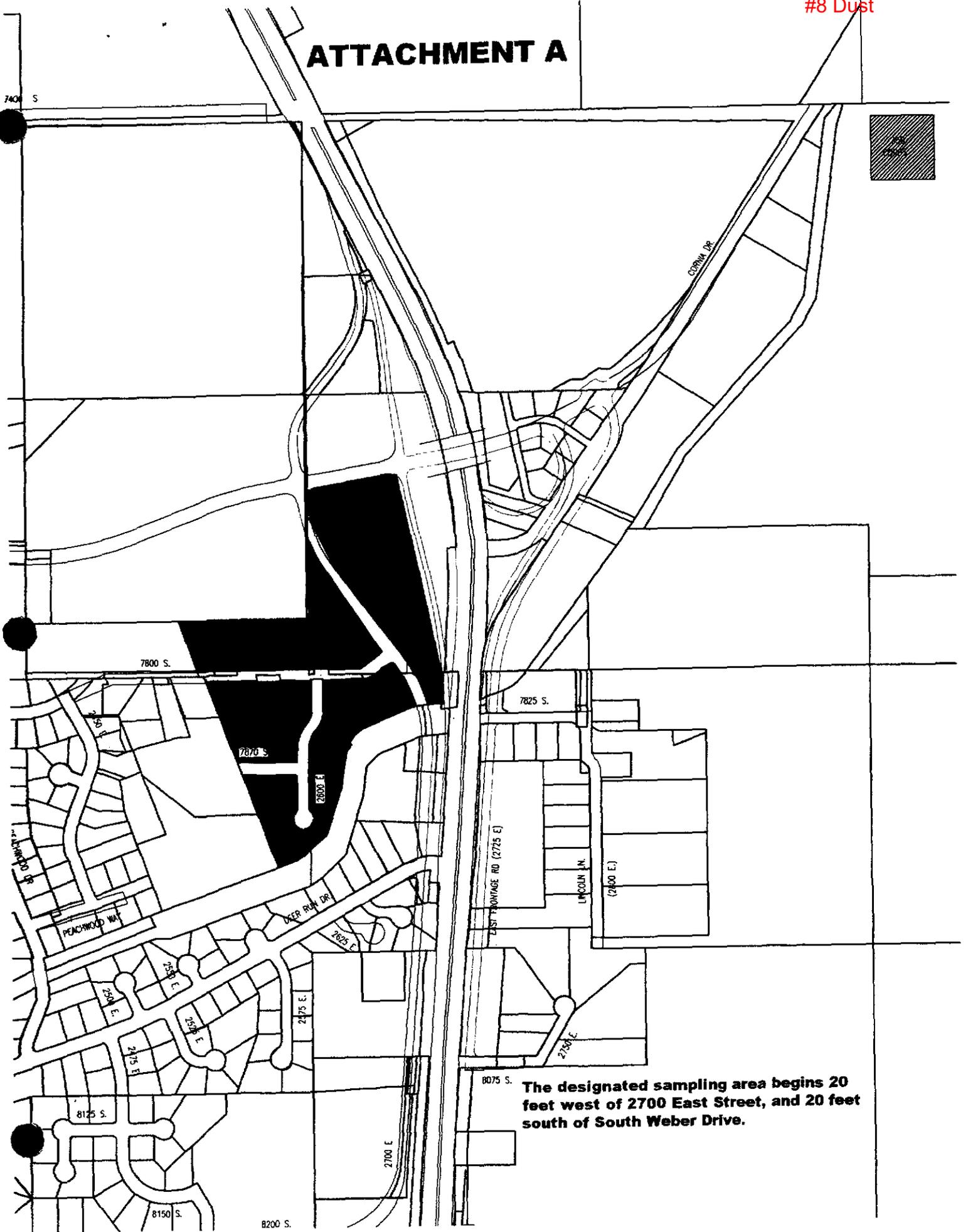
**GENEVA ROCK PRODUCTS, INC.**

By: *A. Schellenberg*

Its: *President*



# ATTACHMENT A



**ATTACHMENT B**  
**(PENALTY SCHEDULE)**

First Exceedance	(in any Calendar Year):	\$0
Second Exceedance	(in any Calendar Year):	\$50
Third Exceedance	(in any Calendar Year):	\$100
Fourth Exceedance	(in any Calendar Year):	\$200
Fifth Exceedance	(in any Calendar Year)	\$300
Sixth Exceedance	(in any Calendar Year)	\$400
Seventh or greater Exceedance	(in any Calendar Year)	\$500