

October 10, 2013

Ms. Sitira Pope

Colorado Department of Reclamation, Mining and Safety

1313 Sherman St. Rm 215

Denver CO 80203

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OCT 10 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

Dear Ms. Pope,

We request that you forward the following comments to the Board. Our comments are in reply to the OAG Response in regard to our recent request for Reconsideration of Permit Application M-2013-007.

If Mr. Fugate listened to the recording of the meeting where staff and the Board wrestled with the meaning of 'aggrieved', he would know that we weren't the ones who were confused about the fact that we were indeed aggrieved. It is not the DRMS Board we feel acted arbitrarily, but rather DRMS staff. Specifically, Wally Erickson stated in the August 14 meeting that there are some items required by the Rules that really weren't all that important, specifically in response to our concern about inconsistencies, inaccuracies, errors or misrepresentations we felt were in the application or adequacy issues that really had not been addressed. Mr. Fugate was not present at the hearing and clearly does not have the perspective of the objectors. It was clear to us that Staff (Mr. Erickson) was trying to claim that we would in fact **not** be aggrieved by the presence of this mine as our neighbor. We stand by the statements below in our original request for reconsideration and find Mr. Erickson's opinion ridiculous. As I am sure Mr. Fugate is aware the Constitution of both The United States of America and the State of Colorado prohibit damage to property without just compensation. This includes a decrease in property values. As defined by the DRMS Rules and Regulations "Aggrieved means suffering actual loss or injury, or being exposed to potential loss or injury, to legitimate interests. Such interests include, but are not limited to, business, economic, aesthetic, governmental, recreational, or conservational interests". As parties we disagree with staff's August 14 Hearing statements that arbitrarily re-defined and concluded that we are not aggrieved by this permit application.

There are two new developments related to this permit application that require action from the DRMS. Since our Request for Reconsideration letter of September 16 the location of the plants in the pit area has changed, and considerable ditch work to transfer water from the crushing area to the settlement ponds has been added. The new location is very near the permit area west boundary. These modifications were presented at the Montrose County Board of Commissioners hearing on October 7th.

More importantly, at the October 7th hearing, the Montrose Board of County Commissioners voted to **deny** the applicant's Special Use Permit # SU-13-0004. Per Rule 6.4.13 Exhibit M "Other Permits and Licenses Required", since the applicant has failed in their attempt to obtain the County Special Use Permit, Objectors are requesting that the Board reverse their approval of the applicant's 112c permit. One of the specified reasons for denial was the location of the Haul Road, which is included in the Permit Boundary. By Montrose County Zoning Code, the

applicant, if they choose to do so, cannot initiate the reapplication process with Montrose County until on or after October 7th, 2014. At this time NONE of the "Other Permits and Licenses required" have been obtained, according to the applicant and his representative.

Thank you as always for your time and consideration.

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