STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
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COLORADO DIVISION OF RECLAMATION MINING & SAFETY

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Pineda
Director

November 12, 2013

Mr. Louis Vezzani
The Walsenburg Sand and Gravel Company
P.O. Drawer 352
Walsenburg, CO 81089

RE: WSG-Hribar Pit, DRMS File No. M-2009-027
Conversion Application CN-01
Preliminary Adequacy Review

Dear Louis Vezzani:

The Division of Reclamation, Mining and Safety (Division) has completed a preliminary review of the permit conversion application received on September 26, 2013, and has the following comments.

6.4.6 Exhibit D – Reclamation Plan

1) On page 8 the application reads " The average depth of topsoil on the site according to the NRCS report is 0 to 7 inches deep." On page 13 the application reads "There are sufficient amounts of Topsoil on the site so mined area can be resoiled to a maximum depth of eight (8) inches overall." Please explain how a maximum of 8 inches of topsoil would be available to be spread.

General Comments

2) Please commit to notifying the Division of the Operator's choice in reclamation plan prior to beginning reclamation.

3) Please see the attached comments for the State Hisotric Preservation Officer.

4) Please see the attached comments from the U.S. Army Corps of Engineers

5) Please see the attached comments from the Colorado Division of Water Resources.

6) Please see the attached comments from Colorado Parks and Wildlife.

The current decision deadline for this application is January 1, 2014. Please provide responses to the above comments soon enough for the Division to review the responses and complete a follow-up exchange of comments and responses prior to the decision deadline. If you are unable to provide satisfactory responses to any inadequacies prior to the decision deadline, **it will be your responsibility to request an extension of time to allow for continued review of this application.** If there are still unresolved issues when the decision date arrives and no extension has been requested, the application will be denied.

If you need additional information please contact me at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215 Denver, CO 80203, by telephone at 303-866-3567 extension 8131, or by email at tyler.odonnell@state.co.us.

Sincerely,

Tyler O'Donnell

Tyler O'Donnell
Environmental Protection Specialist

Enclosure: Bond calculation
Public comments

CC: Tom Kaldenbach, DRMS

Steve L. O'Brian
Environmental, Inc.
7985 Vance Dr., Suite 205A
Arvada, CO 80003

COST SUMMARY WORK

Task description: **Reclaim WSG-Hribar**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 999 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-999
User: TOD

Agency or organization name: DRMS

TASK LIST (DIRECT COSTS)

Task	Description	Form Used	Fleet Size	Task Hours	Cost
001	cut and fill slopes 3H:1V	DOZER	1	5.04	$1,062.97
002	Backfill and shape slopes	LOADER	1	28.65	$6,736.00
003	Spread topsoil over 25.22 acres	DOZER	1	37.86	$7,988.17
004	Shape Seedbed	GRADER	1	19.42	$2,066.00
005	Rip compacted areas	GRADER	1	17.07	$1,816.00
006	Revegetate 25.22	REVEGE	1	50.00	$13,474.67
007	Mobilization/DeMobilization	MOBILIZE	1	4.33	$3,641.53
008	Dust control	MISCTRUK	1	40.00	$2,104.00
		SUBTOTALS:		**202.37**	**$38,889.34**

INDIRECT COSTS

OVERHEAD AND PROFIT:

Liability insurance:	2.02%	Total =	$785.56
Performance bond:	1.05%	Total =	$408.34
Job superintendent:	56.18 hrs	Total =	$3,674.73
Profit:	10.00%	Total =	$3,888.93
		TOTAL O & P =	$8,757.56
		CONTRACT AMOUNT (direct + O & P) =	$47,646.90

LEGAL - ENGINEERING - PROJECT MANAGEMENT:

Financial warranty processing (legal/related costs):	500.00	Total =	500.00
Engineering work and/or contract/bid preparation:	0.00%	Total =	$0.00
Reclamation management and/or administration:	5.00%		$2,382.35
CONTINGENCY:	0.00	Total =	$0.00
		TOTAL INDIRECT COST =	$11,639.91
		TOTAL BOND AMOUNT (direct + indirect) =	**$50,529.25**

BULLDOZER WORK

Task description: **Cut and fill slopes 3H:1V**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 001 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-001
User: TOD

Agency or organization name: DRMS

HOURLY EQUIPMENT COST

Basic Machine: Cat D8T - 8U
Horsepower: 310
Blade Type: Universal
Attachment: 3-shank ripper
Shift Basis: 1 per day
Data Source: (CRG)

Cost Breakdown:

		Utilization %
Ownership Cost/Hour:	$63.00	NA
Operating Cost/Hour:	$104.06	100
Ripper op. Cost/Hour:	$6.53	100
Operator Cost/Hour:	$37.41	NA

Total unit Cost/Hour: $211.01
Total Fleet Cost/Hour: **$211.01**

MATERIAL QUANTITIES

Initial Volume: 3,333
Swell factor: 1.250
Loose volume: **4,166** LCY

Source of estimated volume: Highwall 750ft long 20ft high DRMS observation
Source of estimated swell factor: Cat Handbook

HOURLY PRODUCTION

Average push distance: 75 feet
Unadjusted hourly production: 1,155.6 LCY/hr

Materials consistency description: Partly consolidated stockpile 1.1

Average push gradient: -5 %
Average site altitude: 6,050 feet

Material weight: 2,650 lbs/LCY

Weight description: Decomposed rock - 25% Rock, 75% Earth

Job Condition Correction Factor		Source
Operator Skill:	0.750	(AVG.)
Material consistency:	1.100	(CAT HB)
Dozing method:	1.200	(SLOT)

Visibility:	1.000	(AVG.)
Job efficiency:	0.830	(1 SHIFT/DAY)
Spoil pile:	0.900	(SSD-FC)
Push gradient:	1.115	(CAT HB)
Altitude:	1.000	(CAT HB)
Material Weight:	0.868	(CAT HB)
Blade type:	1.000	(PAT)

Net correction: 0.7157

Adjusted unit production: 827.06 LCY/hr
Adjusted fleet production: **827.06** LCY/hr

JOB TIME AND COST

Fleet size: 1 Dozer(s)
Unit cost: $0.255/LCY

Total job time: **5.04** Hours
Total job cost: **$1,062.97**

WHEEL LOADER – LOAD AND CARRY WORK

Task description: **Backfill and shape slopes**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 002 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-002
User: TOD

Agency or organization name: DRMS

HOURLY EQUIPMENT COST

Basic Machine: CAT 988H Horsepower: 475
Attachment 1: ROPS Cab Shift Basis: 1 per day
Data Source: (CRG)

Cost Breakdown:

		Utilization %
Ownership Cost/Hour:	$82.23	NA
Operating Cost/Hour:	$117.03	100
Operator Cost/Hour:	$35.82	NA
Total Unit Cost/Hour:	$235.07	
Total Fleet Cost/Hour:	$235.07	

MATERIAL QUANTITIES

Initial volume: 7,115 CCY Swell factor: 1.000
Loose volume: **7,115** LCY

Source of estimated volume: Applicant's volume estimate
Source of estimated swell factor: Cat Handbook

HOURLY PRODUCTION

Loader Cycle Time: Unadjusted Basic Cycle Time (load, dump, maneuver): 0.575 minutes

Cycle Time Factors		Factor (min.)	Source
Material:	Mixed material 0.02	0.020	(Cat HB)
Stockpile:	Conveyor or dozer piled 10 ft. high and up 0.00	0.000	(Cat HB)
Truck Ownership:	No adjustment - factor not applicable 0.00	0.000	(Cat HB)
Operation:	Constant operation -0.04	-0.040	(Cat HB)
Dump Target:	Nominal target 0.00	0.000	(Cat HB)
	Net Cycle Time Adjustment:	-0.020	minutes
	Adjusted Basic Cycle Time:	0.555	minutes

Rolling Resistance – Road Conditions

Haul: Firm, smooth, rolling, dirt/lt. surfaced, watered, maintained 3.0
Return: Firm, smooth, rolling, dirt/lt. surfaced, watered, maintained 3.0

Haul and Return Time

	Length (feet)	Grade Res. (%)	Rolling Res. (%)	Total Res. (%)	Travel Time (minutes)	Source
Haul Route:	900	4.00	3.00	7.00	0.9002	(Cat HB)
Return Route:	900	-4.00	3.00	-1.00	0.4363	(Cat HB)

Total Travel Time:	1.3365	minutes
Total Cycle Time:	**1.8915**	minutes

Load Bucket Capacity

Rated Capacity:	9.20	LCY (heaped)
Bucket Fill Factor:	1.025	Rock - Earth Mixture (100%-105%) 1.025
Adjusted Capacity:	**9.43**	LCY

Job Condition Correction Factors
Site Altitude: 6050 feet

		Source
Altitude Adj:	1.00	(CAT HB)
Job Efficiency:	0.83	(1 shift/day)
Net Correction:	0.83	multiplier

Unadjusted Hourly Unit Production:	299.13	LCY/Hour
Adjusted Hourly Unit Production:	248.28	LCY/Hour
Adjusted Hourly Fleet Production:	**248.28**	LCY/Hour

JOB TIME AND COST

Fleet size:	1	Loader(s)	Total job time:	**28.66**	Hours
Unit cost:	$0.947	/LCY	Total job cost:	**$6,736.00**	

BULLDOZER WORK

Task description: **Spread topsoil over 25.22 acres**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 003 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-003
User: TOD

Agency or organization name: DRMS

HOURLY EQUIPMENT COST

Basic Machine: Cat D8T - 8U
Horsepower: 310
Blade Type: Universal
Attachment: 3-shank ripper
Shift Basis: 1 per day
Data Source: (CRG)

Cost Breakdown:

		Utilization %
Ownership Cost/Hour:	$63.00	NA
Operating Cost/Hour:	$104.06	100
Ripper op. Cost/Hour:	$6.53	100
Operator Cost/Hour:	$37.41	NA

Total unit Cost/Hour: $211.01
Total Fleet Cost/Hour: **$211.01**

MATERIAL QUANTITIES

Initial Volume: 16,955
Swell factor: 1.000
Loose volume: **16,955** LCY

Source of estimated volume: Division of Reclamation, Mining & Safety
Source of estimated swell factor: Cat Handbook

HOURLY PRODUCTION

Average push distance: 220 feet
Unadjusted hourly production: 466.4 LCY/hr

Materials consistency description: Loose stockpile 1.2

Average push gradient: 5 %
Average site altitude: 6,050 feet

Material weight: 1,600 lbs/LCY

Weight description: Top Soil

Job Condition Correction Factor		Source
Operator Skill:	0.750	(AVG.)
Material consistency:	1.200	(CAT HB)
Dozing method:	1.100	(50% SL)

Visibility:	1.000	(AVG.)
Job efficiency:	0.830	(1 SHIFT/DAY)
Spoil pile:	0.900	(SSD-FC)
Push gradient:	0.903	(CAT HB)
Altitude:	1.000	(CAT HB)
Material Weight:	1.438	(CAT HB)
Blade type:	1.000	(PAT)

Net correction: 0.9603

Adjusted unit production: 447.88 LCY/hr
Adjusted fleet production: **447.88** LCY/hr

JOB TIME AND COST

Fleet size: 1 Dozer(s)
Unit cost: $0.471/LCY

Total job time: **37.86** Hours
Total job cost: **$7,988.17**

MOTOR GRADER WORK

Task description: **Shape Seedbed**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 004 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-004
User: TOD

Agency or organization name: DRMS

HOURLY EQUIPMENT COST

Basic Machine: CAT 140M Horsepower: 183
Ripper Attachment: Multi-Shank Ripper Shift Basis: 1 per day
Data Source: (CRG)

Cost Breakdown:

		Utilization %
Ownership Cost/Hour:	$27.95	NA
Operating Cost/Hour:	$48.85	100
Ripper Operating Cost/Hour:	$2.01	100
Operator Cost/Hour:	$27.55	NA
Total Unit Cost/Hour:	$106.36	
Total Fleet Cost/Hour:	**$106.36**	

MATERIAL QUANTITIES

Total Area to be graded or ripped: 25.22 acres

Source of estimated acreage: Conversion application

HOURLY PRODUCTION

Average Grader Speed:	1.50	mph
Selected Application:	Finish grading (0-2.5 mph) - 1.5	
Selected Blade Angle:	30	degrees
Effective Blade Length:	10.40	feet
Width of blade overlap per pass:	2.00	feet
Net grading or ripping width per pass:	8.40	feet
Unadjusted Hourly Unit Production:	1.5273	acres/hour

Job Condition Correction Factors Site Altitude: 6050 feet

		Source
Altitude Adj:	1.00	(CAT HB)
Job Efficiency:	0.85	(1sh/d, mod.)
Net Correction:	0.8500	multiplier

Adjusted Hourly Unit Production: 1.2982 acres/Hour
Adjusted Hourly Fleet Production: **1.2982** acres/Hour

JOB TIME AND COST

Fleet size: 1 Grader(s) Total job time: **19.43** Hours

Unit cost: $81.93 per acre Total job cost: **$2,066.00**

MOTOR GRADER WORK

Task description: **Rip compacted areas**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 005 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-005
User: TOD

Agency or organization name: DRMS

HOURLY EQUIPMENT COST

Basic Machine: CAT 140M Horsepower: 183
Ripper Attachment: Multi-Shank Ripper Shift Basis: 1 per day
Data Source: (CRG)

Cost Breakdown:

		Utilization %
Ownership Cost/Hour:	$27.95	NA
Operating Cost/Hour:	$48.85	100
Ripper Operating Cost/Hour:	$2.01	100
Operator Cost/Hour:	$27.55	NA
Total Unit Cost/Hour:	$106.36	
Total Fleet Cost/Hour:	**$106.36**	

MATERIAL QUANTITIES

Total Area to be graded or ripped: 20.00 acres

Source of estimated acreage: 25.22 minus ~ 5 acres of cut and fill

HOURLY PRODUCTION

Average Grader Speed: 1.50 mph
Selected Application: Ripping (0-3 mph) - 1.50
Selected Blade Angle: -1 degrees
Effective Blade Length: 0.00 feet
Width of blade overlap per pass: 2.00 feet
Net grading or ripping width per pass: 7.58 feet
Unadjusted Hourly Unit Production: 1.3782 acres/hour

Job Condition Correction Factors Site Altitude: 6050 feet

		Source
Altitude Adj:	1.00	(CAT HB)
Job Efficiency:	0.85	(1sh/d, mod.)
Net Correction:	0.8500	multiplier

Adjusted Hourly Unit Production: 1.1715 acres/Hour
Adjusted Hourly Fleet Production: **1.1715** acres/Hour

JOB TIME AND COST

Fleet size: 1 Grader(s) Total job time: **17.07** Hours

Unit cost: $90.79 per acre Total job cost: **$1,816.00**

REVEGETATION WORK

Task description: **Revegetate 25.22**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 006 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-006
User: TOD

Agency or organization name: DRMS

FERTILIZING

Materials

Description	Units / Acre	Unit	Cost / Unit	Cost /Acre
			$	$
			Total Fertilizer Materials Cost/Acre	**$0.00**

Application

Description	Cost /Acre
	$
Total Fertilizer Application Cost/Acre	**$0.00**

TILLING

Description	Cost /Acre
Weed control spraying (MEANS 31 31 16.13 3100)	$145.20
Total Tilling Cost/Acre	**$145.20**

SEEDING

Seed Mix	Rate – PLS LBS / Acre	Seeds per SQ. FT	Cost /Acre
Blue Grama - Lovington	0.50	8.16	$5.43
Sideoats Grama - Vaughn	6.50	21.34	$73.06
Western Wheatgrass - Arriba	10.00	25.25	$36.80
Wheat, Winter - Tam 107	25.00	22.96	$7.50
Totals Seed Mix	42.00	77.71	**$122.79**

Application

Description	Cost /Acre
Drill seeding (DRMS Cost Data)	$88.20

Total Seed Application Cost/Acre	**$88.20**

MULCHING and MISCELLANEOUS

Materials

Description	Units / Acre	Unit	Cost / Unit	Cost /Acre
			$	$
Total Mulch Materials Cost/Acre				**$0.00**

Application

Description	Cost /Acre
	$
Total Mulch Application Cost/Acre	**$0.00**

NURSERY STOCK PLANTING

Common Name	No / Acre	Type and Size	Planting Cost	Fertilizer Pellet Cost	Cost /Acre
					$
Totals Nursery Stock Cost / Acre					**$0.00**

JOB TIME AND COST

No. of Acres: 25.22
Estimated Failure Rate: 50%
*Selected Replanting Work Items: TILLING,SEEDING

Cost /Acre: $356.19
Cost /Acre*: $356.19

Initial Job Cost: **$8,983.11**
Reseeding Job Cost: **$4,491.56**
Total Job Cost: **$13,474.67**
Job Hours: **50.00**

EQUIPMENT MOBILIZATION/DEMOBILIZATION

Task description: **Mobilization/DeMobilization**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #: 007 State: Colorado Abbreviation: None
Date: 11/12/2013 County: Huerfano Filename: M027-007
User: TOD

Agency or organization name: DRMS

EQUIPMENT TRANSPORT RIG COST

Shift basis: 1 per day
Cost Data Source: CRG Data

Truck Tractor Description: GENERIC ON-HIGHWAY TRUCK TRACTOR, 6X4, DIESEL POWERED, 400 HP (2ND HALF, 2006)

Truck Trailer Description: GENERIC FOLDING GOOSENECK, DROP DECK EQUIPMENT TRAILER (25T, 50T, AND 100T)

Cost Breakdown:

Available Rig Capacities	**0-25 Tons**	**26-50 Tons**	**51+ Tons**
Ownership Cost/Hour:	$16.63	$18.37	$22.33
Operating Cost/Hour:	$44.38	$46.13	$50.07
Operator Cost/Hour:	$27.66	$27.66	$27.66
Helper Cost/Hour:	$0.00	$25.39	$25.39
Total Unit Cost/Hour:	$88.67	$117.55	$125.45

NON ROADABLE EQUIPMENT:

Machine Description	Weight/ Unit (TONS)	Owner ship Cost/hr/ unit	Haul Rig Cost/hr/unit	Fleet Size	Haul Trip Cost/hr/ fleet	Return Trip Cost/hr/ fleet	DOT Permit Cost/ fleet
Cat D8T - 8U	53.70	$63.00	$125.45	1	$188.45	$125.45	$250.00
CAT 140M	16.68	$27.95	$88.67	1	$116.62	$88.67	$250.00
CAT 988H	54.46	$82.23	$125.45	1	$207.68	$125.45	$250.00
Subtotals:					**$512.75**	**$339.57**	**$750.00**

ROADABLE EQUIPMENT:

Machine Description	Total Cost/hr/ unit	Fleet Size	Haul Trip Cost/hr/ fleet	Return Trip Cost/hr/ fleet
Water Tanker, 2,500 Gal.	$52.60	1	$52.60	$52.60
Subtotals:			**$52.60**	**$52.60**

EQUIPMENT HAUL DISTANCE and Time

Nearest Major City or Town within project area region:	WALSENBURG	
Total one-way travel distance:	15.00	miles
Average Travel Speed:	45.00	mph

Total Non-Roadable Mob/Demob Cost *	$3,606.46
'* two round trips with haul rig:	
Total Roadable Mob/Demob Cost **	$35.07
** one round trip, no haul rig:	

Transportation Cycle Time:

	Non-Roadable Equipment	Roadable Equipment
Haul Time (Hours):	0.33	0.33
Return Time (Hours):	0.33	0.33
Loading Time (Hours):	0.75	NA
Unloading Time (Hours):	0.75	NA
Subtotals:	2.17	0.67

JOB TIME AND COST

Total job time:	**4.33**	Hours
Total job cost:	**$3,641.53**	

MISCELLANEOUS TRUCK WORK

Task description: **Dust control**

Site: **WSG-Hribar** Permit Action: CN01 Permit/Job#: M2009027

PROJECT IDENTIFICATION

Task #:	008	State:	Colorado	Abbreviation:	None
Date:	11/12/2013	County:	Huerfano	Filename:	M027-008
User:	TOD				

Agency or organization name: DRMS

HOURLY EQUIPMENT COST

Make and Model:	Water Tanker, 2,500 Gal.	Horsepower:	150
Attachment 1:		Shift Basis:	1 per day
Attachment 2:		Weight:	5.25
Labor Unit 1:	General Laborer		(US Tons)
Labor Unit 2:			

Cost Breakdown:

		Utilization %
Ownership Cost/Hour:	$7.51	NA
Operating Cost/Hour:	$22.07	100
Operator Cost/Hour:	$23.02	NA
Total Unit Cost/Hour:	$52.61	
Total Fleet Cost/Hour:	$52.61	

JOB TIME AND COST

Fleet size: 1 Truck(s) Total job time: **40.00** Hours

Unit cost: $52.61 /Hour Total job cost: **$2,104.00**

HISTORY Colorado

October 8, 2013

Tyler V. O'Donnell
Environmental Protection Specialist
Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver, CO 80203

Re: Notice of 110(c) to 112(c) Construction Materials Reclamation Permit Amendment Conversion Application Consideration the Walsenburg Sand and Gravel Company, WSG-Hribar, Permit No. M-2009-027 (SHPO Project #64833)

Dear Tyler V. O'Donnell:

Thank you for your correspondence dated October 3, 2013 (received by our office on October 7, 2013) regarding the above referenced subject project.

A search of the Colorado Cultural Resource Inventory database indicated that no cultural resource inventories have taken place in the vicinity of the proposed project area and no historic properties have been recorded within the subject property. However, our files contain incomplete information for this area, as most of Colorado has not been inventoried for cultural resources. As a result, there is the possibility that as yet unidentified cultural resources exist within the proposed project area.

Should human remains be discovered during project activities, the requirements under State law C.R.S. 24-80 (part 13) apply and must be followed.

Thank you for the opportunity to comment. If we may be of further assistance, please contact Todd McMahon, Staff Archaeologist at (303) 866-4607/todd.mcmahon@state.co.us or Dan Corson, Intergovernmental Services Director at (303) 866-2673/ dan.corson@state.co.us.

Sincerely,

Edward C. Nichols
State Historic Preservation Officer
ECN/TCM

M-2009-027

DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
200 SOUTH SANTA FE AVENUE, SUITE 301
PUEBLO, COLORADO 81003-4270

REPLY TO
ATTENTION OF

October 23, 2013

Regulatory Division

SUBJECT: No Permit Required – Action No. SPA-2013-00473-SCO, WSG-Hribar Mining Pit Expansion, Walsenburg Sand and Gravel Company, Huerfano County, Colorado

Mr. Tyler O'Donnell
State of Colorado Division of Reclamation, Mining & Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

Dear Mr. O'Donnell:

I am writing this letter in response to your request for a determination of Department of the Army permit requirements for the proposed WSG-Hribar Mining Pit Expansion (Permit No. M-2009-027), Walsenburg Sand and Gravel Company, Huerfano County, Colorado located at approximately latitude 37.7444324905317, longitude -104.862901357519, in Huerfano County, Colorado. The proposed materials permit conversion would expand the existing surface mine to include an additional 16.74 acres of mining area. We have assigned Action No. SPA-2013-00473-SCO to this project. Please reference this number in all future correspondence concerning the project.

Based on the information provided, we have determined that a Department of the Army permit is not required. However, please be advised that there are potential jurisdictional waters of the U.S. located in the vicinity of the project site and it is incumbent upon the applicant to remain informed of any changes in the Corps Regulatory Program regulations and policy as they relate to the project. If plans change such that waters of the U.S. could be impacted by the proposed project, please contact our office for a reevaluation of permit requirements.

This decision is based on an approved jurisdictional determination (JD) (attached) that there are no waters of the United States on the project site. The basis for this JD is that the project site contains entirely uplands. A copy of this JD is also available at http://www.spa.usace.army.mil/reg/JD. This approved JD is valid for five years unless new information warrants revision of the determination before the expiration date.

The applicant may accept or appeal this approved JD or provide new information in accordance with the attached Notification of Administration Appeal Options and Process and Request for Appeal (NAAOP-RFA). If the applicant elects to appeal this approved JD, they must complete Section II of the form and return it to the Army Engineer Division, South Pacific, CESPD-PDS-O, Attn: Tom Cavanaugh, Administrative Appeal Review Officer, 1455 Market Street, Room 1760, San Francisco, CA 94103-1399 within 60 days of the date of this notice. Failure to notify the Corps within 60 days of the date of this notice means that the applicant accepts the approved JD in its entirety and waives all rights to appeal the approved JD.

If you have any questions concerning our regulatory program, please contact me at 719-543-8102 or by e-mail at Christopher.M.Grosso@usace.army.mil. At your convenience, please complete a Customer Service Survey on-line available at http://per2.nwp.usace.army.mil/survey.html.

Sincerely,

Christopher Grosso
Regulatory Project Manager

Enclosure(s)

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 23, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Albuquerque District, WSG-Hribar Mining Pit Expansion, Walsenburg Sand and Gravel Company, Huerfano County, Colorado, SPA-2013-00473-SCO

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: **Colorado** County/parish/borough: **Huerfano** City: **nearest is Walsenburg**
Center coordinates of site (lat/long in degree decimal format): Lat. **37.7444324905317°**, Long. **-104.862901357519°**
Universal Transverse Mercator: **13 512078.55 4177468.74**
Name of nearest waterbody: **Huerfano River**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Arkansas River**
Name of watershed or Hydrologic Unit Code (HUC): **Huerfano. Colorado., 11020006**
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form:

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: **October 23, 2013**
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
   ☐ TNWs, including territorial seas
   ☐ Wetlands adjacent to TNWs
   ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
   ☐ Non-RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
   ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
   ☐ Impoundments of jurisdictional waters
   ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
   Non-wetland waters: linear feet, wide, and/or acres.
   Wetlands: acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Pick List**
   Elevation of established OHWM (if known):

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain:

SECTION III: CWA ANALYSIS

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: **Pick List.**

Primary tributary substrate composition (check all that apply):
☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: **Pick List**
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime:
Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:
☐ Dye (or other) test performed:

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):
☐ clear, natural line impressed on the bank ☐ the presence of litter and debris
☐ changes in the character of soil ☐ destruction of terrestrial vegetation
☐ shelving ☐ the presence of wrack line
☐ vegetation matted down, bent, or absent ☐ sediment sorting
☐ leaf litter disturbed or washed away ☐ scour
☐ sediment deposition ☐ multiple observed or predicted flow events
☐ water staining ☐ abrupt change in plant community
☐ other (list):
☐ Discontinuous OHWM.[7] Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
☐ High Tide Line indicated by: ☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects ☐ survey to available datum;
☐ fine shell or debris deposits (foreshore) ☐ physical markings;
☐ physical markings/characteristics ☐ vegetation lines/changes in vegetation types.
☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain:
Identify specific pollutants, if known:

(iv) Biological Characteristics. Channel supports (check all that apply):
☐ Riparian corridor. Characteristics (type, average width):
☐ Wetland fringe. Characteristics:
☐ Habitat for:
☐ Federally Listed species. Explain findings:

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[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet, wide, Or acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: linear feet wide.
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters:

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet, wide.
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

[8]See Footnote # 3.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet, wide.
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet, wide.
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **State of Colorado Division of Reclamation, Mining and Safety provided on October 7, 2013.**
☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  ☐ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps:
☐ Corps navigable waters' study:
☒ U.S. Geological Survey Hydrologic Atlas: **HUC 12 - 110200060803**
  HUC 12 NAME - Huerfano Butte-Huerfano River
  ☐ USGS NHD data.
  ☒ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; CO-WALSENBURG NORTH**
☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
☒ National wetlands inventory map(s). Cite name: **1:24K; CO-WALSENBURG NORTH**
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps:
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): **Google Earth Pro 2013, Bing Maps Hybrid 2013**
  or ☐ Other (Name & Date):
☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Project site contains entirely uplands.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Louis Vezzani, Walsenburg Sand and Gravel	File Number: 2013-00473	Date: 10/23/13
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecwo/reg or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT ENGINEER for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the DISTRICT ENGINEER within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the DISTRICT ENGINEER will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the DISTRICT ENGINEER will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the DISTRICT ENGINEER for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) ENGINEER (address on reverse). This form must be received by the DIVISION ENGINEER within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) ENGINEER. This form must be received by the DIVISION (not district) ENGINEER within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the DIVISION (not district) ENGINEER (address on reverse). This form must be received by the DIVISION ENGINEER within 60 days of the date of this notice. Exception: JD appeals based on new information must be submitted to the DISTRICT ENGINEER within 60 days of the date of this notice.

EXCEPTION: Appeals of Approved Jurisdictional Determinations based on new information must be submitted to the District engineer within 60 days of the date of this notice.

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John W. Hickenlooper
Governor

Mike King
Executive Director

Dick Wolfe, P.E.
Director/State Engineer

Response to Reclamation Permit Conversion Application Consideration

DATE: October 29, 2013

TO: Tyler V. O'Donnell, Environmental Protection Specialist

CC: Division 2 Office; District 79 Water Commissioner

FROM: Caleb Foy, E.I.T. CRF

RE: WSG-Hribar Pit, File No. M-2009-027
Operator: The Walsenburg Sand and Gravel Company
Contact: Louis Vezzani, (719) 738-1883
Sec. 35, Twp. 26S, Rng. 67W, 6th P.M., Huerfano County

CONDITIONS FOR APPROVAL

☒ The proposed operation does not anticipate exposing groundwater. Therefore, exposure of ground water must not occur during or after mining operations. If stormwater is contained on-site, it must infiltrate into the ground or be released to the natural stream system within 72 hours, or all work must cease until a substitute water supply plan, or augmentation plan approved by water court, is obtained. Reclamation plans must ensure water will not be retained onsite for more than 72 hours unless an augmentation plan approved by water court is obtained.

☒ The proposed operation will consume water by: ☐ evaporation, ☒ dust control, ☐ reclamation, ☐ water removed in the mined product, ☐ processing, ☐ other:.

☒ Other: All water brought on site for mining needs shall be a legal supply of water provided by an appropriate supplier.

COMMENTS: The local Water Commissioner, David Diedrich, may be contacted at (719) 568-0489 or david.diedrich@state.co.us regarding legal supplies of water in the area.

COLORADO PARKS & WILDLIFE

Pueblo Area Office
600 Reservoir Road • Pueblo, Colorado 81005
Phone (719) 561-5300 • FAX (719) 561-5321
wildlife.state.co.us • parks.state.co.us

FAX TRANSMITTAL

DATE: 10-25-13

TIME: 11:50 A.M.

FROM: AREA 11 SERVICE CENTER
FAX NUMBER (719) 561-5321
PHONE NUMBER (719) 561-5300

TO: Tyler V. O'Donnell

FROM: Bonnie

PAGES: 3

COMMENTS:

Comments for the WSG-Hriber Pit
M-2013-003.

Thank You
Bonnie

RECEIVED
OCT 25 2013
Division of Reclamation, Mining & Safety

COLORADO PARKS & WILDLIFE

Pueblo Area Office
600 Reservoir Road • Pueblo, Colorado 81005
Phone (719) 561-5300 • FAX (719) 561-5321
wildlife.state.co.us • parks.state.co.us

October 23, 2013

Tyler V. O'Donnell
Environmental Protection Specialist

Michael Trujillo, Area Wildlife Manager
Colorado Parks and Wildlife (CPW)
600 Pueblo Reservoir Road
Pueblo, CO 81005

Re: WSG- Hribar Pit M.L.R.B. Permit # M-2009-023

Dear Mr. O'Donnell:

Thank you for the opportunity to comment regarding the application of Hribar Pit # M-2009-023 from a limited 110(c) permit to a regular 112(c) operation permit. The proposed gravel pit will consist of 26.73 acres and is located in the SW ¼ of section 35, T 26 S, R 67 W, 6th P.M., Huerfano County, State of Colorado. This will be an expansion from 9.99 acres that is currently under operation and permitted to Walsenburg Sand and Gravel Company.

After visiting the site it appears that the current use of this land is for grazing of livestock, and is composed mainly of short grass prairie Irrigated pastures and a riparian corridor from the Huerfano River are located to the north of the proposed Hribar expansion pit. The Orphan View Gravel Pit adjoins the Hribar Pit on the eastern boundary.

Big game species that frequent the area include elk, mule and whitetail deer, black bears, mountain lions, and pronghorns. Pronghorns may use this area for migration corridors. Numerous small game animals are found in this area, which include but are not limited to, red fox, swift fox, coyotes, bobcat, cottontail rabbits, black-tailed prairie dogs, and scaled quail. Various songbirds, raptors, and reptiles are also present in the vicinity of the proposed Hribar Gravel Pit.

After reviewing the maps and document for the proposed site CPW does not foresee significant impacts to wildlife or wildlife habitat. To our knowledge there are no known Threatened or Endangered species within or in close proximity to the project site. We would suggest that any ground disturbance be reclaimed to native grass species, and recommend using NRCS seeding guidelines. We also suggest using County Road 640 to I-25 as a route to haul materials to job sites. This should minimize air and noise pollution and prevent the displacement of wildlife from existing habitat and nest sites.

Once again, thank you for the opportunity to comment on this issue. Please feel free to contact our office at 719-561-5300, if you have any questions regarding this application.

Sincerely,

Michael Trujillo
Area Wildlife Manager
Colorado Parks and Wildlife