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JOAN ARMSTRONG
DIRECTOR
planning@co.pueblo.co.us

**PUEBLO COUNTY
DEPARTMENT OF PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Pueblo County Planning Commission

FROM: Dominga Jimenez-Garcia, Planner II *DJG*

THROUGH: Joan Armstrong, Director *ja*

DATE: April 9, 2014

SUBJECT: **SPECIAL USE PERMIT NO. 2001-001 - DECLARATION OF ABANDONMENT**
LaFarge North America, AC&A US West Region (aka LaFarge West, Inc.)
(Previous Owner/Applicant)
Martin Marietta Materials, c/o Julie Mikulas, Land Manager (Current
Owner/Applicant)
NW 1/4 NW 1/4 Lot 3, Section 19, Township 21 South, Range 63 West of the 6th
P.M.

PURPOSE

Pursuant to Title 17, LAND USE, Division I., ZONING, Chapter 17.140.070 D. of the Pueblo County Code, the Department of Planning and Development is requesting the Pueblo County Planning Commission issue a Declaration of Abandonment of Special Use Permit No. 2001-001 due to the approved use of a sand and gravel extraction and processing operation on 45.72± acres in an A-1, Agricultural (minimum 35 acre) Zone District not being established after a period of five (5) years. The property is located south of the Bessemer Ditch, approximately 2.0 miles south of State Highway 50 East, and 0.6 mile east of Cortner Road. The gravel pit is known as Beeman Pit #1. (**Exhibit 1** – Mining Plan Map)

LOCATION

The property is located south of South Road and east of Cortner Road in the Vineland area. (**Exhibit 2** – Vicinity Map)

BACKGROUND

Special Use Permit No. 2001-001 to allow extraction and processing of natural deposits (sand and gravel) on a 45.72± acre parcel, in an A-1, Agricultural (minimum 35 acres) Zone District

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was originally approved by the Pueblo County Planning Commission on April 24, 2001 with twelve (12) conditions. The permit was reviewed and reissued every year with the same conditions until April 2011 at which time Condition No. 7 (of the original approval) was replaced. The original condition required a one year review of the special use permit until such time as the proposed use was fully established; the condition has been replaced with a staff directive.

Staff was advised by the State of Colorado, Division of Reclamation, Mining and Safety that a request to approve a new operator (from LaFarge West, Inc. to Martin Marietta Materials) had been granted. Since the new operators had been associated with the permit for three (3) months, the Pueblo County Planning Commission at its April 24, 2012 public hearing voted to allow the permitted use to continue with the existing conditions of approval.

The permit was reviewed in April 2013 at which the operator's representative stated in a letter that to date no mining activities have occurred and they are still evaluating the market and developing a strategic plan. The Pueblo County Planning Commission at its April 23, 2013 public hearing voted to allow the permitted use to continue with the existing conditions of approval and staff directive.

It was also stated in staff's review dated April 15, 2013:

2. *Staff acknowledges the new operator has only been associated with the proposed use for the last fifteen (15) months; therefore, a recommendation to allow the permit to continue is being provided. However, inasmuch as the permit has been approved with no action being taken for twelve (12) years, staff intends to consider for its April/May 2014 review:*
 - A. *Scheduling the special use permit for a show cause hearing which will provide the affected parties an opportunity to provide evidence and testimony as to why the special use permit should not be revoked; **OR***
 - B. *Requesting the Pueblo County Planning Commission issue a Declaration of Abandonment of the Special Use Permit due to the applicant's failure to establish the proposed use for a period of five (5) years or more.*

A status report was requested for the 2014 administrative review and it was brought to the operator's attention again that the special use permit would be considered for show cause or Declaration of Abandonment. On April 8, 2014 a letter (**Exhibit 3** – Letter from Martin Marietta Materials) was received from Martin Marietta Materials which stated:

Martin Marietta Materials, Inc. acquired the property associated with the above-referenced permit on December 9, 2011. We have reviewed the files and requirements as permitted by Lafarge West, Inc. (predecessor owner/operator). We have determined that with the current economics of the area and cost of opening up a new mining operation, it will not be a good financial investment at this time.

We as the operator/owner are in agreement with declaration of abandonment due to the use not being established.

CERTIFIED LETTERS TO PROPERTY OWNER

The owner/applicant of Special Use Permit No. 2001-001 (Beeman Pit #1) is in agreement with the Declaration of Abandonment; therefore certified letters were not mailed.

RECOMMENDATION

Based upon the use not being established for a period of 13 years and the owner/operator stating they have determined it would not be feasible to open the mine therefore are in agreement with the Declaration of Abandonment, staff recommends the Pueblo County Planning Commission issue a Declaration of Abandonment of Special Use Permit No. 2001-001 due to the approved use of a sand and gravel extraction and processing operation on 45.72± acres in an A-1, Agricultural (minimum 35 acre) Zone District not being established for a period of five (5) years or more.

COMMENTS

1. Staff did contact the DRMS to inquire how long Reclamation Permit 2002-009 (Beeman Pit #1) can remain open without any mining commencing at the site. The response from the DRMS was:

"Our Permits are valid though what is defined as Life of the Mine in our Rules. As long as the Operator is in compliance with the ACT and Rules the permit is valid. Rule 1.13.3(2) states that an Operator can not be in Temporary Cessation if no mining has commenced. I have provided you with Rule 1.13.3 and the Definition of Life of The Mine:

"1.13.3 Indications Against Temporary Cessation

(1) Extraction of construction materials has been completed and only final reclamation and related activities occurring at the site are part of the "life of the mine" (see Definition or see Section 34-32.5-103(11), C.R.S.); or

(2) A permit has been issued, but the mining operation has not commenced. "

"Life of the Mine: means and includes, but is not limited to, those periods of time from when a permit is initially issued, that an Operator engages in or plans to continue extraction of construction materials, complies with the Act and these Rules, and as long as construction material reserves remain in the mining operation. It can include limited periods of non-production or Temporary Cessation. "Life of the mine" also includes that period of time after cessation of production necessary to complete reclamation of disturbed lands as required by the Board and this article, until the Board releases, in writing, the Operator from further reclamation obligations regarding the affected land, declares the operation terminated, and releases all applicable Performance and Financial Warranties."

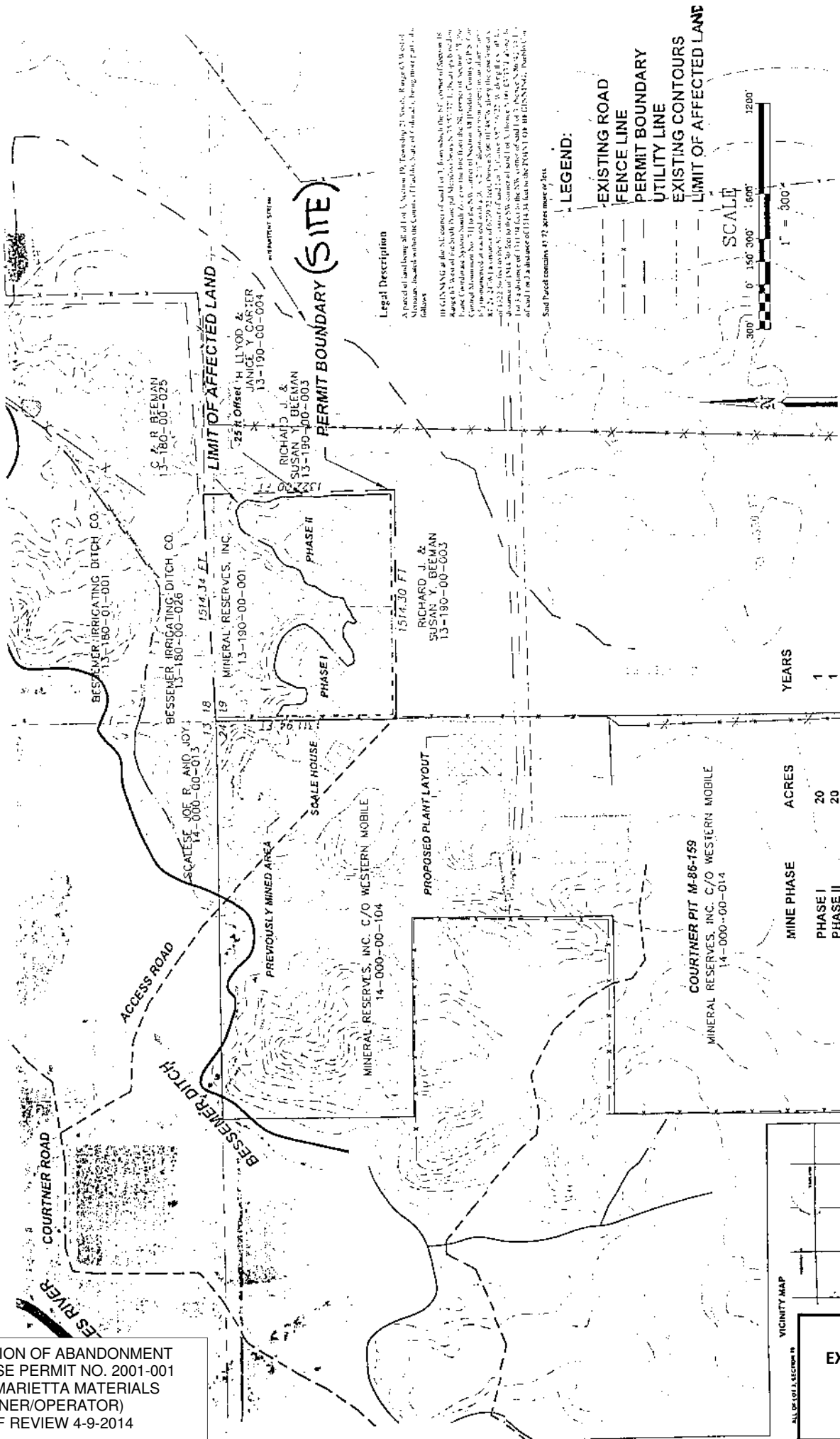
2. Staff would like to bring to applicant's attention that in the future should they want to mine the site a new special use permit will need to be submitted.

DJG

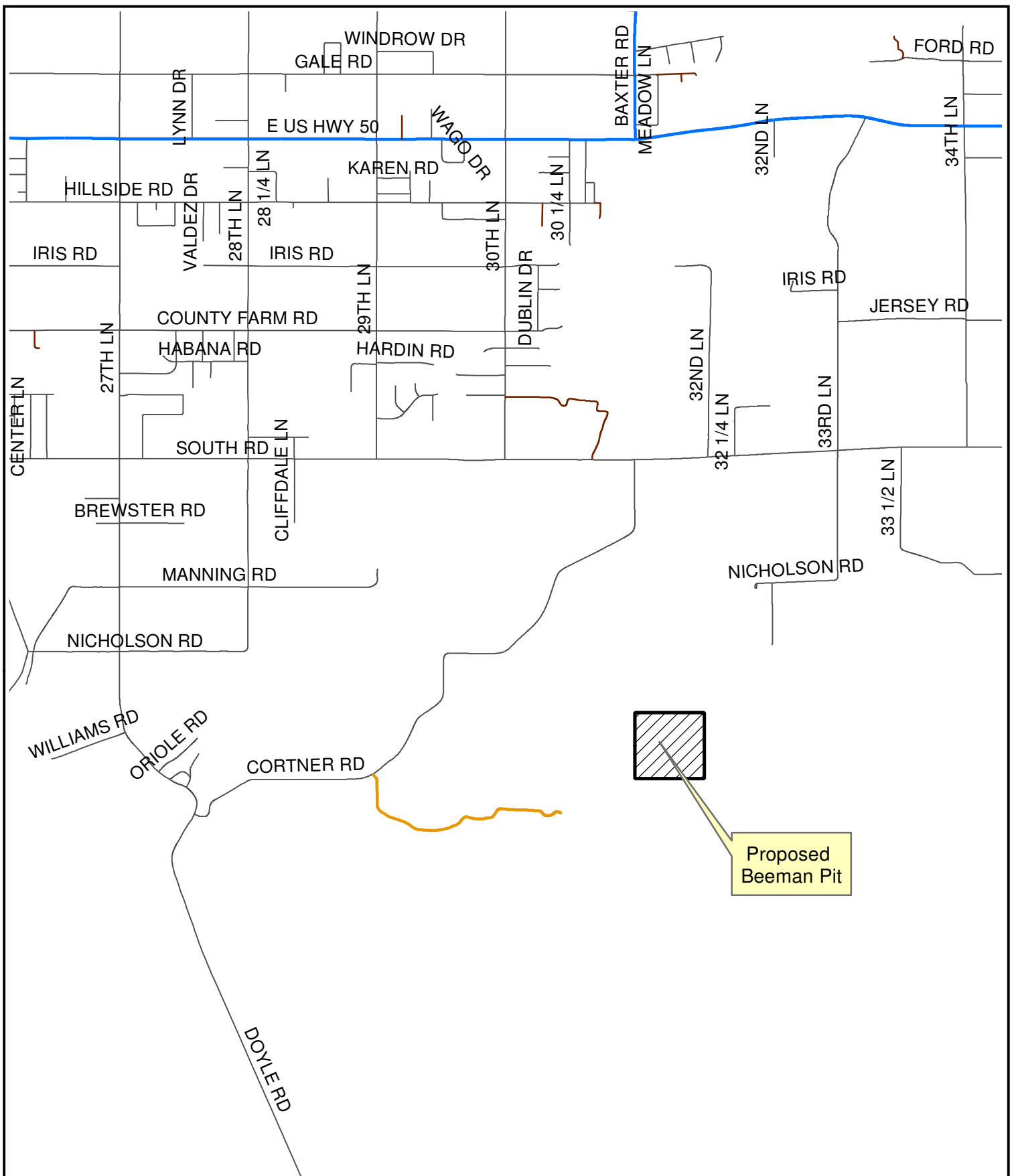
Attachments: Exhibit 1 Mining Plan Map
Exhibit 2 Vicinity Map
Exhibit 3 Letter from Martin Marietta Materials

c: Martin Marietta Materials, c/o Julie Mikulas, Land Manager
Division of Reclamation, Mining and Safety c/o Tyler O'Donnell (M-2002-009)
Greg Styduhar, County Attorney
Gary Raso, Assistant County Attorney
Pueblo County Department of Engineering and Public Works c/o Dave Benbow

DECLARATION OF ABANDONMENT
SPECIAL USE PERMIT NO. 2001-001
MARTIN MARIETTA MATERIALS
(OWNER/OPERATOR)
STAFF REVIEW 4-9-2014



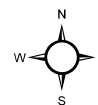
PCPC
EXHIBIT NO.
1
4-22-2014



DECLARATION OF ABANDONMENT
SPECIAL USE PERMIT NO. 2001-001
MARTIN MARIETTA MATERIALS
(OWNER/OPERATOR)
STAFF REVIEW 4-9-2014

VICINITY MAP

2013 Administrative Review



PCPC
EXHIBIT NO.
2
4-22-2014

Martin Marietta Materials



Rocky Mountain Division
10170 Church Ranch Way
Suite 201
Westminster, CO 80021
Telephone (720) 245-6400

April 7, 2014

Ms. Dominga Jimenez-Garcia
Pueblo County Planning
229 West 12th Street
Pueblo, CO 81003

RE: Special Use Permit 2001-001, Beeman Pit

Dear Ms. Jimenez-Garcia:

Martin Marietta Materials, Inc. acquired the property associated with the above-referenced permit on December 9, 2011. We have reviewed the files and requirements as permitted by Lafarge West, Inc. (predecessor owner/operator). We have determined that with the current economics of the area and cost of opening up a new mining operation, it will not be a good financial investment at this time.

We as the operator/owner are in agreement with declaration of abandonment due to the use not being established.

Please give Julie Mikulas, Land Manager, a call at 970-227-4041 if you need additional information.

Sincerely,

David Hagerman
Rocky Mountain Division
Vice President