



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215
Denver, CO 80203

September 29, 2014

John Avery
Luke the Duke LLC
989 County Road 120
Hesperus, CO 81326

**RE: Comments and Objections to a 110c Application,
Luke the Duke Gravel Pit, File No. M-2013-036**

Dear Mr. Avery:

The public comment period for the above referenced application opened on the filing date, July 22, 2014, and closed on August 21, 2014, as specified in the public notice published in the Durango Herald on August 1, 2014. During the public comment period the Division received two agency comments to the application. After the close of the public comment period, after August 21, 2014, the Division received five objections to the application. The Division received the following comments and objections to the application:

Timely Agency Comments:

1. State Historic Preservation Officer, dated July 24, 2014, received July 31, 2014;
2. Division of Water Resources, dated July 28, 2014;
3. La Plata County Attorney, dated August 8, 2014, received August 8, 2014;

Late Objections:

4. Gary D. Grantham, dated August 26, 2014, received August 26, 2014;
5. Gregg and Kathy Darling, not dated, received August 26, 2014;
6. Thomas Jeffrey Layne, dated August 26, 2014, received August 27, 2014;
7. Chuck Eckenrode and Gail Lovell, dated August 27, 2014; and
8. Michael A. Goldman, Esq., on behalf of Clifford and Carolyn Attkisson, Trustees of the Attkisson 1994 Revocable Trust, dated August 26, 2014, received August 27, 2014.

Sincerely,

Wallace H. Erickson

Environmental Protection Specialist

Enclosure: Item 3 as listed above (items 1, 2, and 4 through 8 were forwarded previously)





La Plata County Attorney

Sheryl Rogers
Todd Weaver
Paul Kosnik
Adara Smith

1099 Main Street, Suite 313
Crossroads Building
Durango, CO 81301
(970) 382-2600

August 8, 2014

Mined Land Reclamation Board
1313 Sherman St., #215
Denver, CO 80203
DMG_web@state.co.us

RECEIVED

AUG 08 2014

Durango, CO 81301
Division of Reclamation
Mining and Safety

Re: File No. M-2013-06, Luke the Duke LLC

Dear Members of the Board:

Please accept this letter as comment from La Plata County in regards to the enforcement hearing held on Wednesday, July 30, 2014, in File No. M-2013-06, Luke the Duke LLC, which concerned an unpermitted sand and gravel operation in the Cross Creek Ranch subdivision, located in La Plata County. The County understands the Mined Land Reclamation Board made a determination at the end of the hearing that Luke the Duke LLC had conducted mining operations without a permit and is requiring Luke the Duke LLC to obtain a mining permit for its operations within 90 days of the Board's order.

Under La Plata County's land use code, gravel mining or mineral extraction operations require a Class II land use permit. In situations where the Colorado Division of Reclamation, Mining and Safety gets involved, La Plata County defers to the Division's determination on if certain activities qualify as gravel mining or mineral extraction operations. Once the Division (or the Board) makes such a determination, La Plata County moves forward (or not) depending on the Division's determination.

In the present case, now that the Board has determined Luke the Duke LLC has conducted mining operations, Luke the Duke LLC must now also obtain a Class II land use permit from La Plata County prior to performing any additional activities at the Cross Creek Ranch subdivision. As such, La Plata County respectfully requests that the Board add a condition to its order in this matter or within the reclamation permit requiring Luke the Duke LLC to apply for and obtain a Class II land use permit from La Plata County prior to performing any additional activities related to its mining operations in the Cross Creek Ranch subdivision.

Thank you for your time and consideration.

Sincerely,
La Plata County Attorney's Office



Todd A. Weaver
Deputy County Attorney

Cc: Damian Peduto, La Plata County Planning Department Director
Marianna Spishock, Code Enforcement Officer
Butch Knowlton, La Plata County Building Department Director
Sheryl Rogers, La Plata County Attorney
Kate Pickford, Colorado Division of Reclamation, Mining and Safety, Durango Office
Julie Murphy, Colorado Attorney General's Office