



## COLORADO

Division of Reclamation,  
Mining and Safety

Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

**DATE:** December 22, 2016

**TO:** Transit Mix Concrete Co.  
ATTN: Andre LaRoche  
444 E. Costilla St.  
Colorado Springs, CO 80903

**RE:** Findings of Fact, Conclusions of Law and Order  
Transit Mix Concrete Company  
File No. M-2016--010

On December 20, 2016 the Mined Land Reclamation Board signed the enclosed Board Order for the above captioned operation. We strongly advise that you read this document carefully. The Board orders that applicant file no. M-2016-010 be DENIED.

Sincerely,



Camille Mojar  
Board Secretary

Enclosure(s)

Certified Mail  
7014-2120-0001-7869-7827

Cc's

Amy Eschberger  
Wally Erickson  
John Roberts  
Scott Scultz



BEFORE THE MINED LAND RECLAMATION BOARD  
STATE OF COLORADO

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

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IN THE MATTER OF THE APPLICATION OF TRANSIT MIX CONCRETE  
COMPANY FOR A 112 CONSTRUCTION MATERIALS RECLAMATION  
PERMIT, File No. M-2016-010

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THIS MATTER came before the Mined Land Reclamation Board ("Board") on October 26 and 27, 2016 in Colorado Springs for a hearing to consider the application for a 112c construction materials reclamation permit filed by Transit Mix Concrete Company ("Applicant"), file number M-2016-010.

Amy Eschberger, Wally Erickson, Peter Hays, Tim Cazier, and Assistant Attorney General Scott Schultz appeared on behalf of the Division of Reclamation, Mining and Safety ("Division"). Norton Cutler, Esq. appeared on behalf of Applicant. Carrie Bernstein, Esq. and Amanda Bradley, Esq. appeared on behalf of Objector Cheryl Kimble. Steven Mulliken, Esq. appeared on behalf of Objector Ingersoll Trust. Fire Chief Hartmut Wright appeared on behalf of Objector Southwestern Highway 115 Fire Protection District. Objectors Nancy Reed, Gary K. (Kris) McCowen, Warren Dean, and Weldon Flaharty each appeared on his or her own behalf.

The Board, having considered the presentations, testimony, and evidence of the Division;<sup>1</sup> Applicant; and the objectors, and being otherwise fully informed of the facts in the matter, enters the following:

**FINDINGS OF FACT**

1. On March 8, 2016, the Applicant filed an application with the Division for a 112c reclamation permit under section 34-32.5-112, C.R.S. for a site known as the Hitch Rack Ranch Quarry in El Paso County, Colorado, file number M-2016-010 ("Application"). The Application proposed an operation to be located in section 16, Township 16 South, Range 67 West, 6<sup>th</sup> Principal Meridian on property known as Hitch Rack Ranch.

2. On March 9, 2016, the Division deemed the Application "complex" and extended the standard ninety-day decision deadline by sixty days, from June 6, 2016 to August 5, 2016, pursuant to Rule 1.4.1(7) of the Mineral Rules and

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<sup>1</sup> The Division was advisory staff to the Board, not a party, in this proceeding.

Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials, 2 CCR 407-4 ("Rules").

3. During the public comment period, as mandated by Rule 1.7.1, the Division received one hundred eight comment and objection letters from individuals, organizations, and agencies. The public comment period closed on April 19, 2016.

4. On June 14, 2016, pursuant to Rule 1.6.2(1)(f), the Division required the Applicant to provide additional notice to the property owners at the Eagles Nest and Bauer Ranch subdivisions. During this second public comment period, which closed on July 8, 2016, the Division received nine written objection letters.

5. On June 30, 2016, the Division hosted an informal public meeting in Colorado Springs for the purpose of explaining the application review process, issues within the Board's jurisdiction, the prehearing conference, and formal Board hearing processes. Parties and interested persons were informed of the informal public meeting by written notice, provided on June 9, 2016.

6. The Division extended the Application recommendation deadline from August 5, 2016 to October 4, 2016 on the Applicant's request. The prehearing conference and Board hearing were rescheduled and properly noticed accordingly.

7. During the review period, the Division generated six adequacy letters between May 27, 2016 and September 23, 2016. The Applicant addressed all adequacy issues to the Division's satisfaction.

8. On September 29, 2016, the Division issued and served on all parties both a written recommendation to approve the Application over objections and a written rationale for that recommendation.

9. On October 5, 2016, the Board, through a prehearing officer, conducted a prehearing conference in Colorado Springs. The prehearing officer issued a draft prehearing order. Among other things, the draft prehearing order identified five categories of issues for the parties to present to the Board for consideration. At the hearing, the Board considered the draft prehearing order and invited amendments or adjustments to be proposed by the parties. No party objected to, or proposed amendments or adjustments to, the draft prehearing order. The Board adopted the draft prehearing order as the final prehearing order.

10. The Application described a proposed construction materials (granite) mining operation and on-site processing of mined materials, including crushing, screening, washing, and production of aggregate products. The proposed operation would be the fourth quarry in the foothills west of Colorado Highway 115 near

Colorado Springs (the others being the Menzer Quarry, the Red Canyon Quarry, and Table Mountain Quarry).

11. The permit boundary described in the Application included three large excavation areas with highwalls maintained in a benched configuration on 392.75 acres of affected lands. As described in the Application, the proposed operation would advance through six mining phases with reclamation occurring concurrently as the operation progresses. The Application proposed to reclaim the affected lands for wildlife habitat. The Division calculated the financial warranty for the operation through phase three to be \$3,857,842.00.

12. The proposed permit boundary included segments of Little Turkey Creek and Deadman Creek.

13. As proposed, the permit boundary included part of Little Turkey Creek Road, a private dirt road. Little Turkey Creek Road branches at a point east of the proposed permit boundary and both branches proceed through the proposed mining operation. One branch of Little Turkey Creek Road parallels Little Turkey Creek through the proposed mining area, while the other branch of Little Turkey Creek Road parallels Deadman Creek through the proposed mining area. Little Turkey Creek Road is the sole means of access for residents of the Eagles Nest subdivision.

14. The mining plan in the Application proposed to construct an access road for the mining operation, which road was proposed to cross Little Turkey Creek Road, Little Turkey Creek, and Deadman Creek. In response to the Division's third adequacy review letter, dated August 8, 2016, Applicant submitted an "Engineering Evaluation of Little Turkey Creek Road," signed and sealed by Paul Kos, PE of Norwest Corporation. The engineering evaluation stated that "the quarry design includes plans to build a separate access road so that no heavy equipment associated with the quarry will travel Little Turkey Creek Road." The engineering evaluation further stated, at pages 8-9:

Potential Problem: The quarry access roads will require an intersection on both the Little Turkey Creek and Deadman Creek segments of Little Turkey Creek Road. These intersections could impact the safety and ease of use of the road.

Solution: The intersection and crossing of Little Turkey Creek Road will be established during the initial quarry development and last through the life of the quarry. The intersection and crossing of Deadman Creek will be established once mining commences in the North Pit Extension area, and the intersection will be removed and reclaimed when mining and reclamation is finished in this area. ...

Both intersections will be at-grade crossings equipped with stop signs for mine traffic. Traffic on Little Turkey Creek Road will not be required to stop. Establishing the intersection requires realigning Little Turkey Creek Road for approximately 400 feet to remove unnecessary curves.

15. At the hearing, Robert Stabo ("Mr. Stabo") testified on behalf of the Applicant. Mr. Stabo stated that, under the proposed blasting plan in the Application, traffic will not be permitted through the quarry on Little Turkey Creek Road for a period of time. Amy Eschberger testified for the Division that the Applicant's blasting plan provided that: blasts may occur up to three times per week; prior to a blast, "access corridors will be secured for the length of time needed to successfully complete the blast;" a typical length of time for a blast is approximately thirty minutes, but that access corridors may be secured for a longer, unspecified, period in the event of a misfire. Segments of one or both branches of Little Turkey Creek Road into and through the mining operation constitute "access corridors."

16. At the hearing, Fire Chief Hartmut Wright ("Chief Wright") testified about the dangers of fly rock related to blasting, that approximately ninety percent of the residents near the proposed operation are more than fifty years of age, and about the importance of emergency vehicles having access through the quarry on Little Turkey Creek Road. Chief Wright further testified that the Front Range is an area of extreme fire danger, and that the area of the proposed operation presents a high potential that a fire would spread because it is in a box canyon.

17. RMBC Group, LLC is the owner of the Hitch Rack Ranch. At the hearing, the Applicant offered into evidence an "Owner's Acknowledgement," signed by RMBC Group, LLC on September 15, 2016, stating that pursuant to a royalty agreement between RMBC Group, LLC and the Applicant, that the Applicant "has the legal right to enter upon [Hitch Rack Ranch] for the purpose of mining operations and the extraction of construction aggregates." The Division testified that it has received the Owner's Acknowledgment. The Board admitted the Owner's Acknowledgement into evidence over objection by counsel for Objector Cheryl Kimble.

18. One or more residents of the Eagles Nest subdivision possess a non-exclusive easement on Little Turkey Creek Road. The residents of the Eagles Nest subdivision who possess the easement are the dominant estate owners of the Little Turkey Creek Road easement. Counsel for Objector Kimble testified that the dominant easement was in the records of the El Paso County Assessor's Office at the time that the Application was filed with the Division.

19. On October 5, 2016, Objector Cheryl Kimble submitted, through counsel, her DRMS Rule 2.6 Pre-Hearing Motion to Deny Application for Mining Permit ("Prehearing Motion"). On October 20, 2016, the Division submitted its response to the Prehearing Motion. In its response, the Division stated, in paragraph 18:

The Division has not received the source of the Applicant's legal right to utilize Little Turkey Creek Road as proposed in the Application, i.e., initiate a mining operation on the affected land, specifically Little Turkey Creek Road.

20. At the hearing, the Applicant testified that crossings of Little Turkey Creek Road, its planned improvements to the road, and closures of the road for blasting do not constitute an impermissible or unreasonable interference with the use of the easement.

21. As proposed in the Application, the Applicant's responses to adequacy letters from the Division, and based on evidence and testimony presented at the hearing, the Applicant planned to affect Little Turkey Creek Road through modification of the road (*e.g.*, straightening the road and adding crossings) and temporary closures of the road for blasting.

22. The Applicant has not demonstrated that it has received, or is not legally required to receive, the conveyance of a legal right to enter and initiate a mining operation on Little Turkey Creek Road from the owners of the dominant easement on Little Turkey Creek Road. The Division testified that the adjudication of private property rights are outside the authority of the Division and the Board.

23. At the hearing, Timothy Crawford ("Mr. Crawford") of Bishop-Brogden Associates, Inc., testified on behalf of the Applicant. Mr. Crawford testified that three primary aquifers exist at or near the proposed mining site, including a fractured rock aquifer associated with Little Turkey Creek, perched on shallow hard rock systems, and sedimentary bedrock aquifers. Mr. Crawford opined that the proposed mining operation will not intercept groundwater, and have no impact on neighboring wells or nearby surface water or groundwater users. Mr. Crawford testified that Little Turkey Creek will buffer potential impacts to wells west of the proposed quarry. Mr. Crawford also testified that if impacts on surface water or groundwater are identified, then the Applicant will remedy such impacts. Mr. Crawford testified that evaluating groundwater resources is not an exact science, and that the magnitude of changes and consideration of available data is important.

24. At the hearing, Objector Ingersoll Trust presented testimony from various witnesses about groundwater concerns and potential impacts on

groundwater from the proposed mining operation, including Steve Mulliken, Jerry Moore, Ted Kerr, and Charles Norris.

25. Steve Mulliken ("Mr. Mulliken") testified that water to individual wells in the area originates from water held in fractured granite, not a large aquifer and that monitoring wells would be ineffective. Mr. Mulliken testified that the granite deposit that would be removed by the proposed mining operation is the water storage vessel and delivery system for small water deposits.

26. Jerry Moore ("Mr. Moore"), a retired exploration hydrologist, testified on behalf of Objector Ingersoll Trust that the fractured granite aquifer in the area of the proposed mining operation has a relatively small volume of water and is very sensitive to being recharged. Mr. Moore also testified that it is very difficult to accurately model fractured aquifers. Mr. Moore stated that surface water and groundwater flows are directed to the proposed affected area, and that the mining operation's removal of the granite will destroy the "pipeline" for the water and damage the current water recharge flow system.

27. At the hearing, Ted Kerr ("Mr. Kerr"), President of Red Rock Valley Estates Water District, testified on behalf of Objector Ingersoll Trust. Mr. Kerr testified that the District has never had a reliable water source; that any water, and particularly good water, is difficult to find; and that District residences have xeric landscaping, not lawns.

28. Charles Norris, Ph.D. ("Dr. Norris") with Geo-Hydro, Inc. testified at the hearing on behalf of Objector Ingersoll Trust. Dr. Norris testified that there is no indication of perched water in the area. Dr. Norris disputed the testimony on behalf of the Applicant regarding how the granite fracture system drains. Specifically, Dr. Norris testified that the Applicant modeled the area drainage on a sand pile, which drains much differently than a fractured granite system, such as the system located in the area of the proposed mining operation. Dr. Norris testified that the mining operation will drain water from the flanks of Little Turkey Creek, reduce the base flow (and possibly the perennial flow) of the creek, and reduce availability of water to wells in the valley. Dr. Norris opined that removing granite from the proposed mining area will destroy the pathways for water movement. Dr. Norris testified that the proposed quarry will absolutely impact water levels and that it is impossible to tell the impact on groundwater until after the groundwater system is already affected.

29. At the hearing, Steve Boyle ("Mr. Boyle") of BIO-Logic, Inc. testified on behalf of the Applicant. Mr. Boyle testified that BIO-Logic, Inc. mapped vegetation communities on the proposed mining site, performed a biological evaluation of the site, conducted a Mexican Spotted Owl Habitat Assessment (indicated by the

Division to have occurred on October 13, 2015), performed a Mexican Spotted Owl Survey Report (indicated by the Division to have occurred on June 24, 2016), and completed a Nesting Raptor Survey Report. Mr. Boyle testified that the evaluations at the site found no Mexican Spotted Owls, found no nesting raptors, found no Ute Ladies' Tresses habitat, and identified approximately one hundred fifty species likely to occur at the site.

30. Mr. Boyle testified at the hearing that the Mexican Spotted Owl is on the federal list of "threatened" species. Mr. Boyle further testified that the Mexican Spotted Owl is a small bird that is selective about where it nests, preferring old-growth conifer forests, rock cliffs, and canyons.

31. Mr. Boyle testified that the age of the conifers in the area make it a poor quality nesting habitat for Mexican Spotted Owl, but that one area at the site could constitute nesting habitat. Mr. Boyle testified that approximately 325 acres of suitable Mexican Spotted Owl foraging habitat would be impacted by the proposed mining operation. Mr. Boyle testified that foraging by Mexican Spotted Owl in the area of the proposed mining operation will not be possible until after completion of reclamation.

32. Mr. Boyle testified that the proposed mining operation would displace wildlife in the area, but that such impacts will be local and not regional.

33. John Sanderson, Ph.D. ("Dr. Sanderson") of The Nature Conservancy testified on behalf of Objector Ingersoll Trust. Dr. Sanderson testified that the proposed mining operation, as proposed in the Application, is in the heart of an area of very high biodiversity significance and that it abuts an established nature preserve that is more than one thousand six hundred acres in size. Dr. Sanderson testified and showed exhibits demonstrating that Hitch Rack Ranch is within a migratory corridor for animals including elk and mule deer between the Beaver Creek Wilderness Study Area to the west and Fort Carson to the east. Dr. Sanderson further testified that Hitch Rack Ranch is a critical connection point in a four-hundred-square-mile conservation landscape.

34. Dr. Sanderson testified that the proposed mining operation would be northeast of the Aiken Canyon Preserve. Dr. Sanderson testified that the Aiken Canyon Conservation Area includes habitat for wildlife such as black bear, mule deer, elk, mountain lions, bobcats, gray foxes, badgers, tuft-eared pine squirrels, and more than one hundred species of birds. Dr. Sanderson testified that while six hundred species of plants are located in the area, the reclamation plan of the proposed mining operation identifies only twenty-two plant species. Dr. Sanderson testified and presented an exhibit showing that wild turkeys inhabit the area, including an area within Hitch Rack Ranch near Little Turkey Creek.



35. Dr. Sanderson testified that the Mexican Spotted Owl has been listed as threatened since 1993 and that it requires old-growth conifer forests or rocky cliffs for nesting. Dr. Sanderson testified and presented an exhibit from the Mexican Spotted Owl Assessment performed by BIO-Logic, Inc. showing that Hitch Rack Ranch is entirely located in one of three Mexican Spotted Owl “Critical Habitats” west of Castle Rock, Colorado Springs, and Pueblo. Dr. Sanderson testified that “critical habitat” may include “areas that are not currently occupied by the species but will be needed for its recovery.” Dr. Sanderson testified that the area from Cañon City to Colorado Springs is the best place in Colorado for Mexican Spotted Owl. Dr. Sanderson presented Figure 4 from the Mexican Spotted Owl Assessment performed by BIO-Logic, Inc., showing that the proposed mining site includes “fair” nesting habitat. Dr. Sanderson testified that the site of the proposed mining operation contains good quality foraging habitat, and possibly roosting habitat, for the Mexican Spotted Owl.

### CONCLUSIONS OF LAW

36. The Board has jurisdiction over this matter pursuant to the Colorado Land Reclamation Act for the Extraction of Construction Materials, Article 32.5 of Title 34, C.R.S. (2016) (“Act”).

37. Under section 34-32.5-115(4), C.R.S., “the applicant must comply with the requirements of this article and section 24-4-105(7), C.R.S.”

38. Under Rule 1.4.1(10), the Applicant “has the burden of demonstrating that the application meets the minimum requirements of the Act, Rules, and Regulations.”

39. Under Rule 2.8.1(1) and section 24-4-105(7), C.R.S., “the proponent of an order shall have the burden of proof.” As the party initiating this matter by filing the Application, Applicant was the “proponent of an order” at the hearing and, therefore, has the burden to prove that the Application was consistent with applicable laws and rules, and should be approved by the Board.

40. In considering whether to grant a permit to an applicant, the Board “shall not deny a permit except on one or more of the following grounds,” as relevant:

(a) The application is incomplete and the performance and financial warranties have not been provided.

....

(c) Any part of the proposed mining operation, the reclamation program, or the proposed future use is contrary to the laws or regulations of this article.

....

(g) The proposed reclamation plan does not conform to the requirements of section 34-32.5-116.

C.R.S. § 34-32.5-115(4) (2016).

41. The Applicant failed to meet its burden to show that the Application meets the minimum requirements of the Act, specifically, the requirement to show the source of the legal right to enter and initiate a mining operation on affected land set forth in section 34-32.5-112(1)(b)(IV), C.R.S. The Application proposed to realign a portion of Little Turkey Creek Road, close the road temporarily during mining operations, and to install crossings of the road. The Applicant's proposed impact on Little Turkey Road may affect the legal rights of the dominant estate owners of the easement on the road. Determination of the legal rights of the easement owners is outside the Board's jurisdiction. However, the Board is required to determine whether the Application shows that the Applicant has obtained from all owners of record a legal right to enter and initiate a mining operation. The Application failed to demonstrate to the satisfaction of members of the Board that the Applicant has obtained from all property owners, including dominant estate owners of the private road easement, a legal right to enter and initiate a mining operation on Little Turkey Creek Road.

42. "Affected land" means "the surface of an area within the state where a mining operation is being or will be conducted, which surface is disturbed as a result of an operation," specifically including private ways and roads. C.R.S. § 34-32.5-103(1) (2016). Little Turkey Creek Road constituted "affected land" because of the manner of use, and intended modification, of the road as proposed in the Application.

43. Applicant has not demonstrated that it does not need to obtain a legal right of entry from the dominant estate holders. There exists a dispute regarding whether the servient estate holder has authority to grant the Applicant permission to alter Little Turkey Creek Road over the objection of the dominant estate holders. This dispute exists regardless of whether Applicant's proposed modifications and use of the road constitutes an impermissible or unreasonable interference with the dominant estate holders' use of the easement. This is a legal dispute regarding the respective property interests of the dominant and servient estate holders as granted by the easement. The Board does not have jurisdiction to resolve this legal dispute. Without resolution of this issue, however, Applicant cannot meet its burden to

demonstrate that it has obtained the legal right of entry to initiate a mining operation on Little Turkey Creek Road.

44. To the extent that the Applicant may be required by the Act and Rules to obtain and show a legal right to enter and initiate a mining operation on Little Turkey Creek Road from all property owners, including dominant estate holders, the Application is incomplete.

45. Section 34-32.5-116(4)(h), C.R.S. provides:

Reclamation plans and their implementation are required on all affected lands and shall conform to the following requirements:

(h) Disturbances to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and groundwater systems, both during and after the mining operation and during reclamation, shall be minimized. Nothing in this paragraph (h) shall be construed to allow the operator to avoid compliance with other statutory provisions governing well permits and augmentation requirements and replacement plans when applicable.

46. The Application failed to demonstrate to the satisfaction of the Board that the impact of the proposed mining operation on the prevailing hydrologic balance of the proposed affected land and the surrounding area and on the quality and quantity of groundwater systems will be minimized.

47. By failing to demonstrate that the impact of the proposed mining operation on the prevailing hydrologic balance of the proposed affected land and the surrounding area, and on the quality and quantity of groundwater systems will be minimized, the reclamation plan in the Application fails to conform to the requirement of section 34-32.5-116(4)(h), C.R.S.

48. Because the reclamation plan in the Application fails to conform to the requirement of section 34-32.5-116(4)(h), C.R.S., the Board may deny the Application in accordance with section 34-32.5-115(4)(g), C.R.S.

49. Rule 3.1.8(1) requires:

All aspects of the mining and reclamation plan shall take into account the safety and protection of wildlife on the mine site, at processing sites, and along all access roads to the mine site with special attention given to critical periods in the life cycle of those species which require special consideration (e.g., elk calving,

migration routes, peregrine falcon nesting, grouse strutting grounds).

50. Rule 6.4.8 requires an application for a 112 reclamation permit to provide, in Exhibit H, information about the wildlife in and around the proposed mining area, and states:

(1) In developing the wildlife information, the Operator/Applicant may wish to contact the local wildlife conservation officer. The Operator/Applicant shall include in this Exhibit, a description of the game and non-game resources on and in the vicinity of the application area, including:

(a) a description of the significant wildlife resources on the affected land;

(b) seasonal use of the area;

(c) the presence and estimated population of threatened or endangered species from either federal or state lists; and

(d) a description of the general effect during and after the proposed operation on the existing wildlife of the area, including but not limited to temporary and permanent loss of food and habitat, interference with migratory routes, and the general effect on the wildlife from increased human activity, including noise.

(2) The application may be reviewed and commented upon by the State of Colorado Division of Wildlife (DOW). If the DOW has comments, they must be provided prior to the end of the public comment period specified in Subsection 1.7.1(2)(a) to be considered by the Board and Office.

51. The Application failed to take into account, to the satisfaction of the Board, the safety and protection of wildlife at the proposed site, including without limitation, failing to take into account conservation of Mexican Spotted Owl foraging habitats and potential nesting habitats, and turkey production areas.

52. Because the Application failed to take into account the safety and protection of wildlife at the proposed site, the proposed mining operation failed to comply with Rule 3.1.8.

53. By failing to comply with Rule 3.1.8, the Application may be denied by the Board pursuant to section 34-32.5-115(4)(c), C.R.S.

## ORDER

Based on the foregoing findings of fact and conclusions of law, the Board hereby orders the Application DENIED.

DONE AND ORDERED this 20<sup>th</sup> day of December 2016.

FOR THE COLORADO MINED LAND  
RECLAMATION BOARD

Jill Van Noord  
Jill Van Noord, Vice Chair

## NOTICE OF JUDICIAL REVIEW RIGHTS

This order becomes effective and final upon mailing. Any party adversely affected or aggrieved by agency action may commence an action for judicial review by filing a complaint with the district court within thirty-five (35) days after the effective date of this order, pursuant to section 24-4-106, C.R.S. (2016) and the Colorado Rules of Civil Procedure. In the event that a complaint for judicial review is filed, designations of record made in accordance with section 24-4-106(6), C.R.S. should be served on the Board at: 1313 Sherman Street, Room 215, Denver, CO 80203, Attention: Johnie Abad.

**CERTIFICATE OF SERVICE**

This is to certify that I have duly served the within FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 22 day of December 2016 addressed as follows:

*By Certified Mail to:*  
7014-2120-0001-7869-7827

Transit Mix Concrete Co.  
ATTN: Andre LaRoche  
444 E. Costilla St.  
Colorado Springs, CO 80903

*By United States Postal Mail to:*

Mark McClurg  
Highlands of Turkey Cañon Ranch  
Homeowners Association  
15795 Phantom Canyon View  
Colorado Springs, CO 80926

William & Marion Baker  
3375 Turkey Cañon Ranch Road  
Colorado Springs, CO 80926

Chelsea Luttrall  
2453 Gold Rush Drive, #4  
Colorado Springs, CO 80906

Lisa Pecoraro  
16230 Cala Rojo Drive  
Colorado Springs, CO 80926

*By inter-office or electronic mail to:*

Amy Eschberger  
Division of Reclamation, Mining & Safety  
1313 Sherman Street, Room 215  
Denver, CO 80203

Wally Erickson  
Division of Reclamation, Mining & Safety  
1313 Sherman Street, Room 215  
Denver, CO 80203

*By intra-office or electronic mail to:*

John J. Roberts  
First Assistant Attorney General  
Department of Law  
Business and Licensing Section  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 10<sup>th</sup> floor  
Denver, CO 80203

Scott Schultz  
Assistant Attorney General  
Department of Law  
Natural Resources and Environment Section  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 10<sup>th</sup> floor  
Denver, CO 80203

*By United States Postal Mail  
(Continued):*

Kathie Rawson  
Red Rock Valley Estates  
Neighborhood  
Association  
11795 Calle Corvo  
Colorado Springs, CO 80926

Chris Burnell  
Turkey Cañon Ranch Homeowners  
Association  
15575 Henry Ride Heights  
Colorado Springs, CO 80926

William B. Sheaves, III  
4460 Tierra Rojo Drive  
Colorado Springs, CO 80926

Reece Eddy  
Ridgewood Estates Association  
1285 Glenrock Drive  
Colorado Springs, CO 80926

Kenneth R. Baird  
2335 Paseo Corta  
Colorado Springs, CO 80926

John and Kristan Rigdon  
1130 Glenrock Drive  
Colorado Springs, CO 80926

Lynn M. Steer  
1125 Glenrock Drive  
Colorado Springs, CO 80926

Edyn Jessup  
The Nature Conservancy in Colorado  
2424 Spruce Street  
Boulder, CO 80302

Sharon Reinsma  
11515 Cala Rojo Drive  
Colorado Springs, CO 80926

Weldon W. and Jennifer K. Flaharty  
1005 Glenrock Dr.  
Colorado Springs, CO 80926

Kathie and Stan Rawson  
11795 Calle Corvo  
Colorado Springs, CO 80926

Charles and Nancy Reed  
4848 Little Turkey Creek Road  
Colorado Springs, CO 80926

Gerry Klein  
11580 Calle Corvo  
Colorado Springs, CO 80926

Tina Swonger  
RE/MAX Properties, Inc.  
2630 Tenderfoot Hill St.  
Ste. 100  
Colorado Springs, CO 80906

Charles A. and Patricia L. Watkins  
9580 State Hwy 115  
Colorado Springs, CO 80926

Charles H. and Denise A. Hancock  
4241 Little Turkey Creek Rd.  
Colorado Springs, CO 80926

Richard L. and Susan K. Larsen  
6980 Granite Peak Drive  
Colorado Springs, CO 80923

Gary K. McCowen  
3070 Little Turkey Creek Road  
Colorado Springs, CO 80926

Jerry P. and Karen B. Moore  
15836 Spanish Peak Vw  
Colorado Springs, CO 80926

Stephen Sovaiko  
11335 Valle Verde Drive  
Colorado Springs, CO 80926

Ray and Julie Whitehead  
15954 Cala Rojo Drive  
Colorado Springs, CO 80926

John and Debbie Gard  
11320 Calle Corvo  
Colorado Springs, CO 80926

Charlton Brice and Denise Brice  
11735 Calle Corvo  
Colorado Springs, CO 80926

Sara and Marty Harper  
11465 Calle Corvo  
Colorado Springs, CO 80926

Elizabeth W. Dean  
3131 Little Turkey Creek Road  
Colorado Springs, CO 80926

Karen and Paul Blatchford  
6280 Gossamer St.  
Colorado Springs, CO 80911

Richard W. and Raven B. Rudduck  
10415 South State Highway 115  
Colorado Springs, CO 80926

Warren H. Dean  
3131 Little Turkey Creek Road  
Colorado Springs, CO 80926

Michael and Cynthia Heer  
16292 Cala Rojo Dr.  
Colorado Springs, CO 80926

Joe and Suzie Koscove  
11545 Calle Corvo  
Colorado Springs, CO 80926

Jack and MaryAnn Koscove  
15310 South Hwy 115  
Colorado Springs, CO 80926

Anne and Tom Fellows  
11810 Valle Verde Drive  
Colorado Springs, CO 80926

Cheryl L. Kimble  
683 Grey Eagle Cir. S.  
Colorado Springs, CO 80919

Carrie S. Bernstein  
Alderman Bernstein  
101 University Boulevard, Ste. 350  
Denver, CO 80206

Scott Samson  
11525 Calle Corvo  
Colorado Springs, CO 80926



Carol J. and David R. Lick  
1940 Spirerock Path  
Colorado Springs, CO 80919

Kenneth Troutt  
11575 Calle Corvo  
Colorado Springs, CO 80926

Joseph Salazar Jr.  
11780 Valle Verde Dr.  
Colorado Springs, CO 80926

Mark Hodges  
11440 Valle Verde Dr.  
Colorado Springs, CO 80926

Mike and Dee Yugovich  
4445 Tierra Rojo Drive  
Colorado Springs, CO 80926

Sara LaVerne  
1863 Northview Dr.  
Colorado Springs, CO 80909

Susan E. Pringle and Monte W. Junck  
7155 Painted Rock Drive  
Colorado Springs, CO 80911

Richard C. Holden and  
Yvonne Bredee Holden  
2109 Woodburn St.  
Colorado Springs, CO 80906

Ann Gerber  
11680 Valle Verde Dr.  
Colorado Springs, CO 80926

Cindy and Keith Newby  
2919 Virginia Ave.  
Colorado Springs, CO 80907

Hartmut Wright  
Southwestern Highway 115 Fire  
Protection District  
15580 Cala Rojo Dr.  
Colorado Springs, CO 80926

Victoria Spengler Wekamp and  
Doug Lee Wekamp  
3085 Little Turkey Creek Rd.  
Colorado Springs, CO 80926

Brian and Betty Gardiner  
2010 Roca Roja Circle  
Colorado Springs, CO 80926

Steven K. Mulliken  
Mulliken Weiner Berg & Jolivet P.C.  
Alamo Corporate Center  
102 South Tejon Street, Ste. 900  
Colorado Springs, CO 80903

Jennifer Divers Day  
2320 Paseo Corto  
Colorado Springs, CO 80926

Geri Sovaiko  
11335 Valle Verde Dr.  
Colorado Springs, CO 80926

Les Gruen  
Urban Strategies, Inc.  
Six South Tejon Street, Ste. 550  
Colorado Springs, CO 80903

Michael Lihs and Bertha "Beege"  
Delgado  
3190 Little Turkey Creek Road  
Colorado Springs, CO 80926

Barbara L. Hughes and Judy Kline  
3011 Springridge Drive  
Colorado Springs, CO 80906

Lawrence Decker  
L.D. and D.L. Decker Trust  
2803 N. Chelton Road  
Colorado Springs, CO 80909

El Paso County Board of  
Commissioners  
200 South Cascade Ave., Suite 100  
Colorado Springs, CO 80903

Turkey Creek Conservation District  
200 S. Santa Fe Ave., 4th Floor  
Pueblo, CO 81003

Troy L. Day  
2320 Paseo Corto  
Colorado Springs, CO 80926

Ted D. Kerr  
Board of Directors  
Red Rock Valley Estates Water  
District  
11145 Calle Corvo  
Colorado Springs, CO 80911



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Camille Mojar, Board Secretary