

<p>COLORADO MINED LAND RECLAMATION BOARD c/o Mr. Jeff Graves, Pre-Hearing Conference Officer 1313 Sherman Street, Room 215 Denver, CO 80203</p>	<p>RECEIVED FEB 14 2017 DIVISION OF RECLAMATION MINING AND SAFETY</p> <p>DRMS File No. M-2016-010</p>
<p>Applicant: TRANSIT MIX CONCRETE CO.</p>	
<p>Attorneys for Applicant Transit Mix Concrete Co.</p> <p>Norton Cutler (Colo. Reg. 34357) Perkins Coie LLP 1900 16th Street, Suite 1400 Denver, CO 80202 Phone: (303) 291-2300 Fax: (303) 291-2400 Email: ncutler@perkinscoie.com</p> <p>Scot W. Anderson (Colo. Reg. 17395) Elizabeth H. Titus (Colo. Reg. 38070) Hogan Lovells US LLP 1601 Wewatta Street, Suite 900 Denver, Colorado 80202 Phone: (303) 899-7300 Fax: (303) 899-7333 E-mail: scot.anderson@hoganlovells.com liz.titus@hoganlovells.com</p>	
<p>WITHDRAWAL OF APPLICANT'S PETITION FOR RECONSIDERATION OF THE MINED LAND RECLAMATION BOARD'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER</p>	

Transit Mix Concrete Co., a Colorado corporation ("Transit Mix"), by and through the undersigned counsel hereby withdraws its petition (the "Petition") made pursuant to Rule 2.9 of the Colorado Mined Land Reclamation Board (the "Board") Mineral Rules and Regulations (the "Rules"), for the Board to reconsider the findings of fact, conclusions of law, and order (the "Decision") issued on December 22, 2016.

In support of its withdrawal of its Petition, Transit Mix states as follows:

1. Transit Mix timely filed its Petition on January 11, 2017, pursuant to the requirements of Rule 2.9.

2. Pursuant to the requirements of the Colorado Administrative Procedures Act, Colo. Rev. Stat. § 24-4-106, and the direction of the Board in its Decision, Transit Mix filed its Complaint for Judicial Review of the Decision in the District Court for El Paso County on January 26, 2017.

3. The Rules states that the "timely filing of a petition for reconsideration shall toll the time in which the Parties to the hearing may seek judicial review of the Board's decision." Rule 2.9.5. The Colorado Administrative Procedures Act, however, states that "[f]inal agency action under this or any other law shall be subject to judicial review as provided in this section, whether or not an application for reconsideration has been filed, unless the filing of an application for reconsideration is required by the statutory provisions, governing the specific agency." Colo. Rev. Stat. § 24-4-106(2). The Administrative Procedures Act limits tolling for a reconsideration proceeding to circumstances where the statute requires such reconsideration, and there are no such statutory provisions governing the Mined Land Reclamation Board. Therefore, Transit Mix was required to file its appeal when it did, or risk losing its right of appeal.

4. Transit Mix recognizes that by filing its complaint for judicial review, jurisdiction over the Decision arguably vests in the court, and not in the Board. Consequently, Transit Mix will withdraw its Petition to avoid any uncertainty related to the court's jurisdiction over the appeal.

Respectfully submitted this 14th day of February, 2017.

PERKINS COIE LLP

s/ Norton Cutler

Norton Cutler (Colo. Reg. 34357)

Attorneys for Applicant Transit Mix Concrete Co.

HOGAN LOVELLS US LLP

s/ Scot W. Anderson

Scot W. Anderson (Colo. Reg. 17395)

Elizabeth H. Titus (Colo. Reg. 38070)

Attorneys for Applicant Transit Mix Concrete Co.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 14th day of February, 2017, a true and correct copy of the foregoing Withdrawal of Applicant's Petition for Reconsideration of the Mined Land Reclamation Board's Findings of Fact, Conclusions of Law, and Order, was served on the following via courier, United States Mail or Email as indicated below:

Via Courier:

Mined Land Reclamation Board
c/o Division of Reclamation Mining and Safety
Attn: Amy Eschberger
1313 Sherman Street
Room 215
Denver, CO 80203

Service via United States Mail:

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

Paul Kos, P.E.
Norwest Corporation
950 South Cherry St., Ste. 800
Denver, CO 80246

Norton Cutler
Perkins Coie LLP
1900 16th Street, Suite 1400
Denver, CO 80202

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

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

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

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

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

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

Jennifer Divers Day
2320 Paseo Corto
Colorado Springs, CO 80926

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

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

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

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

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

Reece Eddy Jr.
1285 Glenrock Drive
Colorado Springs, CO 80926

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

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

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

Debbie Gard
11320 Calle Corvo
Colorado Springs, CO 80926

John Gard
11320 Calle Corvo
Colorado Springs, CO 80926

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

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

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

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

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

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

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

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

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

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

Monte W. Junck
7155 Painted Rock Drive
Colorado Springs, CO 80911

Ted D. Kerr
Red Rock Valley Estates Water Dt.
11145 Calle Corvo
Colorado Springs, CO 80926

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

Gerry Klein
11580 Calle Corvo
Colorado Springs, CO 80926

Judy Kline
3011 Springridge Drive
Colorado Springs, CO 80906

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

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

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

Sara LaVerne (Newby)
1863 Northview Drive
Colorado Springs, CO 80909

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

Michael Lihs
3190 Little Turkey Creek Road
Colorado Springs, CO 80926

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

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

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

Jerry P. Moore
15836 Spanish Peak View
Colorado Springs, CO 80926

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

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

Lisa Pecoraro
16230 Cala Rojo Drive
Colorado Springs, CO 80926

Susan E. Pringle
7155 Painted Rock Drive
Colorado Springs, CO 80911

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

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

Sharon Reinsma
11515 Cala Rojo Drive
Colorado Springs, CO 80926

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

Raven B. Rudduck
10415 South State Hwy 115
Colorado Springs, CO 80926

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

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

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

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

Stephen Sovaiko
11335 Valle Verde Drive
Colorado Springs, CO 80926

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

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

Ken Troutt
11575 Calle Corvo
Colorado Springs, CO 80926

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

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

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

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

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

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

El Paso County Conservation
District
5610 Industrial Place, Suite 100
Colorado Springs, CO 80916

Service via Email:

Jeff Graves
jeff.graves@state.co.us

John Roberts
john.roberts@coag.gov

Alice Hosley
alice.Hosley@coag.gov

Jeff Fugate
Jeff.Fugate@coag.gov

Scott Schultz
scott.schultz@coag.gov

Tony Waldron
tony.waldron@state.co.us

Amy Eschberger
amy.eschberger@state.co.us

Wally Erickson
wally.erickson@state.co.us

Andre LaRoche
andre_laroche@transitmix.com

Paul Kos
pkos@norwestcorp.com

Norton Cutler
ncutler@perkinscoie.com

William Baker
bbaker@officesnax.us
boatman452@gmail.com

Carrie S. Bernstein
csb@ablawcolorado.com

Amanda Bradley
aab@ablawcolorado.com

Karen and Paul Blatchford
hiddenhavenranch@msn.com

Charles H. and Denise A. Hancock
mtnblondée@aol.com

Charlton and Denise Brice
callecorvo@netzero.com

Jennifer Divers Day
jendivday@gmail.com

Troy L. Day
troy.day@startmail.com

Warren H. Dean
warren@rosenbaumdean.com

Lawrence Decker
deckerfamily@q.com

Bertha "Beege" Delgado
thundercanyon3190@gmail.com
thundercanyon1@gmail.com

Reece Eddy
reece.m.eddy@pfizer.com

Anne Fellows
anne@tlfels.net

Tom Fellows
tom@tlfels.net

Jennifer K. Flaharty
jenflaharty@earthlink.net

Weldon W. Flaharty
weldon.flaharty@parsons.com

John and Debbie Gard
johndebG@msn.com

Brian and Betty Gardiner
gardiner@mindspring.com

Les Gruen
urbanstrategies@msn.com

Carol J. and David R. Lick
davelick@yahoo.com

Marty Harper
harpermartin@yahoo.com

Sara Harper
sara@harpercpa.com

Cynthia Heer
C_mheer@yahoo.com

Michael Heer
mheer100@yahoo.com

Barbara L. Hughes
granbryson@comcast.net

Edyn Jessup
ejessup@tnc.org

Monte W. Junck
sue.pringle892@gmail.com

Cheryl L. Kimble
g.kimble@pcisys.net

Gerry Klein
gerryklein777@gmail.com
gerry@gerryklein.com

Judy Kline
granbryson@comcast.net

Joe Koscove
Joe_rav@yahoo.com

Suzie Koscove
suziekoscove@outlook.com

Richard L. and Susan K. Larsen
rlarsen@skywaypark.net

Sara LaVerne (Newby)
newb3281@yahoo.com

Geri Sovaiko
bugs11335@gmail.com

Michael Lihs
thundercanyon3190@gmail.com
thundercanyon1@gmail.com

Gary K. Mccowen
gkmccowen@gmail.com

Jerry P. Moore
jerrypaulmoore@icloud.com

Steven K. Mulliken
mulliken@mullikenlaw.com

Nani DeFelice
ndefelice@mullikenlaw.com

Keith and Cindy Newby
cindy_m_newby@yahoo.com

Susan E. Pringle
sue.pringle892@gmail.com

Stan and Kathie Rawson
kltrain7@gmail.com

Charles Reed
charles.reed.1946@gmail.com

Nancy Reed
ncr.turkeycreek@gmail.com

Sharon Reinsma
reinsmas@yahoo.com

John and Kristan Rigdon
jkrigdon@earthlink.net

Richard W. and Raven B. Rudduck
cabinfever1151@gmail.com

William B. Sheaves III
sheavesw@gmail.com

Tina Swonger
tina.swonger@wesellmore.net
tina.swonger@remax.net

Stephen Sovaiko
oak2106@gmail.com

Ken Troutt
drawer69@q.com

Victoria Spengler Wekamp
vwekamp@gmail.com

Ray Whitehead
rcwhead@aol.com

Amy Eschberger
amy.eschberger@state.co.us

Mike and Dee Yugovich
yugo4health@gmail.com

Doug Lee Wekamp
doug.wekamp@verizon.com

Julie Whitehead
julie@axiodesign.com

Hartmut Wright
chief115vfd@gmail.com

s/Helen R. Hyatt

RECEIVED
FEB 14 2017
DIVISION OF RECLAMATION
MINING AND SAFETY



Hogan Lovells US LLP
1601 Wewatta St.
Suite 900
Denver, CO 80202

Mined Land Reclamation Board
c/o Division of Reclamation Mining and Safety
Attn: Amy Eschberger
1313 Sherman Street, Room 215
Denver, CO 80203