

May 8, 2017

Jay Wagner  
Wagner Construction Inc.  
1850 e 1st Street  
Craig, CO 81625



**COLORADO**  
Division of Reclamation,  
Mining and Safety  
Department of Natural Resources

1313 Sherman Street, Room 215  
Denver, CO 80203

***RE: Wagner Rock Pit, Permit No. M-1999-018, 112c Conversion Application Objections Received***

Dear Mr. Wagner:

The Division of Reclamation, Mining and Safety (Division) received objections (copies enclosed) to the above referenced application from:

1. Virgil Richard King, Jr. 04/28/2017
2. Donna Ashbaugh Hall 04/28/2017
3. Donna Ashbaugh Hall 05/01/2017

On March 13, 2017, the Division determined the application complete for the purpose of filing. The newspaper public comment period opened on March 22, 2017, and the objections are timely.

Please inform the Division of how the Applicant will respond to the jurisdictional issues presented by Wednesday, May 24, 2017.

If you require additional information, or have questions or concerns, please feel free to contact me. Amy Yeldell at the Division of Reclamation, Mining and Safety, 1313 Sherman St., Room 215, Denver, CO 80203. Direct contact can be made by phone at 970-254-8511 or via email at amy.yeldell@state.co.us

Sincerely,

**Amy Yeldell**

Environmental Protection Specialist  
Department of Natural Resources  
Division of Reclamation, Mining and Safety  
Phone: (970) 254-8511  
Fax: (970) 241-1516

Cc:

Russ Means, Senior EPS, Grand Junction DRMS



From: Virgil Richard King, Jr.

5363 ½ hwy 394,

Craig, Colorado 81625

970-826-0597

**RECEIVED**

APR 28 2017

DIVISION OF RECLAMATION  
MINING & SAFETY

Re: Wagner rock pit expansion

To whom it may concern,

My family has water rights on a spring located just west and slightly below the current Wagner Rock Pit. This spring is the primary clean water source for our two homes, for Donna Hall's home, and for the Coupe family's home just east of our property. I don't have a problem with expansion of the Wager Pit unless it affects our legally protected water source. It would cause irreversible harm to our lives, not to mention property value loss, if the quality or volume of water from the spring is affected by the rock pit.

Please make sure that adequate precautions, and follow up procedures are taken if allowing the expansion, to protect our spring, our only source of clean water. Anything buried or spilled in the drainage could affect the water quality. And, seismic type events including big equipment and blasting could affect the volume.

In addition, please let it be known that many close calls have happened in front of our property (both directions on highway 394) with big trucks and trailers near the entrance of our property. If trucks follow the posted speed limit there are no problems, however we are just far enough away from the exit of all the area pits, for them to get up a good head of steam, and many trucks exceed the speed limit, some drastically, putting cars exiting from our property in extreme danger.

Thank You for seriously looking at our issues.

Virgil Richard King Jr.

  
4-25-2017

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**PHONE:** *970 326 6562*

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*Acy*  
Donna Ashbaugh Hall  
PO Box 398  
Craig, Co. 81626  
4-26-2017  
H=970-824-6421  
C=970-326-6562

RECEIVED  
APR 26 2017  
DIVISION OF RECLAMATION  
MINING & SAFETY

**Division of Mining and Safety**

I am writing this letter in regard to the application for the enlargement of the Wagner Rock gravel-rock pit in Moffat county, Colorado. The spring, that serves 6 households including mine, has a permanent structured spring box that is located 875 feet, according to the Mineral and Geological Survey on July 26, 1999, from the 1999 permit given to Jay Wagner. Now the pit has been increased by Jay Wagner from 9.74 acres to 15 acres without permission or permit.

My concern is that the proposed enlargement of the pit for a total of a little over 27 acres, with room for the overburden and equipment storage, has a boundary on the West and North West ends that are closer to the spring and the canyon where the drainage would run down. It is fairly steep and with heavy rains the contaminated water and or dirt from the pit even with berms would run down the canyon and contaminate the spring box that is on top of the ground where the spring runs into.

In 1999 Jay Wagner moved the boundary back on the West and North West ends because of this same issue. I do not want the proposed permit to allow the boundary to be moved closer to the spring. If Jay Wagner already has moved the West and North West end boundaries closer to the spring, he should refill the area as before excavation. I think that Wagner Rock pit should be inspected without notice more often and at least every 6 months.

I would appreciate it if you would inform me of how close to my property line the pit legally can be.

Thank You

*Donna M Ashbaugh Hall*  
Donna M Ashbaugh Hall

# Exhibit B 6.3.2 (a) Site Description

From 1999 Permit

Map Symbol	Soil name and description
2	<p>Ahor silty clay loam, 25 to 65 percent slopes</p> <p>The Ahor soil is moderately deep and well drained. The average annual precipitation is about 13 to 15 inches and the average frost-free period is 75 to 95 days. Typically, the surface layer is pale yellow silty clay loam 4 inches thick. The subsoil is silty clay 18 inches thick. The substratum is silty clay 15 inches thick over soft weathered shale. Soft weathered shale is at a depth of 37 inches. Depth to shale ranges from 20 to 48 inches. In some areas the surface layer is silty clay. Permeability is very slow. Available water capacity is low. Effective rooting depth is 20 to 48 inches.</p> <p>Runoff is very rapid.</p> <p>Hazard of water erosion is very high.</p> <p>Hazard of soil blowing is moderate.</p> <p>This soil is in nonirrigated capability subclass VIIe.</p> <p>Included in this map unit are small significantly different areas. Refer to the soil survey report for details.</p>

4F is field  
Symbol on Soils  
Map

Denius Moore  
Soil Survey Project Lead  
Natural Resources Conserv  
Service

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*Denver Co 80203*

**PHONE:** ( )

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<b>Date Accepted (MM/DD/YY)</b> <i>4/26/17</i>	<b>Scheduled Delivery Time</b> <input type="checkbox"/> 10:30 AM <input type="checkbox"/> 3:00 PM <input checked="" type="checkbox"/> 12 NOON	<b>Insurance Fee</b> \$	<b>COD Fee</b> \$
<b>Time Accepted</b> <i>1:15</i> <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	<b>10:30 AM Delivery Fee</b> \$	<b>Return Receipt Fee</b> \$	<b>Live Animal Transportation Fee</b> \$
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ACV

Donna Ashbaugh-Hall  
PO Box 398  
Craig, Co. 81626  
4-28/2017H  
H=970-824-6421  
C=9703266562

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✓ MAY 01 2017

DIVISION OF RECLAMATION  
MINING AND SAFETY

Division of Reclamation  
Mining and Safety

M-1999-018

This is a follow up comment from my letter on 4-26-2017 regarding Wagner Rock permit.

I have enclosed:

A water testing sheet for the Murphy/Biscup Spring with Latitude, Longitude, Township, Range and Section noted. This was a water test that Peakview Energy Company did on 10-13-2014

A Moffat County Farm Service Agency Map from 2-07-2012. I have marked where the spring approximately is as well as the Wagner Rock Pit.

An absolute ruling for the Ashbaugh enlargement of the Murpy-Biscup Spring.

A map I drew (no accurate measurements) of the Spring Box and my storage tank from the spring as well as the properties that the Murphy-Biscup Spring supply water to.

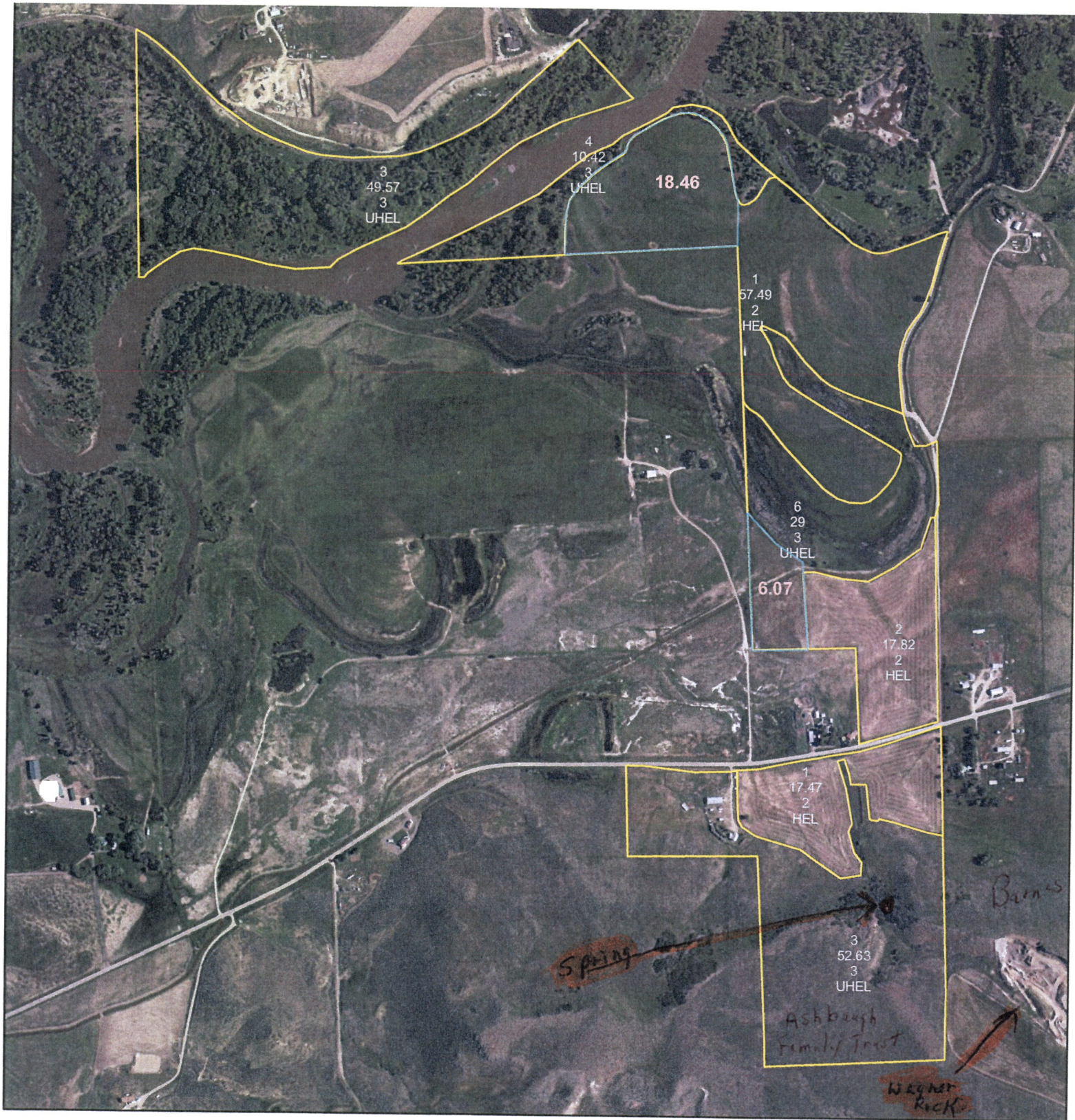
The measurements of the Spring Box that the Murphy-Biscup Spring runs into.

I have not talked with Coupe or Barnes but Kings and I are not concerned with how much Wagner Rock's Permit will be for but that the quantity and quality of the Murphy-Biscup Spring is retained. If we would lose the water, 6 households would be in drastic trouble. Water in this area is hard to find. We had a well drilled in 1979 and drilled 160 foot with no results. The Biscups drilled and did not find water. . The Ritchies, just West of my place, drilled 100 Foot with the spot recommended by a geologist and did not find water.

Thank you

*Donna M Ashbaugh-Hall*  
Donna M Ashbaugh-Hall





**USDA** United States Department of Agriculture  
Farm Service Agency

February 07, 2012

## Moffat County Farm Service Agency

Farm: 1194  
Tract:  
S 3-4, 9-10 T6N R90W

Digital Orthophotography  
Not to Scale



Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.



Murphy / Biscup  
 Spring

Sample ID	pH	Temp (°C)	Conductivity (µS/cm)	Dissolved Oxygen (mg/L)	Turbidity (NTU)	Latitude (North)	Longitude (West)
ASB1	7.30	14.36	0.094	3.20	392	40.40535	107.47258

Water Sample Summary - Laboratory Analytical Summary  
 Sample Location Description: Overflow pipe from spring box

Compounds Name	Standards and Guidelines		
	104132014	Resecting Limit	Drinking Water Standards
Methane (mg/L)	U	0.00080	NA
Ethane (mg/L)	U	0.0016	NA
Propane (mg/L)	U	0.0022	NA
BTX			
Benzene (µg/L)	U	1.0	5 <sup>+</sup>
Toluene (µg/L)	U	1.0	1,000 <sup>+</sup>
Ethylbenzene (µg/L)	U	1.0	700 <sup>+</sup>
Total Xylenes (µg/L)	U	1.0	10,000 <sup>+</sup>
Absorbity, Bicarbonate (mg/L)	222	5.0	NA
Absorbity, Carbonate (mg/L)	U	5.0	NA
Total Absorbity (mg/L)	222	5.0	NA
Hardness as CaCO3 (mg/L)	374	1.8	NA
Total Dissolved Solids (mg/L)	610	10	500 <sup>+</sup>
Conductivity @ 25°C (µmhos/cm)	761	1.0	NA
Sulfate (mg/L)	206	5.0	250 <sup>+</sup>
Chloride (mg/L)	0.16	0.050	NA
Bromide (mg/L)	19.6	0.50	250 <sup>+</sup>
Nitrate (mg/L)	3.4	0.10	10 <sup>+</sup>
Total Phosphorus (mg/L)	U	0.0040	1 <sup>+</sup>
BAKT	0.11	0.010	NA
Iron Reducing Bacteria (cfu/mL)	9000	25	NA
Sulfate Reducing Bacteria (cfu/mL)	<400	500	NA
Sulfate Reducing Bacteria (cfu/mL)	1290	200	NA
Dissolved Metals			
Boron (mg/L)	0.065	0.050	NA
Calcium (mg/L)	63.200	0.400	NA
Iron (mg/L)	U	0.010	0.3 <sup>+</sup>
Magnesium (mg/L)	34.200	0.200	NA
Potassium (mg/L)	U	0.0050	0.05 <sup>+</sup>
Selenium (mg/L)	1.190	1.000	NA
Sodium (mg/L)	0.0133	0.00080	0.05 <sup>+</sup>
Strontium (mg/L)	62.600	0.400	NA
	0.464	0.0050	NA

Notes:

U = analysis performed but not detected  
 mEq/L = milliequivalents per liter  
 NTU = nephelometric Turbidity Units  
 mg/L = milligrams per liter  
 µg/L = micrograms per liter  
 cfu/mL = colony forming units per milliliter

Water Quality Standards - referenced for information items in the analytical results

- A - Colorado WQCC Colorado Primary Drinking Water Regulations, Primary Maximum Contaminant Levels
- B - Colorado WQCC Colorado Primary Drinking Water Regulations, Secondary Maximum Contaminant Levels
- NA - no applicable standard for analysis

Water  
 Test

IN THE MATTER OF THE  
APPLICATION FOR  
WATER RIGHTS OF JOHN F. AND  
DONNA M. ASHBAUGH  
IN THE YAMPA RIVER  
OR ITS TRIBUTARIES.  
TRIBUTARY INVOLVED: \_\_\_\_\_

/ CLERK  
BY \_\_\_\_\_

RULING OF REFEREE  
( ABSOLUTE )

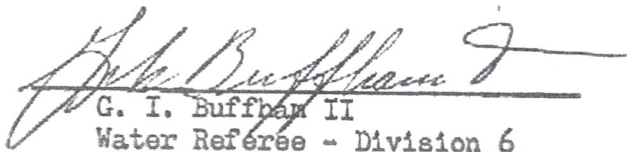
IN MOFFAT COUNTY.

1. Applicant: John F. Ashbaugh  
Address: Box 398  
Craig, Colo. 81625
2. Name of ditch or other structure: Ashbaugh Enlargement of Murphy-Biskup Spring
3. Point of diversion and/or place of storage: The spring is located in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 10, T. 6 N., R. 90 W., 6th P.M., at a point 2167 feet east of the west line and 1703 feet south of the north line of said Section 10.
4. Means of diversion: spring with box piped to tank (Overflow of spring)
5. Type of use: Domestic, stock, Irrigation
6. Amount of water: 0.033 cfs
7. Priority of water right: Sept. 10, 1974
8. Date of filing application: June 3, 1980

The priority here awarded shall be junior to all priorities awarded in previous years. The priority here awarded shall be junior to all water rights or conditional water rights awarded on applications filed in previous calendar years and shall also be junior to all priorities awarded in decrees entered prior to June 7, 1969, or decrees entered in proceedings which were pending on such date. As between all rights filed this calendar year, priorities shall be determined by historical dated of appropriation and not affected by the date of entry of this judgment.

It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority.

dated this 7th day of November, 1980.

  
G. I. Buffham II  
Water Referee - Division 6

King Property

#1  
Dick-Jane  
King  
House

#5  
Rich  
King  
Trailer

Hall  
Property

#3  
Mark &  
Shannon  
Coupe  
House

Property

Highway - 394

No accurate  
measurements

Ashbaugh  
Family Trust  
Property

~~Barnes  
Trailer  
moved  
in  
2016~~  
Property

#2  
Roy  
Barnes  
House

Barnes  
Property

Shut  
off  
Valve

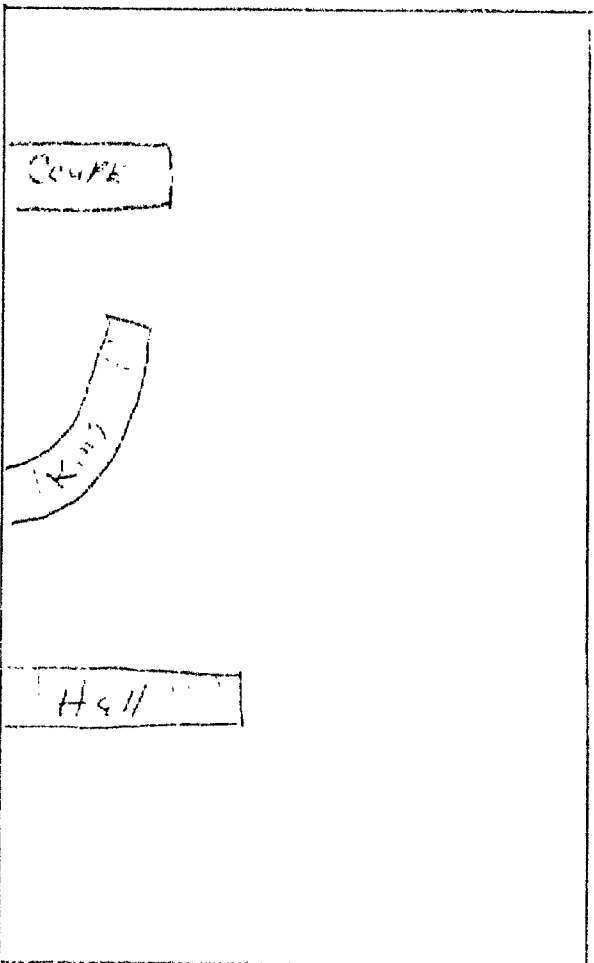
Barnes  
Coupe  
Holding  
Water  
Storage  
Tank  
± 1/4 mile  
from  
Spring Box

Murphy Sp.  
Spring  
Box  
Hall  
Water  
Storage  
Tank  
± 40 ft  
from Spring  
Box

#4  
Ashbaugh  
Hall  
House

Murphy/Biscup  
Spring Box

44 1/2



56 1/2