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June 22, 2017

Michael Cunningham  
Colorado Division of Reclamation, Mining and Safety  
1313 Sherman St, Rm 215  
Denver, CO 80203

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**DIVISION OF RECLAMATION  
MINING AND SAFETY**

### **Fairplay Au Pit, M-1991-037, Response to Objections**

Mr. Cunningham:

On May 8, 2017, May 11, 2017, May 12, 2017, and May 18, 2017, the Colorado Division of Reclamation, Mining, and Safety received formal objections to the Fairplay Au Pit conversion application that is currently under review. High Speed Mining, LLC has reviewed each of the objection letters, and endeavored to address each one in turn. In evaluating the points raised by neighbors in Park County, and concerned citizens from outside of Colorado, High Speed has made some changes to the conversion application (see the adequacy response dated June 18, 2017), and begun working with Park County Planning and Zoning to address as many issues as possible that have been raised.

In summary, the points of objection or contention raised are:

1. The operation as proposed in the conversion takes place on residential zoned property, not mining.
2. The permittee (High Speed Mining, LLC) has repeatedly demonstrated non-compliance with DRMS rules and regulations.
3. The application deserves to be carefully reviewed by DRMS due to the proximity of the Town of Fairplay, residential neighbors, historic "South Park", and the Beaver Ponds education center.
4. Any increase in the operation's size would lead to major impacts to the neighbors.
5. DRMS considered the appeal, by the permittee, of a denial of a request to use the ponds located with the affected area of a violation.
6. High Speed Mining, LLC allows another company, Raw TV, to operate onsite for both mining and filming.
7. Sunrise to sunset hours, seven days a week, are too extreme.
8. There has been a decline in the presence of elk, deer, and fox in the area near an objector's home.
9. High Speed Mining, LLC should pay fines for their violation of DRMS rules, and be denied the conversion application as well.

This letter will address each of the concerns listed above.

### **Mining on Residential Zoning**

It has been recently determined that like many mining operations in Park County, portions of the permit area are zoned residential. This situation applies to both private mines, and county operated ones. Upon determining this, High Speed Mining, LLC began pursuit of a zoning change to that would make all of the necessary areas mining compatible in terms of zoning. The permittee has a strong belief that this application will be approved, since the cause of the residential zoning was county mapping errors that were performed in 1975 with no regard to potential mining at that time. In addition, the County Commissioners were notified in writing of all DRMS permit applications and all permit documents were available at the County Clerk's office and no objections were ever received from the County for many years. High Speed Mining is well aware, however, that the reason for the zoning issue is irrelevant: all mining operations permitted in Colorado must operate in compliance with local land use and zoning laws. Therefore, High Speed Mining is continuing its pursuit of the necessary zoning and land use changes that will allow for the full use of their property under the 112 conversion currently under review.

### **Permittee Non-Compliance**

On February 9, 2017, the Colorado Mined Land Reclamation Board determined that High Speed Mining, LLC had disturbed area outside of the existing 110 permit that was in place at the Fairplay Au Pit. The ensuing Board Order called for the following corrective action and penalty:

1. High Speed Mining, LLC shall, within 60 days of the effective date of the Board Order, submit an application to convert the 110 permit to a 112 Hard Rock permit.
2. Pay a civil penalty of \$5,567, reduced from \$35,567. The reduction is only applicable if the operator submitted the conversion application within the above mentioned 60 days.

These requirements were in addition to the Cease and Desist of all mining activity within the area of affected land that was the cause of the violation.

High Speed Mining, LLC has paid the civil penalty assessed and submitted the conversion application as required. They have no record of other violations with DRMS. The conversion application must be approved by DRMS (assuming it is lawful and adequate) in order to satisfy the Board Order and bring the activity at the Fairplay Au Pit into compliance. In other words: the application for a conversion that the objectors are against, on the basis of a history of non-compliance, *is necessary to achieve compliance with the law.*

### **Careful Review of the Application by DRMS**

All applications submitted to the Colorado Division of Reclamation, Mining, and Safety are carefully reviewed by the staff to ensure compliance with the law. Beyond that, the Division inspects operations on a regular basis to ensure ongoing compliance. The Fairplay Au Pit conversion application is being evaluated with the same care, and the 110 operation that is already approved has been inspected multiple times in the past year.

### **Operation Expansion Would Increase Impacts**

There can be no doubt that mining operations are impactful to the environment around them. The Act, local use laws, public health laws, wildlife regulations, and more are in place to ensure that mining activities can occur in a reasonable manner with reasonable impacts. The Fairplay Au Pit's proposed expansion under the 112 conversion will lead to a greater area mined over the course of the operation's life. This will necessitate the inclusion of more land than that in the current permit. Due to this, DRMS will impose a significantly higher bond than is in-place for the 110. This bond increase protects the environment and the local community from the operator failing to conduct important reclamation. Also, since much of the permit area was previously disturbed over 100 years ago by hydraulic mining, any inclusion of these areas in the permit will result in future reclamation of these lands. This would never occur if they were not included in the permit. The DRMS permit process seeks input from numerous local and state agencies regarding the impacts of the operation, and incorporates concerns raised by these agencies into their review. Therefore, while the expansion of the operation may lead to greater impacts, these impacts are mitigated and addressed by the existing permit process.

### **Consideration of the Operator's Appeal**

High Speed Mining, LLC requested the usage of ponds related to the Platte City Ditch that are located in the affected area covered by the previously mentioned violation. DRMS staff denied the request, and High Speed Mining appealed the staff decision to the Mined Land Reclamation Board. The MLRB conducted a public hearing, and denied the appeal by High Speed Mining. Therefore, there is no outstanding issue with regards to this topic.

### **Raw TV's Operation**

High Speed Mining, as a private property owner, is free to allow the use of its property by any other company or entity as it sees fit, as long as all applicable laws and regulations are followed. The Raw TV film crew and their equipment are not mining activity that DRMS has jurisdiction over.

### **Hours of Operation**

Following on discussions with some of the objectors, High Speed Mining has revised its conversion application to only operate between 7 am and 7 pm, Monday through Saturday, with exception for emergency repairs after hours but no mine operation. See the adequacy response that has been submitted.

### **Decline in Wildlife in the Area**

Mining operations do impact the behavior and activity of wildlife in their vicinity. This is no different than any human activity that takes place near wildlife. Deer and elk in the vicinity of the Fairplay Au Pit have undoubtedly been affected by the presence of the numerous placer gold operations near each other. The Colorado Parks and Wildlife, having been given a chance to comment on the application by DRMS, provided no comments. High Speed Mining contacted

the local CPW officer about the specific complaint raised in the objection letter about wildlife. Tyler Stoltzfus of CPW responded via telephone that activity proposed by the Fairplay Au Pit would impact wildlife due to the greater area that mining takes place on. Mr. Stoltzfus also noted that the increase in activity at the currently existing 110 mine has likely impacted wildlife. Again, this comes as no surprise as any increase in human activity will lead to increased impacts on wildlife.

Based on the discussions with CPW, no new particular activity is causing undue impacts on the local deer and elk population. From the lack of written comments from CPW on the proposed conversion application, it is also clear that the operation as proposed in the conversion will not cause any undue impacts to the local deer and elk population. The general impact on the wildlife by an increase of the general mining activity at the Fairplay Au Pit is expected.

#### **Objector Request to Deny the Conversion**

The 112 Hard Rock conversion application was specifically required by the Colorado Mined Land Reclamation Board. It will bring the Fairplay Au Pit under the appropriate rules for mining and reclamation in Colorado, as well as ensure that sufficient bond is in place for the reclamation of the operation. Denying this application, will not serve either the law, or the people of the community. Its approval is necessary to ensure that sufficient bond is place to cover reclamation costs.

#### **Conclusion**

High Speed Mining, LLC has applied for a 112 Hard Rock conversion permit in order to comply with state law and state rules for mining and reclamation. The application has been deemed technically adequate by the Colorado Division of Reclamation, Mining, and Safety staff. The public has had a chance to comment, and has done so, even raising reasonable concerns. These concerns have either been addressed, or are inapplicable. The Colorado Mined Land Reclamation Board should approve the proposed conversion without any further delay.

Please contact me with any further questions.  
Regards,

A handwritten signature in blue ink, appearing to read 'Ben Langenfeld', is written over a horizontal line.

Ben Langenfeld, P.E.  
Greg Lewicki and Associates