

# COPY



## TELLER COUNTY COMMUNITY DEVELOPMENT SERVICES

PO Box 1886 \* Woodland Park, CO, 80866 \* 719-687-3048 \* fax 719-687-5256

*Teller County File: AUP 0004(06-02)*

August 28, 2017

Bryan Johnson  
PK Enterprises  
Box 729  
11115 West Highway 24  
Divide, Colorado 80814

**Re: AUP 0004(06-02) Correction to Equipment list as contained in AUP 0004(06-02)**

Dear Mr. Johnson,

Teller County Planning issued AUP 0004(06-02) to you on June 5, 2017. Subsequently, a minor deviation was authorized for an additional trailer based on your letter dated July 11, 2017, for a Minor Deviation to an approved Administrative Use Permit. As you are aware, AUP 0004(06-02) is for the Temporary Use of a Teller County Approved Mining Site [Mule Creek Pit – M-2000-077] as a Temporary Staging Area for CDOT State Highway 67 south resurfacing project.

Subsequently, it is our understanding that a Lime Slaking operation is also now occurring on the site, which is more appropriately permitted under Section 8.3.B.3 of the TCLUR as a Temporary Batch Plant. As we have discussed a separate permit will address that use and its associated equipment.

This letter will serve as authorization and an addendum to AUP 0004 (06-02) which will memorialize the equipment actually now located at the Mule Creek site not related to the lime slaking batch plant.

As per your August 25, 2017 letter and the August 21, 2017 letter, it is my understanding that list of items currently on the Mule Creek site, that are not part of the active batch plant, and will remain on site for the duration of the highway resurfacing project are:

**Previously Approved by AUP 0004 (06-02)**

- 1 office trailer, 12x50
- 1 office trailer, 8x20
- 1 lab trailer, 12x40
- Traffic Control Devices Storage
- Guardrail materials storage
- ½ acre of sealed containerized lime \*

**1<sup>st</sup> Minor Modification to AUP 0004 (06-02)** (approved July 11, 2017)

- 1 office trailer 12x50

**2<sup>nd</sup> Minor Modification requested to AUP 0004 (065-02)**

1 motor grader  
27 foot construction trailer  
Skid Loader  
Front end wheeled loader  
3 Tractor/Trailer Combos for moving equipment to mobile operations site.  
1 Tandem Dump Truck with Trailer  
2 Smooth Wheeled Rollers  
2 Small Equipment Trailers \*  
4000 gallon water truck \*  
(5) 100-gallon mixing/transport totes\*

**Denotes associated with lime slaking/slurry batch plant \***

Teller County understands that the operation is complex, is using a new process and involves multiple subcontractors working for CDOT and that there have been short timelines and equipment changes since AUP 0004(06-02) was issued. It is also my understanding that the equipment above, its use and location will remain as listed until termination of the project.

The request for a second Minor Deviation to AUP 0004(06-02) **is approved subject to the following conditions of approval:**

1. All Conditions contained in that staff report dated June 5, 2017 [AUP 0004(06-02) ] remain in effect as modified for the addition of the additional office trailer authorized in the July 11, 2017 Minor Deviation approval.
2. The additional equipment as described and used above are approved and will be added to the file for the AUP 0004(06-02) *with the exception of the 2 small equipment trailers, the 4000 gallon water truck and the five 100-gallon mixing/transport totes which will be addressed in a separate permit for the batch plant.* Please insure all of the items and equipment comply with the 50-foot setback required in the A-1 zone.
3. No additional changes are authorized without prior coordination with this office at least 10 days in advance of the requested change.

Please contact the Teller County Planner, Dan Williams, at 719-686-5414 or via email at [WilliamsD@co.teller.co.us](mailto:WilliamsD@co.teller.co.us) if you have any questions.

Sincerely,

  
Lynda Morgan  
Community Development Services Director

cc. Dan Williams, Planner (via e-mail)  
File

**ADMINISTRATIVE REVIEW  
STAFF REPORT**

COPY

*August 29, 2017*

**Teller County Community Development Services**

File No. AUP 0004(06-05)

**APPLICANT/OWNER:** PK ENTERPRISES, INC, PETE C. KUYPER

**PROPERTY OWNER:** PETE C. KUYPER

**REQUEST:** Pursuant to Section 8.3.B.3 TC LUR – Request for Temporary Use of a Teller County Approved Mining Site [Mule Creek Pit – M-2000-077] for a **Lime Slurry/Slaking batch plant** and lime and equipment storage area, located in 30-13-69 PT L5 E OF HWY, Section 30, Township 12 S, Range 69, for temporary use solely in conjunction with the CDOT State Highway 67 resurfacing project to be issued for a period of six months from the date of start-up.

**STAFF:** Dan Williams, Teller County Planner

**LEGAL DESCRIPTION:** 30-13-69 PT L5 E OF HWY, Section 30, Township 12 S, Range 69

**ZONE DISTRICT:** A-1

**STAFF RECOMMENDATION:** Approval with conditions

**1. SUMMARY OF REQUEST**

CDOT began a resurfacing project on US Highway 67 between Cripple Creek and Divide on June 5, 2017. As part of the project, a staging area related to the resurfacing work was needed and an administrative review conducted. The Mule Creek site was proposed and subsequently approved by DRMS and Teller County. A subsequent minor modification was approved for an additional office trailer and on August 28, 2017 another minor modification was approved for additional Lime slurry related equipment as outlined in the August 25, 2017 letter received from PK Enterprises.

The site, which lies in the A-1 zone and is contained within the permit boundary of an approved mining operation, has all required permits to include, a Teller County Conditional Use Permit, a State of Colorado DRMS permit for a 112c Mining Operation [M-2000-077 Mule Creek Pit] and a USFS Special Use Permit.

Subsequent to the approval as a storage area, a lime slaking/slurry operation began in addition to just the staging of sealed limestone containers. While DRMS was informed, Teller County was not. A temporary lime slurry mixing plant associated with a specific road or highway requires separate permitting under Section 8.3.b.3 TCLUR, for a *Temporary Batch Plant*. Lime Slaking operation consists of two 20,000 gallon slaking tanks which are located on a very small portion of the Mule Creek Site (1/2 acre) permit area.

All other equipment and operations previously authorized on the site remain in place.

### **DRMS Approval and Conditions**

Pursuant to the phone call between Mr. Dan Williams, Teller County Planner and Mr. Elliot Russell, DRMS on August 28, 2017 and previous guidance provided to PK Enterprises, DRMS State level permission is has been granted to proceed without a Technical Revision subject to the following conditions:

- Insure appropriate secondary containment is in place and any spilled materials are promptly and adequately cleaned up
- Report all Spills to DRMS
- Insure all staged materials and disturbances are contained within the permit boundary.
- No Technical Revision is needed for the containerized lime and associated operations (slurry/slaking) at this time.



Lime slurry/slaking tanks are currently positioned here along with CDOT and Subcontractor vehicles listed in the August 25 letter

Existing earthen berm shields all but the top portion of the tanks from HWY 67

US State Highway 67S

### **Visual Mitigation Section 8.3.B.2.a**

Pursuant to Section 5.4, Landscaping, of the TCLUR, all stockpiled materials, lime slurry operations equipment, office trailers, will be to the extent possible, collocated with existing similar materials already on site and be masked from State Highway 67 by use of an in-place earthen berm.

### **Permits Section 8.3.B.2.b**

Evidence of all required Federal, State and Local permits have been presented to and reviewed by staff to include DRMS, USFS Special Use Application and the Teller County Conditional Use Permit and are current

File AUP Z- 00043 (06-05) Temporary Batch Plant

Staff Report Date: (August 29, 2017) page 2 of 18

Mule Creek Mine Lime slurry/slaking Temporary Batch Plant for CDOT HWY 67 resurfacing project)

and in force. The State of Colorado DRMS permit is a 112 Operation Reclamation Permit known as a Construction Materials Permit which authorizes the type of equipment and materials being requested by the Applicant here. The USFS File Code permit number is 2720 and the DRMS permit number is M-2000-077.

#### **Equipment Section 8.3.B.c**

A list of equipment authorized in addition to the slurry related equipment is contained in the June 5, 2017 AUP 0004(06-02) permit, the July 11 2017 minor deviation request adding one (1) office trailer, and the August 21 2017 request which was authorized on August 29, 2017.

Other than the sealed lime containers, additional equipment used for the lime slurry/slaking operation are:  
2 Small Equipment Trailers  
4000 gallon water truck  
(5) 100-gallon mixing/transport totes

#### **Imported Processing Materials 8.3.B.d**

Bulk packaged lime will be temporarily stored at the site until mixed and then transported to follow on resurfacing sites as needed.

#### **Operations Plan 8.3.B.e**

The lime slurry slaking operation on-going at the Mule Creek site is used as part of a 'cold in place' [CIPR] operation. Martin Marietta is the subcontractor currently in place. Currently lime and water are mixed on site. Lime and water are pumped by hose into one tank that contains an agitator then it is moved to a second tank and stored. From the second tank it is transferred into a semi-truck for the CIPR operation on site along State Highway 67. The subcontractor has stated that the slurry mixture is not combustible nor toxic in this form. There is in place secondary containment around the lime tanks. Although the lime slurry operation was not requested in the original request, the terms of the June 2, 2017 remain in affect [as approved by AUP 004(06-02), in that the site overall has a total 15-20 workers on site at any one time, with 5 of them there specifically to operate the lime slurry equipment or monitor the process. Additionally, the lime slurry operation will also be limited to weekdays only from 6 am to 6 pm.

#### **Access**

Access to the Mule Creek Mining Pit has been approved by the State of Colorado [Access permit No. 299004 next to mile marker 66.22] and will be unaffected by the request as it is not a change in use.

#### **Water**

No DNR controlled water will be used for this operation. Water used for the slurry operation is being obtained from PK Enterprises.

#### **Sanitation**

The use of temporary Porta potties will be used for only the period of time of the CDOT approved project and will be removed after operations are completed.

#### **Drainage**

No development is proposed as part of this request and historic drainage flows will remain as they are.

#### **Traffic**

The Applicant states that any impacts from additional traffic are substantially less than the mining operation itself and as outlined in detail in AUP 0004(06-02) Currently, there are no planned mining operations planned until 2018.

## 2. DISCUSSION OF MAJOR CONCERNS AND ISSUES

In addition to an approved Teller County Conditional Use permit, the State of Colorado Division of Reclamation and Mine Safety has a current permit [112c] and bond for the mining at the Mule Creek Pit, permit number M-2000-077 as well as the USFS #2720, which are in effect and will not be impacted by this request. Teller County issued an Administrative Use Permit, AUP 0004(06-02) and subsequently issued to minor modifications to that permit, the last one being the response to the August 25, 2017 request, issued on 28 August, 2017.

While DRMS received a follow on request for lime slurry/slaking operations, Teller County was not informed at the time the proposal was made. Based on the involvement of numerous subcontractors and new processes, a lime slurry/slaking operation began on site almost immediately without the required Teller County Permit. DRMS responded to the request, waiving the requirement for a technical revision to an approved mining operation in the interest of public good and the highway project, assumed we had been informed, gave approval and was not aware that a separate Teller County Permit was required. Once this was brought to the attention of CDSO, a notice of possible violation was sent and a reminder that lime slurry/slaking operations would be more appropriately permitted under Section 8.3.B.3 for Temporary Batch Plants for a road or highway.

Approximately 5 of the 15-20 workers authorized in AUP 0004(06-02) are designated for the batch plant specific operation, so there is no additional traffic or increase in hours or change to the operations plan from what was approved in the AUP, only the addition of the actual mixing of lime and water through the slurry/slaking process. The lime slurry operation has been in place since early June with no negative impacts or incidents reported.

DRMS has provided copies of all correspondence with PK Enterprises and in a follow-on conversation on August 28, 2017 did indicate its support without a TR unless the project becomes protracted into next year. Their terms and conditions were previously discussed in this report.

## 3. STAFF FINDINGS

The issuance of an Administrative Review Use Permit is dependent upon finding that the proposed use, as may be conditioned, complies with all Standards of the Teller County Land Use Regulations (LUR) *Section 8.2.D* and LUR *Section 8.3* for the particular use. Administrative Review Use Permits may contain conditions to (1) ensure compliance with these Standards and Regulations including conformity to a specific site plan; (2) require improvements to public infrastructure and/or facilities necessary to serve the Administrative Review Use; (3) limit the operating characteristics of the use; and/or (4) specify the location or duration of the Administrative Review Use Permit.

STANDARD		STAFF FINDINGS
<b>Section 8.2.D</b>		
<b>1. <u>Consistent with Master Plan.</u></b> The proposed Special Review Use is appropriate for its proposed location, and is consistent with the purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) or map(s).	<b>This standard is met.</b> This is a low impact use of an already permitted mining operation within the approved mining area, the Slurry/Slaking operation is contained inside of a secondary containment vessel and has been ongoing without incident since early June, 2017, will serve a public good (public highway re-surfacing) Staff contends that this use is therefore appropriate for its location, and is	



STANDARD	STAFF FINDINGS
	consistent with the purposes, goals, objectives and policies of the Teller County Growth Management Plan as legislatively adopted.
2. <b>Compatibility.</b> The proposed Special Review Use is appropriate for its proposed location and compatible with the character of surrounding land uses, and does not create a nuisance.	<b>This standard is met.</b> The site lies in the A-1 zone with State land to the west, USFS to the East and large A-1 parcels to the North and South of the mine. The current operation has been in place since 2000 without a complaint and the proposed use of the site is similar. Staff contends that there will be no adverse impact to adjoining property owners and the temporary use is appropriate for its location, compatible with the character of the surrounding land uses and does not create a nuisance.
3. <b>Zone District and Use Standards.</b> The proposed Special Review Use complies with the Standards of the zone district in which it is located and any Standards applicable to the particular use. Where the Standards are different, the more stringent applies.	<b>This standard is met.</b> The use is appropriate for the zone. (A-1 )
4. <b>Design Minimizes Adverse Impact.</b> The design of the proposed Special Review Use minimizes adverse impacts to adjoining and/or adjacent and surrounding lands, water and air resources, wildlife habitat, scenic and other natural resources, and existing infrastructure.	<b>This standard is met.</b> Based on the type of additional equipment and material being proposed (Lime Slurry/Slaking Batch Plant) and the existence of a secondary containment vessel and DRMS approval, there will be not be an exponential change in any adverse impact.
5. <b>Development Standards.</b> The proposed Special Review Use complies with the appropriate Standards in <i>Chapter 4 Infrastructure, Chapter 5 Site Development, and Chapter 6 Critical Areas</i> of these Regulations.	<b>This standard is met.</b> No new development is requested as part of the staging area or associated equipment or material on site.

#### 4. **ADMINISTRATIVE DECISION**

This Administrative Review Temporary Use Permit is hereby **APPROVED** for use of the Mule Creek Gravel Pit mine for use by CDOT or CDOT approved contractors, for use as a Lime Slurry/Slaking Temporary Batch Plant, in support of the state approved project for resurfacing State Highway 67 **only** and for a period not to **exceed a date certain of December 31, 2017.**

Incorporating the Staff findings contained in that Staff Report dated August 29, 2017, and subject to the following **CONDITIONS OF APPROVAL**:

1. Adherence to the Submitted Operations Plan and equipment list as outlined in the PK Enterprises Letter dated June 2, 2017 contained in Appendix B of this report. Any changes to this plan shall be received and approved by the CDSO Director 10 (ten) days in advance of the effected date of the proposed change or code enforcement action may be initiated.

File AUP Z- 00043 (06-05) Temporary Batch Plant

Staff Report Date: (August 29, 2017) page 5 of 18

Mule Creek Mine Lime slurry/slaking Temporary Batch Plant for CDOT HWY 67 resurfacing project)

to this plan shall be received and approved by the CDSD Director 10 (ten) days in advance of the effected date of the proposed change or code enforcement action may be initiated.

2. Any extension to the **December 31, 2017** date must be presented to the CDSD Director for consideration no later than 10 (ten) days prior to the expiration of this permit.
3. AUP 0004(06-02) permitted other vehicles, trailers, and equipment on site and as amended in the 1<sup>st</sup> Minor Modification Request (11 July 2017) and again on 29 August 2017 as a 2<sup>nd</sup> Minor Modification. This permit is only for the equipment involved in and positioned inside the Mule Creek Site for the Slurry/Slaking Lime Batch plant:

**Two (2) small equipment trailers**

**One (1) 4000 gallon water truck**

**Five (5) 100-gallon mixing/transport totes**

Sealed Lime storage containers contained inside of the ½ acre sealed lime storage Area (as approved in AUP 0004 (06-02))

4. Vehicles on site will be limited to privately owned vehicles used for travel by workers to and from the site and directly involved in the slurry operations.
5. The temporary conditions at the site may be audited by Teller County for compliance with these conditions.
6. No additional structures are authorized or pieces of equipment associated with the Lime Slurry/Slaking operation or other processing.
7. All spills reportable to DRMS shall also be report to Teller County CDSD planning.

**Representations.** Unless otherwise modified by these conditions, all material representations of the Applicant in its submittal material and in discussions in CDSD offices with the CDSD Director and the Teller County Planner, shall be binding.

  
\_\_\_\_\_  
Lynda Morgan  
Community Development Director



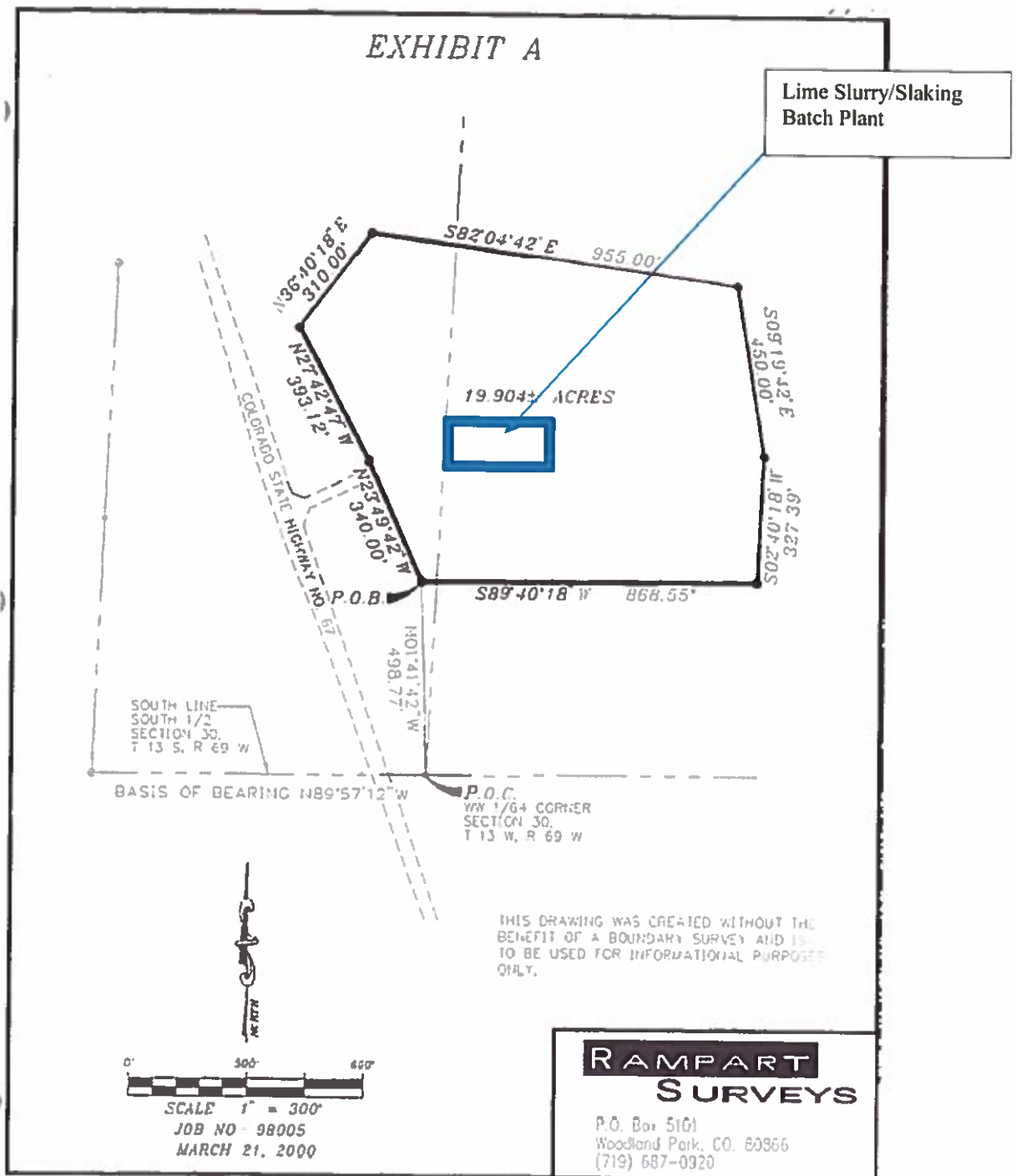
## **Appendix A – Map and Site Plan, Adjacent Property Owner's List and legal description**





Staging area collocated with current equipment and trailers.

Current location of batch plant and containerized lime



**LEGAL DESCRIPTION:**

A PARCEL OF LAND LOCATED IN THE SOUTH ONE-HALF (S1/2) OF SECTION 30, TOWNSHIP 13 SOUTH, RANGE 69 WEST OF THE 6<sup>TH</sup> P.M., TELLER COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOW;

COMMENCING AT THE WW ONE-SIXTYFOURTH (1/64) CORNER OF SAID SECTION 30, MONUMENTED BY A U.S. DEPT. OF AGRICULTURE FOREST SERVICE 3-1/4" ALUMINUM CAP, A POINT ON THE SOUTH LINE OF SECTION 30, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 30 BEARS N89°57'12"W AND IS THE BASIS OF BEARINGS USED HEREIN; THENCE N01°41'42"W, A DISTANCE OF 498.77 FEET TO THE POINT OF BEGINNING; THENCE N23°49'42"W, A DISTANCE OF 340.00 FEET; THENCE N27°42'47"W, A DISTANCE OF 393.12 FEET; THENCE N36°40'18"E, A DISTANCE OF 310.00 FEET; THENCE S82°04'42"E, A DISTANCE OF 955.00 FEET; THENCE S09°19'42"E, A DISTANCE OF 450.00 FEET; THENCE S02°40'18"W, A DISTANCE OF 327.39 FEET; THENCE S89°40'18"W, A DISTANCE OF 868.55 FEET TO THE POINT OF BEGINNING AND CONTAINING 19.904 ACRES OF LAND MORE OR LESS.

**PREPARED BY:**

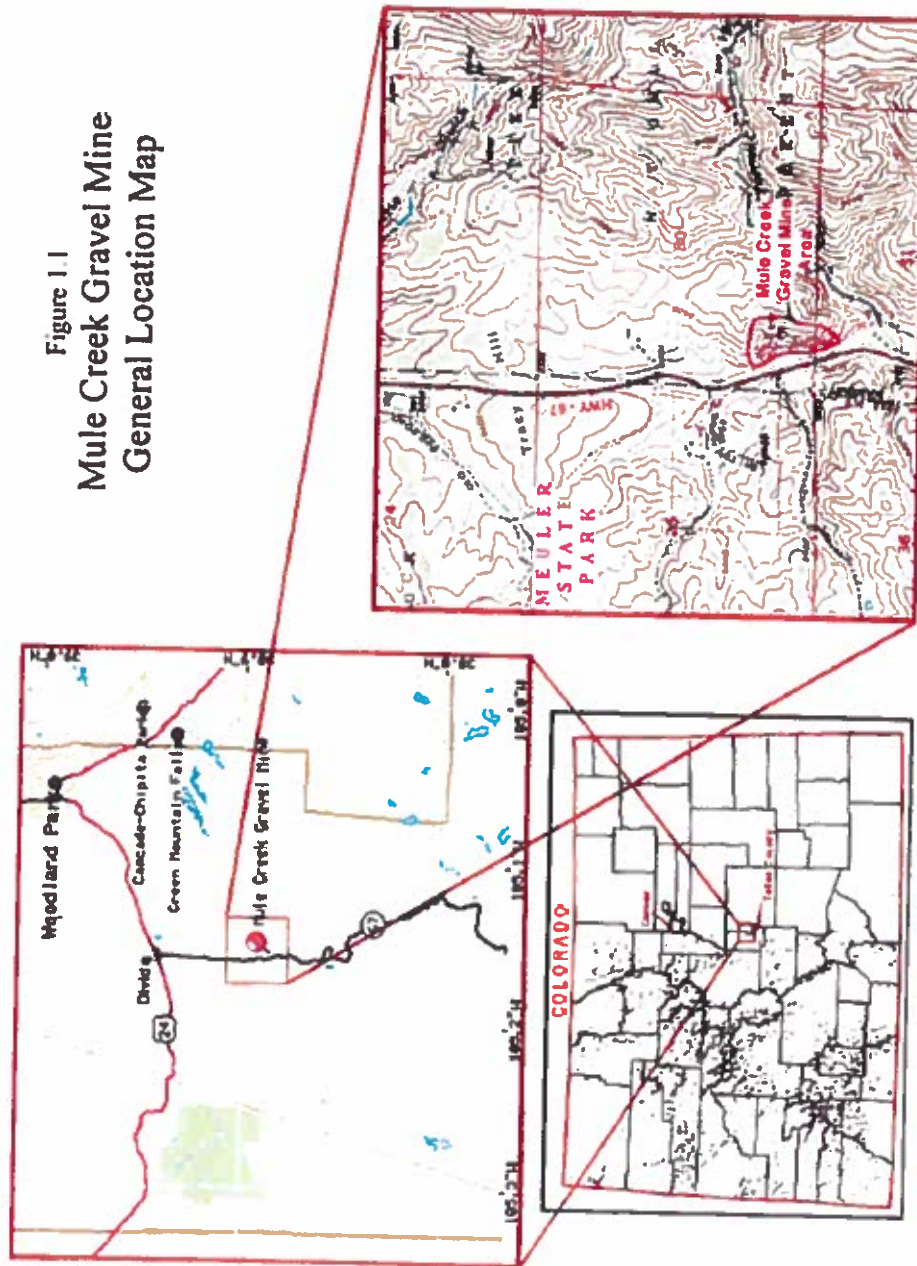
KEVIN F. LLOYD, COLORADO P.L.S. NO. 26965  
FOR AND ON BEHALF OF RAMPART SURVEYS, INC.  
P.O. BOX 5101  
WOODLAND PARK, COLORADO 80866  
719-687-0920



NOTE: THIS LEGAL DESCRIPTION WAS CREATED WITHOUT THE BENEFIT OF A BOUNDARY SURVEY AND IS TO BE USED FOR INFORMATIONAL PURPOSES ONLY.



Figure 1.1  
Mule Creek Gravel Mine  
General Location Map



Hydrographic Resources Corporation, Inc. 1011 Wilson Street, Suite 200, Leadville, CO 81142

Adjacent Property Owners List

Name	Mailing Address
Betty Newell	PO Box 148 Colorado Springs, CO 80901
USFS	601 S Weber St. Colorado Springs, CO 80903
State of CO DoNR	1313 Sherman St Denver, CO 80203
Kenneth & Carla Lewis	75 County Rd 62 Divide, CO 80814



## **Appendix B**

### **Correspondence Between PK Enterprises and DRMS**

----- Forwarded message -----

From: Russell - DNR, Elliott <[elliott.russell@state.co.us](mailto:elliott.russell@state.co.us)>  
Date: Tue, Jul 18, 2017 at 9:34 AM  
Subject: Re: Mule Creek Gravel Pit-SH 67 Proposed Staging Area  
To: Bryan Johnson <[bryan@pkenterprisesinc.com](mailto:bryan@pkenterprisesinc.com)>


Bryan,

Proceed as proposed. Please ensure appropriate secondary containment is in place and any spilled materials are promptly and adequately cleaned up. I will add a short narrative to my inspection report regarding this temporary project and the Division's determination that no Technical Revision is needed for the storage of equipment and materials at this time.

Please contact me if you have any questions.

Thank you

Elliott Russell  
Environmental Protection Specialist  
Minerals Regulatory Program

 Right-click or tap and hold here to download pictures. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.

P [303.866.3567](tel:303.866.3567) x8132 | F [303.832.8106](tel:303.832.8106) | C [303.903.4456](tel:303.903.4456)  
1313 Sherman Street, Room 215, Denver, CO 80203  
[Elliott.Russell@state.co.us](mailto:Elliott.Russell@state.co.us) | <http://www.mining.state.co.us>

On Mon Jul 17 2017 at 9:10 AM Bryan Johnson <[bryan@pkenterprisesinc.com](mailto:bryan@pkenterprisesinc.com)> wrote:


. Dan, please see the forwarded message below.

On July 18, 2017, the Division approved PK Enterprises, Inc., the permittee for the Mule Creek Pit, Permit No. M-2000-077, for the revised proposal (the July 17, 2017 attachment is attached to this email) for the temporary lime storage and associated process at the site for the Highway 67 construction job. The Division determined the proposal did not warrant a Technical Revision to the DRMS permit. The Division asked the permittee to ensure appropriate secondary containment is in place and any spilled materials are promptly and adequately cleaned up. Through previous correspondence, the permittee was aware to also ensure all staged materials and disturbances were to be contained within the permit boundary to avoid any off-site related issues.

Please contact me if you have any questions.

Thank you

Elliott Russell  
Environmental Protection Specialist  
Minerals Regulatory Program

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P [303.866.3567](tel:303.866.3567) x8132 | F [303.832.8106](tel:303.832.8106) | C [303.903.4456](tel:303.903.4456)  
1313 Sherman Street, Room 215, Denver, CO 80203

**bryan@pkenterprisesinc.com**

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**From:** Russell - DNR, Elliott <elliott.russell@state.co.us>  
**Sent:** Tuesday, July 18, 2017 9:34 AM  
**To:** Bryan Johnson  
**Subject:** Re: Mule Creek Gravel Pit-SH 67 Proposed Staging Area

Bryan,

Proceed as proposed. Please ensure appropriate secondary containment is in place and any spilled materials are promptly and adequately cleaned up. I will add a short narrative to my inspection report regarding this temporary project and the Division's determination that no Technical Revision is needed for the storage of equipment and materials at this time.

Please contact me if you have any questions.

Thank you

Elliott Russell  
Environmental Protection Specialist  
Minerals Regulatory Program



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

P 303.866.3567 x8132 | F 303.832.8106 | C 303.903.4456  
1313 Sherman Street, Room 215, Denver, CO 80203  
[Elliott.Russell@state.co.us](mailto:Elliott.Russell@state.co.us) | <http://www.mining.state.co.us>



# TELLER COUNTY BUILDING DEPARTMENT

800 Research Drive  
Woodland Park, CO 80863  
Website: <http://co.teller.co.us>

8/31/2017 11:32:49 AM  
(KROCHTAC)  
Receipt #: 922494

## Invoice

Customer: PK ENTERPRISES INC.

### Transaction Summary

Account	Description	Reference	Amount
01-0001-1652-000	Planning Department & Zoning Fees & permits	<i>217-0016</i>	\$300.00
4060055	Transaction Fee, Credit Card	FEE	\$7.52

Total Due: \$307.52

### Payment Summary

Account	Description	Reference	Amount
5060000	COLLECTION, Credit Card	77257560	\$300.00
5060055	COLLECTION, Credit Card Fee	FEE	\$7.52

Total Tendered: \$307.52

Comment: AUP

I agree to pay above total amount according to card issuer agreement.