

STATE OF
COLORADO

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M-2017-049/Transit Mix Concrete Co. - Ingersoll's Preliminary Witness List, Exhibit List, and Exhibits

Nani DeFelice <NDeFelice@mullikenlaw.com>

Mon, Apr 9, 2018 at 12:43 PM

To: "drms.temp@state.co.us" <drms.temp@state.co.us>

Cc: Steve Mulliken <Mulliken@mullikenlaw.com>, Adrian McCarthy <AMcCarthy@mullikenlaw.com>, Hilary Roland <hroland@mullikenlaw.com>

To Whom It May Concern:

Pursuant to the 3/19/2018 Order of Forrest Luke, attached for your filing and post on the division website, www.mining.state.co.us, please find the Barbara Ingersoll Marital Trust established by the Amended and Restated Trust Agreement of the Harold C. Ingersoll Revocable Trust dated August 11, 2008 ("Ingersoll")'s Preliminary Witness List, Exhibit List and Exhibits.

The exhibits are attached and available for download in this link: <https://mullikenlaw.sharefile.com/d-sca4748426f64ba18>

Thank you for your attention and cooperation. If you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

Nani DeFelice, Paralegal

Mulliken Weiner Berg & Jolivet, P.C.

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4/10/2018

State.co.us Executive Branch Mail - M-2017-049/Transit Mix Concrete Co. - Ingersoll's Preliminary Witness List, Exhibit List, and Exhibits

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Ingersoll's Preliminary Witness & Exhibits Lists & Exhibits.pdf

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|---|--|
| COLORADO MINED LAND RECLAMATION BOARD Pre-Hearing Conference Officer 1313 Sherman Street, Room 215 Denver, CO 80203 | |
| Applicant: TRANSIT MIX CONCRETE CO. DRMS File No. M-2017-049 | |
| <u>Attorneys for Objector the Barbara Ingersoll Marital Trust established by the Amended and Restated Trust Agreement of the Harold C. Ingersoll Revocable Trust dated August 11, 2008:</u> Steven K. Mulliken, Bar No. 16709 Emory G. Allen, Bar No. 48167 MULLIKEN WEINER BERG & JOLIVET P.C. Alamo Corporate Center 102 South Tejon Street, Suite 900 Colorado Springs, CO 80903 Phone Number: (719) 635-8750 Fax Number: (719) 635-8706 E-Mail: mulliken@mullikenlaw.com eallen@mullikenlaw.com | |
| PRELIMINARY WITNESS LIST, EXHIBIT LIST & EXHIBITS | |

The Barbara Ingersoll Marital Trust established by the Amended and Restated Trust Agreement of the Harold C. Ingersoll Revocable Trust dated August 11, 2008 ("Ingersoll"), by and through its attorneys, Mulliken Weiner Berg & Jolivet, PC, hereby submit its Preliminary Witness List, Exhibit List, and Exhibits pursuant to CDRMS' Construction Material Rules 2.6 and 2.7, as follows:

I. LAY WITNESSES

Ingersoll "will call" the following witnesses:

| NO. | WITNESS | SUBJECT | ANTICIPATED DURATION |
|-----|---|--|----------------------|
| 1 | Samuel K. Wells Co-Trustee of the Barbara Ingersoll Marital Trust 830 Tenderfoot Hill Rd., Suite 200 Colorado Springs, CO 80906 Tel: 719-576-9194 | Ingersoll Ranch and planned preservation and impact of quarry. | TBD |

| | | | |
|----|--|---|-----|
| 2 | Chris Burnell Turkey Canyon Ranch Estates 15575 Henry Ride Heights Colorado Springs, CO 80926 Tel: 719-321-5123 | Homeowner concerns on behalf of Turkey Canon Ranch Estates. | TBD |
| 3 | Reece Eddy, Sr. Ridgeway Estates Homeowners Association 1285 Glenrock Drive Colorado Springs, CO 80926 Tel: 719-235-6414 | Homeowner concerns on behalf of Ridgeway Estates HOA. | TBD |
| 4 | Weldon W. Flaharty 4190 Little Turkey Creek Road Colorado Springs, CO 80926 Tel: 719-527-1572 | Elk & Mule Deer Migration. | TBD |
| 5 | Tom Fellows 11810 Valle Verde Drive Colorado Springs, CO 80926 Tel: 719-576-1923 | Southwestern area comprehensive plan. | TBD |
| 6 | Paul G. Anderson, Esq. Red Rock Valley Estates Water District P.O. Box 50631 Colorado Springs, CO 80949-0631 Tel: 719 510-9420 | Fragility of Red Rock Valley Water System; Water rights and impact on wells. | TBD |
| 7 | Cheryl Kimble c/o Alderman Bernstein LLC 101 University Boulevard, Suite 350 Denver, CO 80206 Tel: 720-460-4203 | Road and easement issues. | TBD |
| 8 | Mark McClurg Highlands of Turkey Canon Ranch 15795 Phantom Canyon View Colorado Springs, CO 80926 Tel: 719-310-8627 | Resident concerns on behalf of the Highlands of Turkey Canon Ranch. | TBD |
| 9 | Gary Kris McCowen Highway 115 Citizens Advisory Committee 3070 Little Turkey Creek Road Colorado Springs, CO 80926 Tel: 719-352-1519 | Resident concerns on behalf of Highway 115 Citizens Advisory Committee. | TBD |
| 10 | Kathie Rawson Vice President, Red Rock Valley Estates 11795 Calle Corvo Colorado Springs, CO 80926 Tel: 719-576-3886 | Resident concerns on behalf of Red Rock Valley Estates Residents. | TBD |

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|-------------------|--|--|-----|
| 11 | Nancy Reed, PhD Eagle's Nest Homeowners Association 4848 Little Turkey Creek Road Colorado Springs, CO 80926 Tel: 719-445-2030 | Resident concerns on behalf of the Eagle's Nest Association; concerns regarding roadway, safety and application deficiencies | TBD |
| 12 | Warren Dean 3131 Little Turkey Creek Road Colorado Springs, CO 80926 Tel: 719-440-1722 | Neighbor concerns and granite supply alternatives | TBD |
| 13 | William J. Hybl President of El Pomar Foundation 10 Lake Circle Colorado Springs, CO 80906 Tel: 719-633-7733 | El Pomar historic involvement with Aiken Canyon; Ingersoll gift and future plans for property; community concerns | TBD |
| 14 | Thayer R. Tutt 10 Lake Circle Colorado Springs, CO 80906 Tel: 719-633-7733 | El Pomar historic involvement with Aiken Canyon; Ingersoll gift and future plans for property; community concerns | TBD |
| TOTAL TIME | | | |

II. EXPERT WITNESSES

| NO. | WITNESS | SUBJECT | ANTICIPATED DURATION |
|-----|---|---|----------------------|
| 1 | Hartmut Wright, Fire Chief Southwestern Highway 115 Fire Protection District 15580 Cala Rojo Drive Colorado Springs, CO 80926 Tel: 719-538-4787 | Safety concerns and emergency access | TBD |
| 2 | Jerry P. Moore 15836 Spanish Peak View Colorado Springs, CO 80926 Tel: 832-875-7030 | Hitch Rack Ranch geologic settings; adverse effect on ground water recharge and neighbors wells | TBD |

| | | | |
|----|--|--|-----|
| 3 | Charles Norris, P.G. Hydrogeologist Geo-Hydro, Inc. 1928 E 14 th Avenue Denver, CO 80206 Tel: 303-322-3171 | Geological impact on ground water sources | TBD |
| 4 | Jerald S. Fifield, Ph.D. Project Hydrologist Hydrodynamics, Inc. 13614 N. Winchester Way Parker, CO 80138 Tel: 303-841-0377 | Hydrology, impact on surface water resources; hydrologic balance | TBD |
| 5 | Michael J. Ronayne, PhD Assistant Professor Dept. of Geosciences Colorado State University 1482 Campus Delivery Fort Collins, CO 80523-1482 Tel: 970-491-0666 | Hydrogeology and hydrologic balance | TBD |
| 6 | William E. Sanford, PhD Hydrogeology Professor Dept. of Geosciences Colorado State University 1482 Campus Delivery Fort Collins, CO 80523-1482 Tel: 970-491-5929 | Hydrogeology and hydrologic balance | TBD |
| 7 | Dennis McGrane 1669 Apple Valley Road Lyons, CO 80540 Tel: 303-823-5933 | Hydrology and hydrologic balance | TBD |
| 8 | Brett Lewis, PE, PhD 11050 South Highway 115 Colorado Springs, CO 80926 Tel: 719-579-6995 | Hydrology, Hydrologic balance and blasting impacts on fractures | TBD |
| 9 | John Sanderson, Ph.D. Director of Science The Nature Conservancy of Colorado 2424 Spruce Street Boulder, CO 80302 Tel: 303-324-2924 | Scientific evaluation and significance of the environment and ecology and conservation value | TBD |
| 10 | Nancy Fishbein Director of Land Protection The Nature Conservancy of Colorado 2424 Spruce Street Boulder, CO 80302 Tel: 720-974-7007 | Scientific evaluation and significance of the environment and ecology and wildlife value | TBD |

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|----|---|---|-----|
| 11 | Richard Alward, PhD ESA Certified Senior Ecologist ESA Certified UAS Remote Pilot Aridlands, LLC Natural Resource Consulting Grand Junction, CO 81507 Tel: 970-270-1973 | Reclamation, restoration and ecology | TBD |
| 12 | Allyn Kratz President of Pikes Peak Chapter of Trout Unlimited P.O. Box 458 Colorado Springs, CO 80901 Tel: 719-641-4925 | Wildlife | TBD |
| 13 | Renee Rondeau, Ecologist Colorado Natural Heritage Program Colorado State University 404 Adobe Dr. Hesperus, CO 81326 Tel: 970-217-9041 | Colorado Heritage Program and Priorities, Reclamation & Wildlife Impact | TBD |
| 14 | Paul G. Anderson, Esq. Red Rock Valley Estates Water District P.O. Box 50631 Colorado Springs, CO 80949-0631 Tel: 719 510-9420 | Water rights and impact on wells. | TBD |
| 15 | Harris D. Sherman Harris Sherman & Associates 370 17 th Street Denver, CO 80202 Tel: 303-378-7524 | MLRB past practices; State Agency review of MLRB Permits; simultaneous judicial challenges and second application | TBD |

III. EXHIBITS

Ingersoll's Preliminary Exhibit List is attached hereto as Exhibit 1 and incorporated herein by reference. Ingersoll's Exhibits are also attached and available for download in this Sharefile link: <https://mullikenlaw.sharefile.com/d-sca4748426f64ba18>

Dated this 9th day of April, 2018.

MULLIKEN WEINER BERG & JOLIVET P.C.

(A duly signed original on file at office of undersigned.)



By: /s/ Steven K. Mulliken

Steven K. Mulliken, #16709

Emory G. Allen, #48167

*Attorneys for Objector the Barbara Ingersoll Marital Trust
established by the Amended and Restated Trust Agreement
of the Harold C. Ingersoll Revocable Trust dated August
11, 2008*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of April, 2018, a true and correct copy of the foregoing **PRELIMINARY WITNESS LIST, EXHIBIT LIST AND EXHIBITS** were served on the members of the Board. Electronic copies of the above lists and exhibits were served and made available to all interested parties with email addresses via email, with a notice of the filing of the foregoing documents sent by U.S. mail to those parties without email addresses, in both cases referencing the Colorado Division of Reclamation Mining & Safety Reports and Data website www.mining.state.co.us.

(A duly signed original on file at office of undersigned.)

/s/ Nani DeFelice

Nani DeFelice



EXHIBIT 1

COLORADO MINED LAND RECLAMATION BOARD
Pre-Hearing Conference of Permit Application of Transit Mix Concrete Co.
DRMS File No. M-2017-049

INGERSOLL'S PRELIMINARY EXHIBIT LIST

| No. | Description | Date | Bates Label | Witness | Stipulated | Admitted | Refused | Notes |
|-----|---|---------------|-------------|---------|------------|----------|---------|-------|
| 1 | Excerpt – Report of Joe Beideman RE: Aiken Canyon/Potato Mountain Area Bird Population | 1984-1985 | | | | | | |
| 2 | El Paso County Planning Department – Southwestern Highway 115 Area Plan | 7/24/1990 | | | | | | |
| 3 | Mexican Spotted Owl Recovery Plan, First Revision (Strix Occidentalis Lucida), US Fish and Wildlife Service | 10/16/1995 | | | | | | |
| 4 | Survey of Critical Biological Resources, El Paso County, Colorado Natural Heritage Program | December 2001 | | | | | | |
| 5 | Biological Assessment & Management Plan for the Mexican Spotted Owl on Fort Carson - Directorate of Environmental Compliance & Management | April 2002 | | | | | | |
| 6 | Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Mexican Spotted Owl; Final Rule, US Fish and Wildlife Service | 8/31/2004 | | | | | | |
| 7 | El Paso County Parks Master Plan | 6/12/2013 | | | | | | |
| 8 | Cheyenne Mountain State Park Management Plan (Excerpt) *Complete report can be obtained at https://cpw.state.co.us/placestogo/parks/CheyenneMountain/Documents/CheyenneMountainStateParkManagementPlan.pdf | 2013 | | | | | | |
| 9 | Extract from Integrated Natural Resources Management Plan for Fort Carson and the Pinon Canyon Maneuver Site | 2013-2017 | | | | | | |
| 10 | Land Ownership & Area Maps | Undated | | | | | | |
| 11 | Google Earth Images of Quarry Locations Along Highway 115 (with Mark Ups) | 12/29/2017 | | | | | | |
| 12 | That Nature Conservancy's Management Plan for Aiken Canyon Preserve | December 2013 | | | | | | |
| 13 | Memo from the Nature Conservancy RE: Science Evaluation of Impacts at Aiken Canyon of the Proposed Transit Mix Quarry | 7/19/2016 | | | | | | |

EXHIBIT 1

| No. | Description | Date | Pages Label | Witness | Stipulated | Admitted | Refused | Notes |
|-----|---|------------|-------------|---------|------------|----------|---------|-------|
| 14 | Adverse Impacts to Habitat & Wildlife from the Proposed Quarry at Hitch Rack Ranch - Power Point Report of John Sanderson, Ph.D | 4/9/2018 | | | | | | |
| 14A | Pg 228 from Wisdom et al. 2018 Elk responses to trail-based recreation on public forests | 2018 | | | | | | |
| 14B | Pages 51 & 73 from Noon et al. 2009 Multispecies Conservation Planning on U.S. Federal Lands | 2009 | | | | | | |
| 14C | Abstract and Conclusions from Cushman et al. 2010 Use of abundance of one species as a surrogate for abundance of others | 8/6/2009 | | | | | | |
| 15 | Curriculum Vitae of John Sanderson, Ph.D., Director of Science at The Nature Conservancy of Colorado | | | | | | | |
| 16 | Report of Charles Norris, PG / Geo-Hydro, Inc. | 9/30/2016 | | | | | | |
| 17 | Curriculum Vitae of Charles Norris, P.G., Geo-Hydro, Inc. | 9/29/2016 | | | | | | |
| 18 | Hitch Rack Ranch Quarry Assessment - Power Point Report of Jerald S. Fifield, Ph.D., Hydrodynamics, Inc. | 2018 | | | | | | |
| 19 | Curriculum Vitae of Jerald S. Fifield, Ph.D., Hydrodynamics, Inc. | 2016 | | | | | | |
| 20 | Reclamation Plan Review - Power Point Report of Richard Alward, Ph.D. | 4/25/2018 | | | | | | |
| 21 | Curriculum Vitae of Richard Alward, PhD | Undated | | | | | | |
| 22 | Colorado Natural Heritage Program's Review of Hitch Rack Ranch Proposal - Power Point Report of Renee Rondeau | April 2018 | | | | | | |
| 23 | Curriculum Vitae of Renee Rondeau | 2018 | | | | | | |
| 24 | Effects of Blasting on Water Wells - Power Point Report of Brett A. Lewis PE, Ph.D. | 4/16/2018 | | | | | | |
| 25 | Curriculum Vitae of Brett A. Lewis, PE, PhD | Undated | | | | | | |
| 26 | Report of Dennis McGrane / McGrane Water Engineering, LLC | 4/9/2018 | | | | | | |
| 27 | Cirriculum Vitae of Dennis McGrane | | | | | | | |
| 28 | Cirriculum Vitae of William E. Sanford, Ph.D. | | | | | | | |

EXHIBIT 1

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