



COLORADO
**Division of Reclamation,
Mining and Safety**
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203

July 24, 2019

Paul Martinez
Martinez Western Construction, Inc.
718 Railroad Ave
Rifle, CO 81650

**RE: Ducray Pit #2, File No. M-2019-035, 110c Limited Impact Permit Application,
Comments/Objections Received**

Dear Mr. Martinez:

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

1. Mary Ann Sink Trust (Mary Ann Sink) on July 16, 2019
2. Susan Moyer on July 17, 2019
3. Jon Sink on July 18, 2019

On July 1, 2019, the Division determined the application complete for the purpose of filing. The newspaper public comment period opened on July 11, 2019, and therefore comments/objections are timely.

Please note that due to an error on the Division's part, agency notices were not sent out until July 19, 2019. The agency comment period will remain open through July 29, 2019. The Division will also attempt to contact these agencies via phone to expedite any potential comments/objections that may be received.

The Division will identify any jurisdictional issues needing to be addressed in Adequacy Review #1. Please note that this application has a decision date of July 30, 2019.

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 303-866-3567 Ext 8183 or via email at amy.yeldell@state.co.us

Sincerely,

Amy Yeldell
Environmental Protection Specialist

Cc: Travis Marshall, Senior EPS, Grand Junction DRMS



Mary Ann Sink Trust, Mary Ann Sink Trustee
Mailing Address:
597 Ravenwood Lane
Grand Junction, Colorado 81507
July 14, 2019

Location of property:
601 22 1/2 Road
Grand Junction, Colorado

RECEIVED

JUL 16 2019

DIVISION OF RECLAMATION
MINING AND SAFETY

Regarding:

Permit: M-2019-035; Ducray Pit #2 (580 22 1/2 Road)
Operator/Applicant: Martinez Western Constructors, Inc.
& All Enforcement Actions Associated with File #: M-2018-018

*X all maps/pics
SMALL*

Subject: Comments

Extraction from the subject pit encroached on the Mary Ann Sink Trust property on the West side causing some sliding and fence damage. Sliding occurred when the operator performed some leveling on October 30, 2019. The Surety-Related Inspection of April 9, 2019, by the Division of Reclamation, Mining, and Safety (Division) confirmed encroachment in "Photo ten: Remaining grading in NW corner of affected lands, required backfill". Fence damage has occurred in this same area due to the in stable slope created by the encroachment. The Mary Ann Sink Trust is the surface and mineral owner of 601 22 1/2 Road.

The Mary Ann Sink Trust hired a surveyor who confirmed the property line. The Mary Ann Sink Trust fence was adjusted to clearly mark the property line and discourage additional encroachment. The damaged section of fence was not changed. The Mary Ann Sink Trust notified Martinez Western Constructors by letter of June 3, 2019, of impacts to the 601 22 1/2 Road property that needed remedy. See Attachment A with copy of Certified Mail Delivery date of June 10, 2019, at 9:04 AM. The applicant has not contacted the Mary Ann Sink Trust regarding the request for how it plans to remedy the impacts.

The Division's letter of June 19, 2019, to the applicant stated, "The Division has also identified the following issue(s) of concern that shall be adequately addressed before the application can be considered for

approval. Permanent Man-Made Structures (a) provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or....” A Structure Agreement for the Mary Ann Sink Trust has not been received from Martinez Western Constructors identifying West Fence, as required.

Road improvements made before and after mining by the operator to 22 ½ Road were not permitted as required by both Mesa County and the City of Grand Junction. Asphalt millings were placed on 22 ½ Road in conjunction with the mining operation. The operator at the junction of Saddlehorn Road and 22 ½ Road placed some asphalt millings in March 2018 before the extraction occurred. The 22 ½ Road was the haul route to the CDOT project. The improvements to 22 ½ Road were not made under permits and were not completed. The operator needs to obtain permits after the fact from both Mesa County and the City of Grand Junction and complete 22 ½ Road to their satisfaction. The road needs to be finished to its end with asphalt millings as part of the reclamation as it is a public right of way and not a private drive. The application confirms that improvements were made to existing roads as a part of the mining, in the “Source of Legal Right To Enter” Agreement of 3-1-18. See Attachment B.

The Justin Carver property and the City of Grand Junction need to be included for Structure Agreements, as these entities are within 200 feet of the area impacted by the violation. It appears the boundary is being manipulated to favor the operator so dealing with the impacts to 22 ½ Road can be avoided. Excluding impacts is contradictory to the Division’s process. The impact to 22 ½ Road was clearly a part of this violation. The Justin Carver property was included in the previous application attempt (M2018-018), and the property is within the City of Grand Junction boundaries. See application received by the Division on June 17, 2019, “Exhibit E Mining Plan 1” confirming the Justin Carver property and the City of Grand Junction are within 200 feet. See Attachment D (Page 1 of 2).

Martinez Western Constructors were negligent by not surveying the area before mining, and by not adhering to required setbacks for Mesa County. The area of extraction was not setback as would be required if properly permitted (Mesa County 5.2.14 Mining and Extractive Uses (C)

..."Excavation...Shall not be permitted within thirty (30) feet of a boundary of an adjacent property, easement,...unless by written agreement of owner of such...". The Mary Ann Sink Trust 601 22 ½ Road property line and fence is less than 30' from the mining excavation.

Two recorded easements were impacted by removing borrow material — mining on top of, as follow. The property at 580 22 ½ Road contains a permanent 30 foot easement for roadway purposes on the West side (Source: Book 1985 Page 447:signed 16th day of June 1993 and recorded 06/21/1993 Mesa County Clerk and Recorder). The property at 580 22 ½ Road contains a communication easement (Wentronics, Inc., d/b/a Comtronics cable TV) of twenty (20) feet (Source: Book 936, Page 428 Date Jun 23, 1969 Mesa County Clerk and Recorder). See Attachment C. Recorded Mesa County and City of Grand Junction roadway easements were impacted when the operator place asphalt milling on 22 ½ Road before and after mining. Xcel energy has a recorded easement. The application does not show these recorded easements in the mapping.

Adequate storm water controls should be installed in the ephemeral drainage. It appears the proposed storm water controls are less than fully adequate. Major storm water events occur every 50 to 100 years or sooner, and runoff cannot be adequately measured in a short period of geologic time such as 15 months since the mining occurred. Storm water permits need to be obtained from the State of Colorado (Department of Health – Water Quality Control Division).

The excavation was within 10 feet of an existing septic leach field. See Attachment C. An observation from the Division with an inspection date of April 20, 2018, states, "Excavation was also within 10 feet of a septic leach field." The long-term potential impacts of the proximity of the leach field to the excavation have not been evaluated or addressed.

An adequate geotechnical study has not been provided. The "Limitations" and lack of specifics in the Kramer and Associates letter of June 10, 2019, were noted. The review also referred to an "attached Figure 1 _ Exhibit _ Mining Plan 1 (aka Figure 1)" which is one of the 2015 maps in the application that are inaccurate in depicting the area impacted by extraction and in depicting the conditions of the site just after mining see attachment D (Page 1 of 2). The Huddleston-Berry "Cut

"Cut Slope Stability" study of November 28, 2018, was not adequate per the Division of Reclamation, Mining and Safety review of January 15, 2019.

The application contains old outdated maps (2015). The application claims the outdated maps show accurate impacts. The application claims the old maps show the site just before mining and just after mining. Both claims by the application are not accurate. See Attachment D of mapping with comments. See six (6) Attachment E of 3-D mapping right after extraction (03-26-2018). The application does not include any mapping of the site just before or just after extraction. The extraction of Borrow Materials began (commencement date) March 11, 2018, and ended March 17, 2018, as noted on June 18, 2019 by the Division, "All enforcement actions will remain associated with file number M-2018-018".

All man made structures within 200 feet are not listed or accurately mapped in the application. Structures not listed include 22 ½ Road asphalt millings; asphalt milling on drive of 580 22 ½ Road: an ADU Modular Home; three storage units; a second Ute water meter; Xcel gas and electric lines; and septic and a leach field for modular home; Justin Carver; City of Grand Junction for 22 ½ Road; 3 Xcel power poles; and a transformer box.

Sincerely yours,

A handwritten signature in blue ink that reads "Mary Ann Sink".

Mary Ann Sink as Trustee
for The Mary Ann Sink Trust

Attachments:

- A). Letter of June 3, 2019 to Martinez Western Constructors
- B). Source Of Legal Right To Enter Agreement of 3-1-18
- C). Huddleston-Berry Septic Systems and Easement Locations
- D). Copy of Mapping with Comments
- E). Six (6)-City of Grand Junction GIS 3-D Maps of 3/26/2018
- F). Grand Junction Daily Sentinel Public Notice July 11, 2019
from Martinez Western Constructors Inc.

597 Ravenwood Lane
Grand Junction, Colorado 81507
June 3, 2019

To: Paul Martinez, Vice President
Martinez Western Constructors
718 Railroad Avenue
Rifle, Colorado 81650

Subject: Structure Agreement for the Mary Ann Sink Trust Property at 601 22 ½ Road and Failure to Comply with Board Order for Violation MV-2018-022 Ducray Pit, File Number M-2018-018

Dear Mr. Martinez,

The Trust has been advised to not sign any structure agreement. It is unclear why a structure agreement was sent at this time, and that it did not include the "Notary For Structure" page?

The Mary Ann Sink Trust received by registered mail a "Structure Agreement" for the Mary Ann Sink Trust and a "Certification" for the applicant Martinez Western Constructors Inc. on May 29, 2019. The mail included only two pages (copies enclosed).

There was no letter of explanation or reference to a new application process for a reclamation only permit (Refer to Mining Board Enforcement Hearing of April 24, 2019 conducted in Denver regarding MV-2018-022).

The mining operation at 580 22 ½ Road (Ducray Pit) did adversely impact the property at 601 22 ½ Road and did adversely impacted 22 ½ Road from Saddlehorn north to our property at 601 22 ½ Road. This section of 22 ½ Road is a public road.

The material from the mining operation was used on the CDOT Redlands Roundabout project in March 2018. That was over 15 months ago and the reclamation has still not been completed.

The Mary Ann Sink Trust has concerns about future impacts from storm water drainage and future impacts from the close proximity of the extraction to an existing septic leach field.

Extraction from the Ducray Pit encroached on the Mary Ann Sink Trust property on the West side causing some sliding and fence damage. Sliding occurred when the operator performed some leveling on October 30, 2018. The Mary Ann Sink Trust hired a surveyor who confirmed the property line. The Mary Ann Sink Trust fence was adjusted to clearly mark the property line and discourage additional encroachment.

Roadwork on 22 ½ Road made before and after mining by Martinez Western Constructors resulted in an incomplete road (about 85 feet) that looks like a private driveway rather than a public road. Permits to work on the public road were not obtained as required from both the City of Grand Junction and Mesa County. This resulted in no oversight of the work to assure adequacy including storm water drainage from the new road surface. This segment of public road is our legal access to 601 22 ½ Road, the road was adversely impacted by the mining operation, and the road was left in a "mess" at the entrance to 601 22 ½ Road.

Please let the Mary Ann Sink Trust know how you plan to remedy the encroachment impacts; remedy future impacts from storm water drainage; remedy future impacts from the proximity of the extraction to an existing septic leach field; and remedy the incomplete roadwork during your reclamation.

Sincerely yours,



Jonathan Sink
For Mary Ann Sink Trust property at 601 22 ½ Road
(970) 241-2685

Enclosures:
STRUCTURE AGREEMENT
CERTIFICATION
Copy of Certified Envelope

CC:
Colorado Division of Reclamation, Mining, and Safety (with enclosures)
Mesa County Commissioners (w/o enclosures)
Mesa County, Pete Bair (w/o enclosures)
Mesa County, Todd Hollenbeck (w/o enclosures)
Mesa County, Jeff Hofman (w/o enclosures)
City of Grand Junction, Trent Prall (w/o enclosures)

Structure Agreement

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety ("Division") requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:

- a) Provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b) Where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility. (*Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

The Colorado Mined Land Reclamation Board ("Board") has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.

The following structures are located on or within 200 feet of the proposed affected area:

1. Mary Ann Sink Trust - West Property boundary of Permit Site.
2. _____
3. _____
4. _____
5. _____

(Please list additional structures on a separate page)

CERTIFICATION

The Applicant, Martinez Western Constructors Inc.

By Paul Martinez

As Vice President, does hereby certify that Mary Sink Trust, (structure owner) shall be compensated for any damage from the proposed mining operation to the above listed structure(s)

located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation

Permit Application for Ducray Pit _____

(operation name),

File Number M-2018-018.

This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.

Any alteration or modification to this form shall result in voiding this form.

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

Applicant P. Martinez Representative Name

Date 5/28/19 Title V.P.

STATE OF Colorado)

) ss.

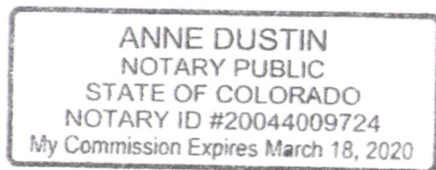
COUNTY OF Primer)

The foregoing was acknowledged before me this 28th day of May, 2019, by

Paul Martinez as Operator of Martinez Western Constructors

Anne Dustin My Commission Expires: 03/18/2020

Notary Public



MWL
710 Railroad Ave
Rt 6 to 81650

CERTIFIED MAIL®



7018 1830 0001 3754 0125



1000



81507

U.S. POSTAGE PAID
FCM LETTER
GRAND JUNCTION, CO
81501
MAY 28, 19
AMOUNT

\$4.05

R2304M111751-65

Mary Ann Sink Trust
877 Railroad Ave
Grand Junction Co 81507

8150732619 R004





FAQs > (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Track Another Package +

Tracking Number: 70180680000073287535

Remove X

Your item was delivered at 9:04 am on June 10, 2019 in RIFLE, CO 81650.

Delivered

June 10, 2019 at 9:04 am
Delivered
RIFLE, CO 81650

Get Updates ✓

Text & Email Updates	✓
Tracking History	✓
Product Information	✓

See Less ^

Can't find what you're looking for?

SOURCE OF LEGAL RIGHT TO ENTER

ENTER PIT # 6.307

Legal Agreement

This lease Agreement is made and executed this 1st day of March 2018 between Jay DuCray whose address for purpose of this agreement is 580 22 1/2 Road, Grand Junction, Colorado 81507 (referred to as Lessor), and is legal owner of land herein discussed and referenced, and Martinez Western Constructors Inc. whose address for purpose of this agreement is 335 Village Drive, Rifle, Colorado 81650.

Recital

Lessor is owner of real property, including all interest in the sand, rock and soils located in Grand Junction, Colorado at 580 22 1/2 Road.

Parties desire to enter this lease agreement for the purpose of, MWC to extract native materials from the property for its business use

Agreement

Lessor hereby grants MWC exclusive rights to access and possession of insitu materials for purpose of fill on MWC projects with CDOT. Lessor grants rights to MWC for excavation, loading and hauling of extracted materials. Extractable material shall be limited to two locations not deeper than 4'.

Lessor grants MWC single point of entry and exit, and unrestricted use of a single haul route during the hours of 6 AM – 6 PM, Monday through Saturday.

Inconsideration of this agreement Martinez Western Constructors Inc. agrees as follows

To place asphalt millings from the access gate towards the single-family residence, but not less than 6,000 square feet. The millings shall be smoothed, graded, and rolled for a compacted drivable all-weather surface.

Lessee shall complete this work before August 30, 2018.

Lessee shall be responsible for grading excavated slopes and roads to similar conditions as those upon entry.

Lessee shall be responsible to spray a seed mixture of native type seed during the fall seeding window as described by CDOT Standard Specifications. The seed mix shall be a standard county mix.

By signing below both parties agree the terms listed herein shall be considered full and final agreement and no other warrants or representations shall be considered unless amend in writing and agreed by signature of both parties.

Martinez Western Constructors Inc.

By:

Paul Martinez V.P. MWC

Lessor:

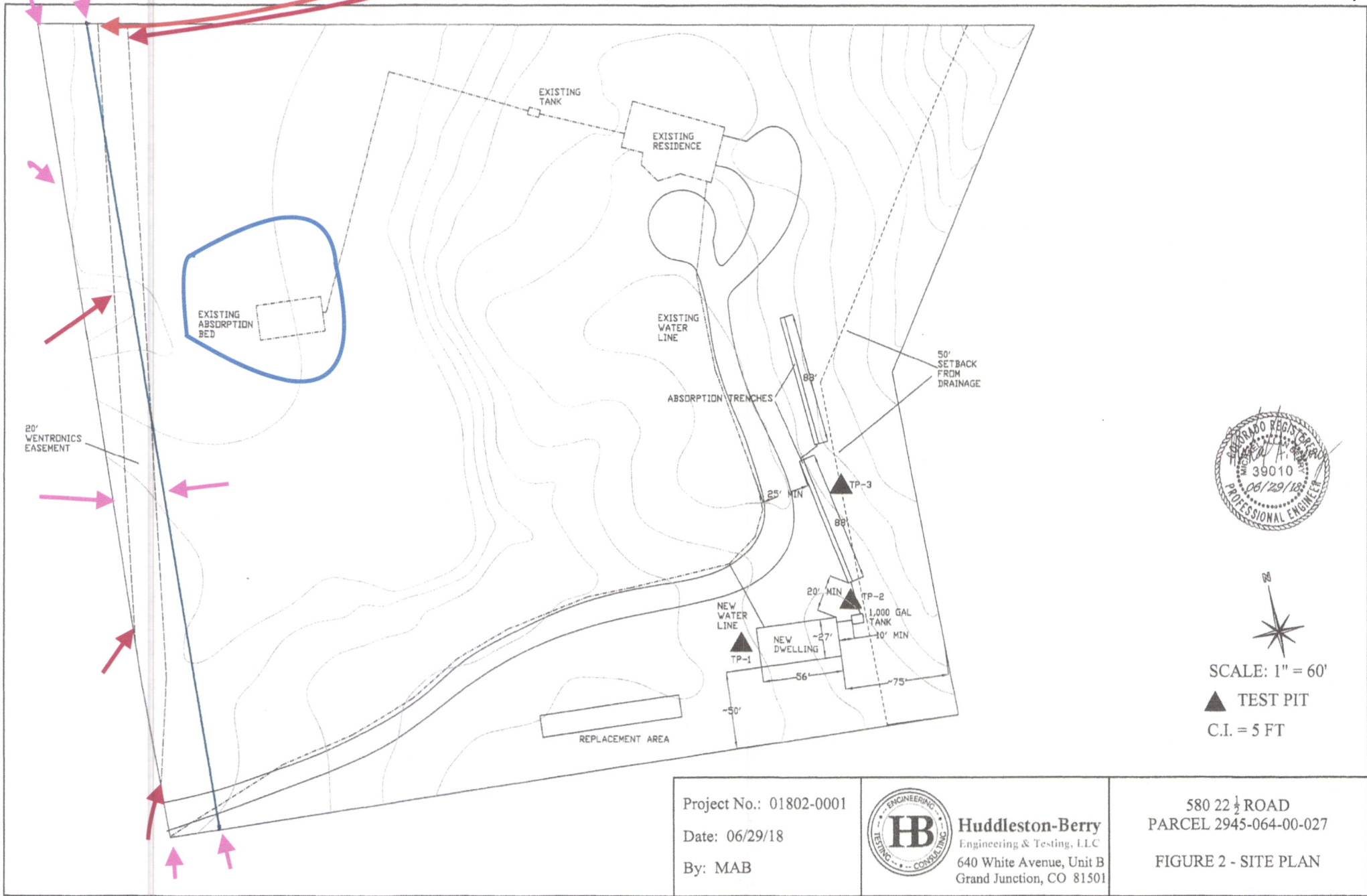
By:

Jay DuCray Legal property owner

Approximate location of 30' Recorded Permanent Roadway Easement solid line

Approximate location of 20' Recorded Communication Easement "Comtronics" dashed lines.

Source Mesa County Assessors



Ducray Pit #2; Permit # M-2019-035; /Property 580 22 1/2 Road, Grand Junction CO. 81507
Operator/Applicant: Martinez Western Constructors Inc. Date Printed: March 4, 2019

Recorded 20" Communication Easement "Comtronics" dashed lines

Recorded 30' Permanent Roadway Easement solid lines

Existing Absorption Bed, "Leach Field" circled in blue



Ducray Pit # 2; Permit # M-2019-035;
Operator Applicant: Martinez Western
Constructors Inc.

Photo map is from Google Earth May 28, 2015.
Trucks & equipment shown is from previous
resident prior to Ducray's purchase (2/27/2017)
of residence. Borrow material removal began
March 11, 2018 and ended March 17, 2018).

Black lines show area
excavated versus blue
lines from the
application that were
inaccurate.

Jay Ducray
Surface & Mineral

River Place LLC

Brian C Bennett

Bennet Garage

Bennet House

Justin Carver

Mesa County

Ducray Driveway

Excel Overhead Power

Utility Trench

Added Dwelling

Ducray Septic System

Ducray House

Legend

- Permit Boundary
- 200 ft. Buffer
- Newly Affected Lands
- Structures
(Fence W Side Mary Ann Sink Trust
N S E Side River Place LLC)

**AREA EXCAVATED
BUT NOT SHOWN OR
LEVELED TO 3:1**

What is 200 ft. Buffer?

Exhibit E
Mining Plan 1



M-2018-018
Ducray Pit

Paul Martinez

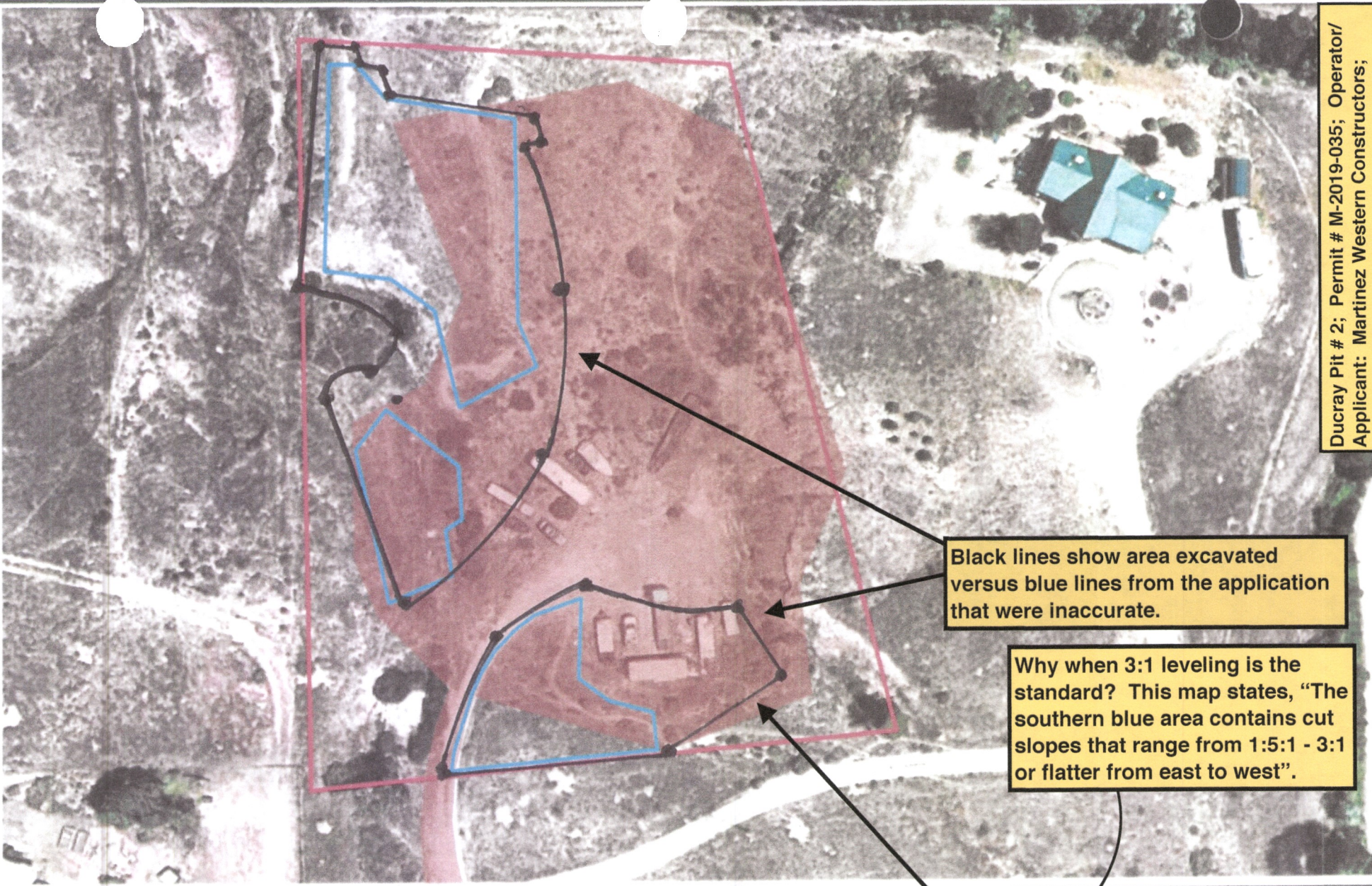
Martinez Western
Constructors

**JUSTIN CARVER & CITY
OF GRAND JUNCTION
WITHIN 200 FEET AND
REQUIRE STRUCTURE
AGREEMENTS**

Date: 05/27/2018

**Photo map is "2015"; NOT REPRESENTATIVE
OF SITE PRIOR OR AFTER MINING**

Ducray Pit # 2; Permit # M-2019-035; Operator/
Applicant: Martinez Western Constructors;
Location: 580 22 1/2 Rd



Martinez Western Constructors

Date: 05/27/2018

Legend

- Permit Boundary
- Affected Lands
- Historical Mining Disturbance

The northern blue area contains 3:1 or flatter cut slopes. The middle blue area contains 3:1 or flatter cut slopes. The southern blue area contains cut slopes that range from 1:5:1 - 3:1 or flatter from east to west. No topsoil or overburden was removed prior to mining.

No slope leveling in area that was excavated?

Exhibit E
Mining Plan 2



M-2018-018
Ducray Pit

Paul Martinez

03/26/2018 City of Grand Junction GIS

Ducray Pit # 2: Permit #: M-2019-035 Overview of Southern, Middle Western (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/Applicant: Martinez Western Constructors Inc. Location: 580 22 1/2 Road, Grand Junction, CO. 81507



Middle Western Area Mined

Southern Area Mined

Attachment E (Page 1 of 6) Depicts an overview of Southern, Middle Western and North Western area mined. Print date: March 4, 2019

Page 15 of 21 from Mary Ann Sink Trust;
601 22 1/2 Road

03/26/2018 South GIS City of GJT

Ducray Pit # 2; Permit # M-2019-035; Southern Area Mined (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/Applicant: Martinez Western Constructors Inc. Location: 580 221/2 Road, Grand Junction, CO 81507



© 2018 Pictometry

Attachment E (Page 2 of 6) Depicts the magnitude of the Southern area mined and depth. A partial of the Middle Western area mined with the operator's excavator; southeast and southwest ephemeral drainage is shown. Print Date: March 4, 2019

City of Grand Junction
GIS Air Photo Date:

03/26/2018

03/26/2018 West GIS City of GJT

Ducray Pit # 2; Permit # M-2019-035 Middle Western Area Mined (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/Applicant: Martinez Western Constructors Inc. Location: 580 22 1/2 Road, Grand Junction, CO. 81507



Mary Ann Sink Trust
601 22 1/2 Road
Property Boundary
is East of Fence

© 2018 Pictometry

Attachment E (Page 3 of 6) Depicts the magnitude of the Middle Western area mined and depth. The ephemeral drainage and the Mary Ann Sink Trust fence is shown. Print date: March 4, 2019

City of Grand
Junction
GIS Air Photo Date:
03/26/2018

Page 17 of 21 from Mary Ann Sink
Trust; 601 22 1/2 Road

3/26/18 Source City Grand Junction GIS

Ducray Pit # 2; Permit # M-2019-035 North Western and Partial Middle Western Area Mined (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/applicant: Martinez Western Constructors Inc. Location: 580 22 1/2 Road, Grand Junction, CO. 81507



City of Grand Junction

GIS Air Photo Date:

03/26/2018

Attachment E (Page 4 of 6) Depicts the magnitude of North Western; Partial Middle Western area mined and depth. The ephemeral drainage and Mary Ann Sink Trust fence is shown. Print date: March 4, 2019

Page 18 of 21 from Mary Ann Sink Trust;
601 22 1/2 Road

Property line is in green fence is west of property line

Mary Ann Sink Trust
601 22 1/2 RD

Ducray Pit # 2; Permit # M-2019-035
Operator/Applicant: Martinez Western Constructors Inc.
Location: 580 22 1/2 Road, Grand Junction, CO 81507

Map is depicting the magnitude of mining and encroachment on 601 22 1/2 Road

Red circle is Survey Monument S 1/4 corner Section 6, T:1S, R:1W PM:UTE

Blue circles north main entrance; 22 1/2 Road is Ute Water Meters. Farthest north is Ducray's home, near entrance is meter for modular home installed after mining and before reclamation permit.

Yellow is approximate location of leach field

Area Mined
3/11/2018 -
3/17/2018
North Western
Middle Western
Southern

580 22 1/2 Rd -
Main Entrance

22 1/2 Road.

S095

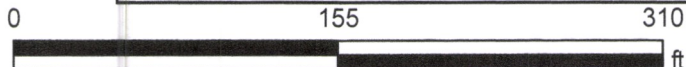
Attachment E (Page 5 of 6) Depicts Southern, Middle Western and North Western area mined. Encroachment is shown along the property boundary 601 1/2 Road.

Printed: 2/16/2019

1 inch = 92 feet

CITY OF
Grand Junction
COLORADO
GEOGRAPHIC INFORMATION SYSTEM

Page 19 of 21 from Mary Ann Sink Trust 601 22 1/2 Road



Removal of Borrow Material beginning March 11, 2018
and ending March 17, 2018 by Operator.

City of Grand Junction

GIS Air Photo Date: 03/26/2018

Property line is in green & fence is west of property line

Mary Ann Sink Trust
601 22 1/2 RD

Ducray Pit #2; Permit # M-2019-035
Operator/Applicant: Martinez
Western Constructors Inc.
Location: 580 22 1/2 Road
Grand Junction, CO 81507

Map is depicting the
magnitude of mining within the
ephemeral drainage

Red circle is Survey
Monument S 1/4
corner Section 6; T:1S,
R:1W PM:UTE

Blue circles north main
entrance; 22 1/2 Road is
Ute Water Meters.
Farthest north is
Ducray's home, near
entrance is meter for
modular home installed
after mining and before
reclamation permit.

Yellow is approximate
location of leach field

Arrows depicting entry into
the ephemeral drainage
from the southeast and
from the southwest.

580 22 1/2 Rd -
Main Entrance

Attachment E (Page 6 of 6)) Depicts the ephemeral drainage - within the Ute Canyon Drainage Basin. The Southern, Middle Western and Northwestern area mined is shown.

Page 20 of 21 from Mary Ann
Sink Trust; 601 22 1/2 Road

Printed: 2/16/2019

1 inch = 92 feet

CITY OF
Grand Junction
COLORADO
GEOGRAPHIC INFORMATION SYSTEM

Keyword Search:

Search

Listings within -- All -- miles of

type zipcode here

Advanced Search

Ad Details

THE DAILY SENTINEL

Provided By: Grand Junction Daily Sentinel

Category: NOTICES - Legals

Description

PUBLIC NOTICE

Martinez Western Constructors Inc., 718 Railroad Ave., Rifle, CO 81650; has filed an application for a Construction Materials Impact (110) Reclamation Permit with the Colorado Mined Land Reclamation Board under provisions of the Colorado Land Reclamation Act for the Extraction of Construction Materials. The proposed mine is known as the Ducray Pit 2, and is located at or near Section 6, Township 1S, Range 1W, 6th Colorado Prime Meridian. The proposed date of commencement is July, 2019, and the proposed date of completion is October, 2019. The proposed future use of the land is Residential. Additional information and tentative decision date may be obtained from the Division of Reclamation, Mining, and Safety, 1313 Sherman St., Room 215, Denver, Colorado 80203, (303) 866-3567, or at the Mesa County Clerk and Recorder's office; 200 S. Spruce St., Grand Junction, CO 81501, or the above named applicant. A complete copy of the application is available at the above-named County Clerk and Recorder's office and at the Division's office.

Comments concerning the application and exhibits must be in writing and must be received by the Division of Reclamation, Mining and Safety by 4:00 p.m. on Monday, July 22, 2019.

Please note that under the provisions of C.R.S. 34-32.5-101 et seq. Comments related to noise, truck traffic, hours of operation, visual impacts, effects on property values and other social or economic concerns are issues not subject to this Office's jurisdiction. These subjects, and similar ones, are typically addressed by your local governments, rather than the Division of Reclamation, Mining, and Safety or the Mined Land Reclamation Board.

Published: July 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 2019.

Similar Listings

Find Similar Listings

Back

The appropriate proposed future use of the land should be Rangeland. Residential is not compatible on top of a reclaimed mine site.

Public Notice does not clearly communicate that this is a reclamation only permit for mining without a permit. A new application was required to be submitted by Board order MV-2019-009; Ducray Pit #2; Permit # M-2019-035. The Colorado Division of Reclamation Mining and Safety states, "All enforcement actions will remain associated with file number M-2018-018" (June 18, 2019). The extraction of Borrow Material began March 11, 2018 and ended March 17, 2018. On October 30, 2018 operator performed leveling without a permit. It is unclear what is meant in this public notice "The proposed date of commencement is July, 2019".

Attachment F (Page 1 of 1) Ducray Pit # 2; Permit # M-2019-035;
Operator/ Applicant: Martinez Western Constructors; Location:
580 22 1/2 Road, Grand Junction, CO. 81507

Page 21 of 21 from Mary Ann Sink Trust;
601 22 1/2 Road, Grand Junction, CO 81507

Mary Ann Sink Trust
597 Ravenwood Lane
Grand Junction, CO
81507

RECEIVED

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DIVISION OF RECLAMATION
MINING AND SAFETY

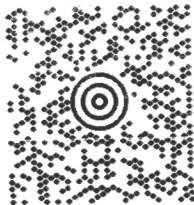
Colorado
Division of Reclamation Mining and Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO
80203

MARY ANN SINK
(970) 241-2685
THE UPS STORE #5741
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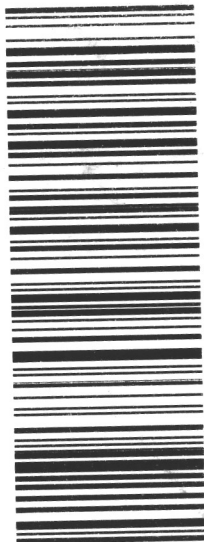


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JUL 17 2019

**DIVISION OF RECLAMATION
MINING AND SAFETY**

Colorado
Division of Reclamation, Mining and Safety
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 80203
July 15, 2019

Comments on the Construction Materials Impact Reclamation Permit by Martinez Western Constructors, Inc. for the mined property (Ducray Pit 2) to the east of the Mary Ann Sink Trust (601 22 ½ Road), in Grand Junction, Colorado.

I submit these comments based on a visual inspection (from the Sink's property) located west of the property that was mined for gravel to the east of the Sink property at the north end of 22 1/2 road in Grand Junction. I live in Redlands Village and have been friends with the Sinks for many years.

The public notice was confusing to me since it says that the permit is for a *proposed* mine which will commence in July 2019 and complete in October 2019. Since the mining has already occurred, why is it a 'proposed' mine?

My primary concern regards the drainage situation post mining. There are two ephemeral drainages that enter the property from the south and southeast. The flat area in the center of the mined area has no channel for any water which enters the property from the drainages to cross and exit the property. It is currently a flat expanse with no channel at all and abuts the Sink Trust property to the west. On that property there is a channel leading northward to the Colorado River. This section of the river is habitat for the Federally listed Colorado Pikeminnow, Humpback Chub and Razorback Sucker.

If a significant rain event were to occur on the north side of the Colorado National Monument (which has happened in recent memory) and the runoff were to come down the ephemeral drainages toward the River, there is nothing to stop the flow from running unimpeded through the flat area which was mined. It would seem that a requirement of the permit would include utilizing the expertise of a hydrologist/engineer to design a flood mitigation system to carry any flood water through the property and on to the Sink Trust to the west without a large load of sediment and/or erosion of the channel. The drainage on the Sink Trust empties into the Colorado River within ¼ mile of the mined property.

The existence of the channel on the property directly west of the mined area, would indicate that there was previously a channel in the area mined to the east. Reestablishment of this channel would hopefully prevent a large rain event from eroding a new channel through the mined area, moving a lot of sediment to the northwest through the Sink Trust property, potentially causing additional erosion and potential bank stability before reaching the Colorado River.

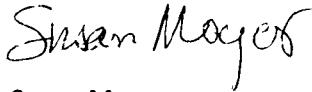
I also noticed that the impacts from the mining approach the fence on the west side. One post looked like it was not totally secure anymore. Isn't there some sort of required setback from a neighbor's

property? If so, there is a stretch on the west side that abuts the property line. Also, a plat I saw indicates there is a reserved right of way to the east of the Sink Trust property line. What was done to get approval/permission to encroach on the easement?

A final concern I have regards the septic system adjacent to the mined area. Is there any mitigation proposed to ensure that the septic system is protected from hydrologic events? How can the proposed use of the mined area be residential when it is located in a depression? All the adjacent properties have dwellings on the top of the hill leading down to the Colorado river. The property already has a home above and to the east of the mined area and a manufactured doublewide on the hill to the southeast of the pit.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Susan Moyer". The signature is written in a cursive, flowing style.

Susan Moyer

2233 Windsor Ct.

Grand Junction, CO 81507

Susan Moyer
2233 Windsor Ct.
Grand Junction, CO
81507

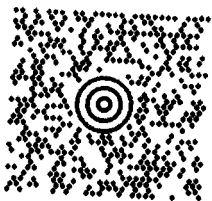
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RRD RF2 0419

Handwritten signature/initials in blue ink.

Handwritten note in blue ink: "Xall maps (pics: small)"

597 Ravenwood Lane
Grand Junction, Colorado 81507
July 17, 2019

Colorado Division of Mining, Safety, and Reclamation (Division)
Department of Natural Resources
1313 Sherman Street, Room 215
Denver, CO 81650

Subject: Comments for File No. **M-2019-035** (Martinez Western Constructors)
Application Received by the Division on June 17, 2019
Enforcement Actions Associated with File No. **M-2018-018**

The subject application for Ducray Pit #2 does not acknowledge impacts from the mining activity to the Mary Ann Sink Trust property located at 601 22 ½ Road. The impacts are encroachment, slope sliding, fence damage, and road damage. Future potential impacts are storm water runoff damage, and damage from leach field failure. All impacts and future potential impacts need to be included in the application and adequately addressed for proper reclamation. The application is incomplete and inadequate in many other areas as well.

If the applicant is unwilling or unable to identify the impacts, and to perform a complete and quality reclamation of the impacts, then an adequate surety performance bond needs to be obtained for such. A partial reclamation is not acceptable.

The application proposes to reclaim the affected land to "Residential" use when the original application was "Rangeland" use. A July 2, 2018 Preliminary Review by the Division of the Ducray Pit #1 stated, "12. If post mining land use is to be residential then additional construction would be occurring on the mine site. Though this mine site is adjacent to a residence the Division feels that rangeland is a more appropriate post-mining land use." Additional construction occurring on the reclaimed mine site would destroy the reclamation effort and should be specifically precluded in the reclamation only permit. Additional construction will increase storm water runoff and is not compatible on top of a reclaimed mine site that is being re-vegetated, contains storm water retention controls, and is located in the center of an ephemeral drainage. The landowner chose on how to use his property by agreeing to allow the operator to extract material for commercial use without a permit. If this extraction had been legally permitted, the amount of material removed would have been significantly less, if approved at all, the extraction would have been properly monitored including adherence to setbacks, and the operator would have been required to reclaim the site to normal standards. The reclamation only permit needs to require the same normal standards be met. The application is asking for normal standards to be waived in numerous areas: for example normal use of site

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after reclamation; normal 3:1 slope leveling; normal storm water retention controls; and normal obtaining of permits from regulatory agencies.

The application needs to specify for how many years the site is going to be monitored for acceptable re-vegetation and for adequate weed control. The application needs to specify for how long the Division will be monitoring the site to ensure the reclamation is working as planned and is not being altered by other activities such as additional construction or other alteration to the reclamation by the land owner.

The application claims that "Slopes were re-contoured to a 3:1 or flatter or until they were deemed stable by Geotechnical engineer" under 6.3.3 (f). The applicant did some slope leveling on October 30, 2018 without a permit. A Geotechnical Engineer (Michael A. Berry, P. E. of Huddleston- Berry) "conducted site reconnaissance on November 16th 2018". Slopes could not be "re-contoured to a 3:1 or flatter and until they were deemed stable by Geotechnical engineer" when a Geotechnical engineer was not onsite while the work was being performed. Furthermore, the Division ruled the study from Huddleston-Berry inadequate. The slopes in the Southeast corner of the site next to the Southeast entry into the ephemeral drainage have not been contoured to a 3:1. This extraction area has not been contoured at all. These slopes need to be contoured to 3:1. The application states, "The slopes and excavated areas are consistent with land-owner request". This contradicts the applicant's claim that slopes were re-contoured to 3:1 or flatter. Exhibit E Mining Plan 2 in the application also contradicts the 3:1 claim as well when it states slopes are 1:1.5 in the southern area. This is an area that was excavated by Martinez Western Constructors during the period 3-11-2018 thru 3-17-2018, no slope leveling has been done, and the area was excluded from the maps provided in the application.

The mining changed the ephemeral drainage. The preexisting drainages had natural channels that were removed. Drainages enter from both the Southeast and from the Southwest. The applicant did not identify or even consider the significant drainage that enters from the Southwest for adequate storm water retention. The applicant claims borrow materials were removed from "0-3' in depth and from 0-4' in depth" under 6.3.3 (f). Air photos taken by the City of Grand Junction on March 26, 2018 just after the extraction, show otherwise (See attached 3 air photos). The proposed storm water retention controls in the application are inadequate for the size of the drainage, and the impacts created to the drainage by the mining, including additional runoff created from the asphalt millings applied without permit to 22 ½ Road and to the landowner's driveway from entrance to home. Both 22 ½ Road and the driveway were affected by the mining and need to be included in the permit boundary. The downstream landowners do not want silt to be pushed onto their properties because of inadequate storm water retention. New channels replacing those destroyed by the mining, need to be developed and armored with rock to prevent future damage. In addition a large sediment pond of adequate size needs to

be built to mitigate the additional storm water runoff created by the mining activity. Partial and/or inadequate storm water retention control is not acceptable for this site for the long term.

Modifications were made to an existing public road (22 ½ Road) that was affected by the mining. Asphalt millings were applied to the road before and after mining. Work performed by Martinez Western Constructors on the existing public road (22 ½ Road) was not permitted as required by both Mesa County and the City of Grand Junction. The road needs to be included in the permit boundary as 22 ½ Road was affected by the mining, 22 ½ Road was the haul road for the mining, and 22 ½ Road was modified by Martinez Western Constructors as a part of the mining.

The application has not adequately evaluated the potential failure of the septic system leach field. The leach field is within 10 feet of the excavation according to a Division inspection of April 20, 2018. It appears the alternate leach field site for this septic system has been mined over.

The application map (C-2) Pre-disturbance does not accurately show the conditions before the mining. The map is a 2015 map. All maps in the application are inaccurate in depicting the area impacted by extraction, and in depicting the conditions of the site just before and just after the mining (See attached map (Exhibit E Reclamation Plan) from application with comments and see the three (3) attachment air photos.

Robert L. Duran, E. I. of Kramer and Associates, Inc. conducted a geotechnical review with a date of June 10, 2019. It stated, "The 'Mary Ann Sink Trust Fence' is approximately adjacent to the west edge of the northern ' Newly Affected Lands' area at its closest point". This statement is inaccurate. The applicant did encroach onto the Mary Ann Sink Trust property, did cause slope sliding, and did cause fence damage. The geotechnical review did not identify these impacts. These impacts need to be included in the application and addressed for resolution. The Kramer and Associates geotechnical review is clearly inadequate. The review also referred to an "attached Figure 1 – Exhibit E – Mining Plan 1 (aka Figure1)" which is one of the 2015 maps in the application that are "inaccurate in depicting the area impacted by extraction and in depicting the conditions of the site just after mining" as described in the paragraph above.

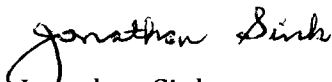
The application does not identify or address impacts to the two-recorded permanent easements that were mined over. Backfill will be needed to reclaim the roadway easement to its original condition and to mitigate the trespass and lack of adherence to setbacks for the Mary Ann Sink Trust property. The application does not identify recorded permanent easements for the Xcel overhead power lines and for the public road (22 ½ Road).

The application does not identify the required permitting to carry out the reclamation work, which would include permits from Mesa County and the City of Grand Junction for finishing the incomplete work on 22 ½ Road, and storm water permitting.

The Division's letter to the applicant of June 19, 2019 stated, "The Division has also identified the following issue(s) of concern that shall be adequately addressed before the application can be considered for approval." The Division's letter to the applicant of July 2, 2019 stated, "Additionally, any changes or additions to the application on file in our office must also be reflected in the public review copy which has been placed with the Mesa County Clerk and Recorder." On July 11, 2019, the date the notice was published in the Daily Sentinel, I visited the Mesa County Clerk and Recorder's office to review the subject application – public review copy. The public review copy did not contain any response from the applicant to the "issue(s) of concern that shall be adequately addressed before the application can be considered for approval".

Thank you for the opportunity to comment.

Sincerely,


Jonathan Sink

Attachments:

Attachment air photos March 26, 2018 GIS Air Photos of Ducray Pit #2 (3 photos)
Map (Exhibit E Reclamation Plan) from application with comments

03/26/2018 South GIS City of GJT

Ducray Pit # 2; Permit # M-2019-035; Southern Area Mined (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/Applicant: Martinez Western Constructors Inc. Location: 580 221/2 Road, Grand Junction, CO 81507



© 2018 Pictometry

City of Grand Junction
GIS Air Photo Date:

03/26/2018

Area of extraction with no contouring to a 3:1 as claimed. Note depth of extraction mined with operator's excavator. Print Date: March 4, 2019

Page 5 of 8

Attachment air photo (Page 1 of 3)

3/26/18 Source City Grand Junction GIS

Ducray Pit # 2; Permit # M-2019-035 North Western and Partial Middle Western Area Mined (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/applicant: Martinez Western Constructors Inc. Location: 580 22 1/2 Road, Grand Junction, CO. 81507



Attachment GIS Air Photos Ducray Pit # 2; Permit # M-2019-035

City of Grand Junction
GIS Air Photo Date:
03/26/2018

Attachment air photo (Page 2 of 3)

Area of encroachment; slope sliding; and fence damage. The North Western; Partial Middle Western area mined and depth. The Mary Ann Sink Trust fence is shown. Print date: March 4, 2019

Page 6 of 8

03/26/2018 West GIS City of GJT

Ducray Pit # 2; Permit # M-2019-035 Middle Western Area Mined (Removal of Borrow Material beginning March 11, 2018 and ending March 17, 2018). Operator/Applicant: Martinez Western Constructors Inc. Location: 580 22 1/2 Road, Grand Junction, CO. 81507



© 2018 Pictometry

City of Grand
Junction

GIS Air Photo Date:
03/26/2018

Operator's excavator still on site. Note depth of excavation. The Middle Western area mined and depth. The Mary Ann Sink Trust fence is shown. Print date: March 4, 2019

Attachment air photo (Page 3 of 3)

Page 7 of 8



Martinez Western
Constructors

Date: 05/27/2018

**BLACK LINES
SHOW AREAS
IMPACTED**

No topsoil or overburden to be replaced. Slopes will be no steeper than 3:1. All pre-existing roads and structures will remain.

Legend

— Permit Boundary

— Areas where revegetation will occur

— Stormwater Berms

— Sediment Pond (To be Constructed)

NO SLOPE LEVELING

Exhibit E
Reclamation Plan



M-2018-018
Ducray Pit

Paul Martinez

Jon Sink
597 Ravenwood Ln.
Grand Junction, CO 81507-2619

COLORADO
DIVISION of Reclamation, Mining,
DEPARTMENT OF NATURAL RESOURCES
1313 SHERMAN Street, Suite 21
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