



## GIVING TREE RANCH

September 24, 2020

Colorado Division of Reclamation, Mining and Safety  
1313 Sherman St.  
Denver, CO 80203  
RE: Application by Peak Ranch Resource (File No. M2020041)

To whom it may concern,

I am writing to seek Party status to testify about the above-mentioned application by Peak Materials to establish a gravel mining operation at the site designated as Peak Ranch Resource.

My wife and I own a 22-acre property immediately to the south of the Peak Ranch Resource site. Our address is 35245 Highway 9, Silverthorne, CO and is known as the "Giving Tree Ranch." I am a 5<sup>th</sup>-generation Coloradoan, born in Fort Collins and raised in Colorado Springs.

We are adamantly opposed to the attempts by Peak Materials and its multi-billion-dollar parent company, Summit Materials, to unnecessarily despoil the unique and precious natural and cultural heritage of the Lower Blue River Valley. Approval of Peak Material's application would be a victory of corporate profit-seeking over the legitimate rights of current residents—forever harming the abundant wildlife, clean waters and unspoiled scenery of this unique mountain valley.

I am specifically aggrieved by this proposed project for the following reasons:

1. Our property is immediately adjacent and south of the proposed mining site. We paid nearly \$3 million dollars for this property in 2016 with confidence that the Summit County Lower Blue Master Plan, adopted in March 2010, offered specific protections for our property and all of the surrounding area by declaring that the overall philosophy of the plan is the protection of the Basin's rural character, specifically, "to maintain the Basin's rural character through protection of elements such as agricultural land uses, accessibility to public lands for dispersed recreation, open spaces, abundant wildlife and fisheries, and scenic views" [*Summit County Lower Blue Master Plan*, p.6, adopted March 4, 2010]. The entire area of the Peak Ranch Resource site and all of the surrounding properties are zoned for low-density rural residential or related agricultural

uses. The proposed mining plan is completely at odds with a land use plan that has been repeatedly approved adopted by Summit County. Our substantial investment was justified in no small way by the belief that development in this area would be consistent with the Lower Blue River Master Plan. We certainly never contemplated that in a few short years a noxious heavy industrial resource extraction activity would be proposed just to the north of us. We believe that, in addition to the severe overall environmental, public safety, water, fisheries and wildlife degradation that the project threatens, we will suffer a significant monetary loss on our investment, and that we will lose the peaceful use of the property that predisposed our investment in 2016. At age 68, the proposed mining development this well could mean a lifetime loss of the peaceful rural surroundings that I anticipated when we bought Giving Tree Ranch. We will not hesitate to seek monetary and punitive damages from Peak Materials, its parent companies, Summit County and the State of Colorado if the proposed Peak Materials gravel mine is allowed to proceed.

2. The proposed mining operation is very likely to have significant deleterious impacts of the quality and volumes of water now rightfully consumed by landowners both adjacent and nearby the proposed pit. We have natural springs on the property which are likely to be impacted, as well as long-standing well and BLM water rights that must be protected.
3. The proposed mining operation will significantly impact the health, safety and habitat of the large number of wildlife and birds that currently populate the immediate area. A substantial factor in the enjoyment and value of our property is the widespread presence of various wildlife species. The presence of the proposed mining operation will have very negative impacts on the presence of wildlife on our property, since the vast majority of wildlife move into and through our grounds from the north side of our property. Clearly, wildlife have adopted patterns of movement along and through the former Hillyard property. Those movements would be thwarted by the presence of the disturbed land, machinery, human activity and noise generated by the proposed Peak Ranch pit. Furthermore, it is clear that the applicant is not aware of a number of wildlife and bird species that regularly inhabit and transit their site and on to our property. They have failed to mention the substantial presence of mountain lion, red fox, coyote, mink, ground squirrels, black-tipped weasel (ermine), osprey, red-tailed hawk, geese, duck, amongst many others. They did not note the presence of a pre-existing raptor nesting station on our property a few hundred feet from the boundary of their proposed operations. Furthermore, the contemplated additional and constant truck traffic that would be generated by this project will present a constant and unmitigable danger to wildlife on Highway 9. We can surely expect a massive increase in wildlife deaths by collision should the project move ahead.
4. The proposed reclamation plan for the Peak Ranch site is wholly inadequate and inconsistent with the natural geology and ecology of the valley. No one is asking for a 26-acre lake in the middle of our valley, but Peak Materials is proposing a reclaimed lake



because it is the cheapest way to meet their reclamation obligations. It is also the most unnatural way to reclaim land and will do nothing to enhance the natural ecosystem. It may, in fact, have serious negative impacts on groundwater and could present a serious hazard to the fragile Blue River ecosystem if it floods or breaches. Peak's proposed handling of sensitive wetland and emerging wetland areas is wholly insensitive to the value of these natural ecosystems in the valley.

5. Even though DRMS is not required to address highway safety, the mining plan proposed by Peak Materials would require at least 130 to 140 semi-trailer dump truck loadings per day during the proposed 8-month operating season. Based on an 8.5-hour workday, this amounts to a huge semi-trailer rock load leaving and arriving the Peak Ranch site every 3 to 4 minutes of the day. This will create a monumental safety hazard not only for wildlife, but for humans, bicyclists and vehicles alike. Furthermore, the presence of multiple semi-trailer rock trucks on every mile of Highway 9 during operating hours will significantly increase the road noise, pollution and dust seriously further degrade the rural character and heritage of the valley. In addition, the impact of Peak Material's proposed 400,000 ton/year operation will impact not just traffic in the 5-mile corridor of Highway 9 to the Maryland Creek plant. If 400,000 tons/year are generated at the Peak Ranch pit, the material will not just sit at Maryland Creek. Rock trucks, ready-mixers and asphalt trucks at the rate of one every few minutes, presumably, will be hauling material out of Maryland Creek and further south along Highway 9—right through the already congested Blue River Parkway in Silverthorne, and thence, perhaps to the equally congested streets of Dillon, Frisco and Breckenridge—or on to I-70 and out of the county (see my complaint #6 below on this issue).
6. Peak Materials must be required to justify their market projections of an actual local need 400,000 tons per year of sand & gravel materials they propose to extract from Peak Ranch. I think they would be hard-pressed to show that the needs of Summit County's residents and businesses are driving their market forecasts. Casual observation of the truck egress from Peak's Maryland Creek operation hardly seem to equate to an annual production rate of 400,000 tons of material—since it would require truck frequency far in excess of what is typically observed in passing each day. I suspect that Summit County demand is not driving their mining application. Instead, I believe that Peak Materials hopes to obtain contracts for large volume work far outside of the bounds of Summit County. In that case, the 31,000 residents of Summit County will bear the costs and inconveniences of hosting a huge sand & gravel pit whose benefits will largely accrue to the residents of other counties and to shareholders in Denver and New York. If in fact, Peak Materials has over-estimated the actual local demand for aggregate, it is apparent that they will use the "market conditions" clause in their permit application to reduce production from the operation substantially but then seek amendments to extend the mine life to impact not just one generation, but several generations of Summit residents, who will have to bear the sight of an unreclaimed gravel pit in the midst of the Lower Blue River Valley. The State should demand a full

accounting from Peak Materials to justify the projected production rate at Peak Ranch in relation to their estimates projected demand, location and sources of demand, and local unit profitability. It is not enough to state that Peak Materials wants to have a local source of high-quality aggregates to feed its Maryland Creek facility beyond 2025, or that, de-facto, Summit County “needs” a source of local aggregate of this scale. [*Peak Materials Site Evaluation Report*, Tetra Tech, March 30, 2020]. Peak Materials must be forced to publicly prove such needs.

7. There are a number of alternative permitted sites for aggregate extraction in Summit County, several of which are managed by Peak Materials. Furthermore, it is unclear that a proper accounting of available resources and possible production alternatives at the existing Maryland Creek site have been properly assessed. The State should demand a thorough examination of all alternative aggregate extraction sites in Summit County in connection with the above-mentioned review of actual demand forecasts, in order to determine whether a massive new pit at the Peak Ranch is actually necessary.
8. The overwhelming driver of jobs and the economy in Summit County is outdoor recreation. At its peak, I estimate that the Peak Ranch Resource project will employ less than 100 people, including contract truck drivers. Meanwhile, at least 10,000 residents (about half of the total number of jobs in the county) are employed in industries directly related to tourism and recreation. How can we justify handing a mining company the right to exploit a property that will disturb tens of thousands of acres of Federal Wilderness on both sides of the Blue River, thousands of acres of County protected open space, and thousands of acres of working ranches forever protected from development by conservation easements?
9. For years, the Blue River was known as a Gold Medal trout fishing river. That reputation and status brought several hundreds of visitors to the area every year, contributing to the local economy in significant ways. Advocates, landowners and fishery specialists have been working hard to re-establish Gold Medal status. The Peak Ranch gravel pit would have serious negative impacts on these efforts, resulting in deferment of that goal for a very long time.
10. Summit County's Lower Blue Master Land Use Plan was intended to give protection to the Lower Blue Valley from industrial uses which are antithetical to the natural, historical, cultural and scenic values of the valley, and their sustainability. It will be no small matter for Peak Materials to convince Summit County regulators, officials and residents that they deserve both an extension of their processing permits on Maryland Creek, and a new conditional use permit for Peak Ranch that would scar the area for another 15 years. The State should be cognizant of the significant hurdles to necessary local permits still exist, even if a DRMS permit is approved.
11. Under current law and regulation, Peak Materials will not bear anywhere near their fair share of the costs of this massive mining development through normal taxation or fee structures in place in Colorado. Sand and gravel extractors pay no severance tax in Colorado, even though numerous other states do assess state severance taxes on

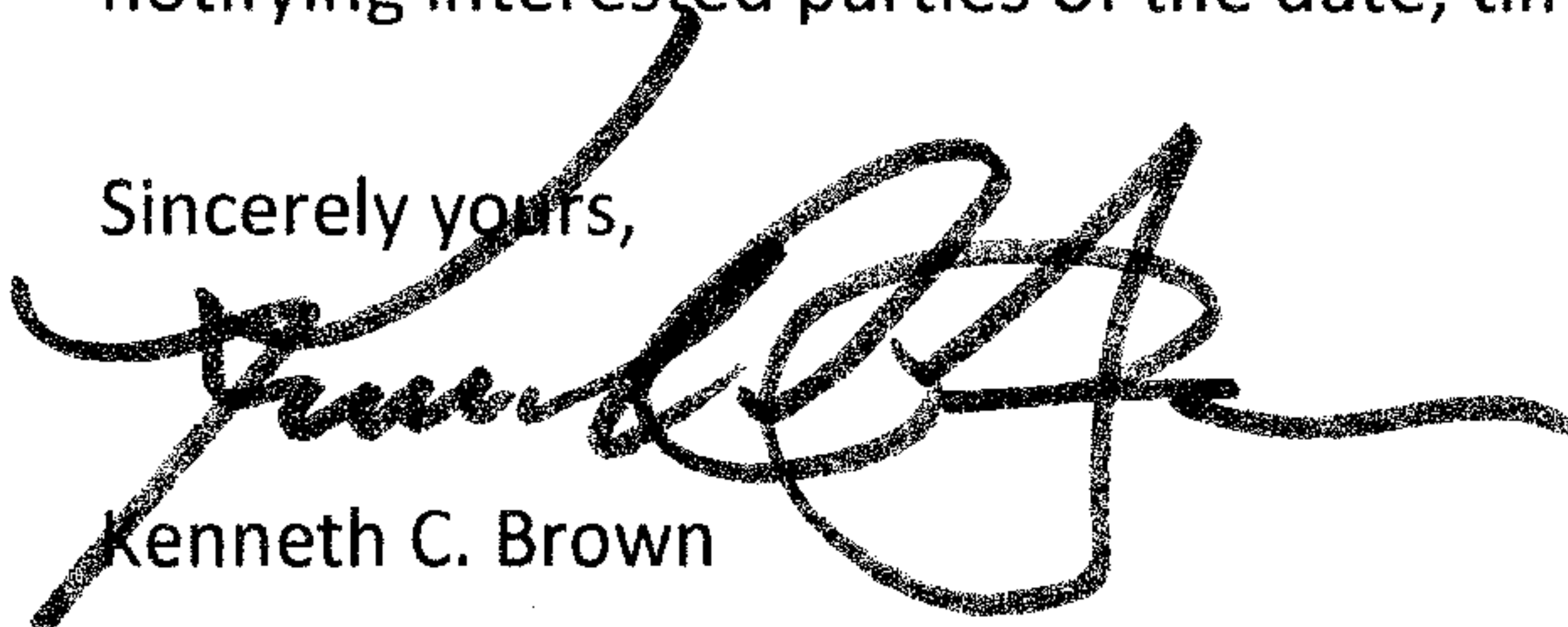


construction materials. Fees that DRMS collects for granting, monitoring and inspecting mines in this state are truly paltry. Even though Peak Materials paid a reported \$4 million for the Peak Ranch site (via Kilgore Partners LP), their 2019 property taxes after reassessment were only \$6,505, an average of just over \$81/acre. The Giving Tree Ranch paid \$11,779 in taxes to Summit County in 2019, or about \$535/acre. In total, the residential and agricultural landowners surrounding the Peak Ranch site paid \$105,911 in property taxes to Summit County in 2019—16 times the amount currently paid by Kilgore Partners on the Peak Ranch site. It is not clear what Colorado income tax the Peak Materials or its parent companies may have paid in 2019, but I suspect it was probably zero, since the parent, Denver-based Summit Materials, paid only \$17 million in total federal and state income taxes in 2019 on over \$2 billion in revenue! Sand and gravel companies have avoided paying a fair share for the disturbance and destruction they cause for years. At the very least, they should be expected to yield up a fair share of their excessive profits in order to create resource and reclamation plans that truly respect the environment, rather than satisfy their Wall Street shareholders.

12. Finally, with respect to a “fair share”, it is unconscionable that the applicant would propose a reclamation bond of some \$91,000 as surety for its obligations to repair the damage they will do in the Lower Blue River Valley. Potential damages to water, environment, wildlife, scenic resources and to the cultural and natural heritage of the valley are almost incalculable—but for a start, ought to require a reclamation bond liability at least ten times the amount Peak Materials has proposed.

I wish to be heard at the public hearing of the Colorado Mined Land Reclamation Board when the Board takes up this application. Please add me to your email distribution list notifying interested parties of the date, time and location for this meeting.

Sincerely yours,



Kenneth C. Brown

Property Address: Giving Tree Ranch, 35245 Highway 9, Silverthorne, CO 80498

Mailing Address: 145 NW 15<sup>th</sup> Street, Delray Beach, FL 33444

+1 (954) 551-0031

[kenbro74@gmail.com](mailto:kenbro74@gmail.com)

Number of people in your household: 2