



PLANNING DEPARTMENT

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October 2, 2020

Division of Reclamation, Mining, and Safety
Attn: Eric Scott, Environmental Protection Specialist
1313 Sherman Street, Room 215
Denver, CO 80203

RE: Summit County referral comments to the Kilgore Companies, LLC dba Peak Materials, LLC Regular 112 Permit Application for the Peak Ranch Resource property.

Dear Eric Scott:

The Summit County Department of Community Development has reviewed the Peak Materials application for a Regular Operation (112) Reclamation Permit for the proposed Peak Ranch Resource gravel and sand mining operation. It is our understanding that this operation is proposed to provide feedstock for their existing Maryland Creek Ranch operation located six (6) miles south of the subject property on State Highway 9.

County staff provides these comments for your consideration and would ask the Division to strongly consider the following elements of the County's *Countywide Comprehensive Plan*, *Lower Blue Master Plan* as well as the *Land Use and Development Code* requirements noted below and the perceived deficiencies in the application more generally. Our primary concerns relate to the community driven policies found in these documents. They describe our community's expectations for the compatibility of a mining operation in the Lower Blue Basin in Summit County. Specifically, we are concerned with the impacts of converting an existing agricultural use to a more intensive mining use in a largely rural residential area as well as the corresponding increase of haul-truck traffic on Highway 9.

The area surrounding the proposed mining operation include physical features of wildlife, open agricultural and ranch lands, irrigated and non-irrigated pastures, significant view corridors into wilderness areas and river habitat as well as environmentally sensitive areas with abundant wildlife. The Blue River flows north adjacent to the site and into Green Mountain Reservoir. This river amenity provides not only wildlife habitat but supports numerous recreational uses in the area. It should also be noted that there are no existing mining or similar intensity operations operating in Summit County north of the Maryland Creek mining and production facility.

Summit County Master Plans

The County's master plans are advisory documents and contain recommendations for the most desirable use of land. However, the Development Code makes "general

conformance” with the provisions of master plans a requirement for approval of land use and development applications in the County. Therefore, the BOCC and other applicable Review Authorities are tasked with evaluating whether there is “general conformance” and compliance with the County’s master plans. The Review Authority will assign weight to master plan policies on a case-by-case basis to determine “general conformance” and, ultimately, compliance.

The Summit County, *Countywide Comprehensive Plan (Plan)*, adopted March 2, 2009, is the umbrella land use document intended to provide general policy guidance for decisions related to land use, growth, development and related issues. In conjunction with the *Plan*, the County has adopted basin and sub-basin plans that serve as the primary documents for guidance in each basin. Specific land uses and future use designations are contained expanded on and include accompanying land use maps. In this case, the *Lower Blue Master Plan (Basin Plan)*, adopted March 4, 2010, also applies to this review.

The *Countywide Comprehensive Plan*, consistent with State enabling legislation, provides a framework of ten topic areas for consideration. Generally, the *Plan* ensures that growth occurs in appropriate locations and the overall rural mountain character of the County is maintained. A key *Plan* theme is to retain the character of the rural valleys, ranchlands, river corridors, backcountry areas and mountainsides. In order to limit the impacts of development in these areas, the *Plan* focuses new development within or adjacent to existing urban areas. Accordingly, future land use decisions in rural areas should be consistent and harmonious with the rural character of the land. Specifically, rural areas should have low-residential densities that serve to minimize conflicts with traditional uses (e.g. ranching, recreation, resource extraction) and maintain compatibility with existing uses. The *Plan* recognizes the need for mineral extractive uses in the County to provide needed materials for local construction and road building. However, it should be noted, that the *Plan* defers specific land uses to the applicable basin plan. In this case, as discussed below, the *Lower Blue Master Plan* recommends a future land use designation of **Rural Residential** for the subject property.

The *Lower Blue Master Plan (Basin Plan)* applies to all unincorporated land in the Lower Blue Basin, which extends from the south face of the Dillon Dam north to the Grand County line. Historically, the Lower Blue Basin has been an agricultural and ranching community and, more recently, includes a mix of natural areas, agriculture, extractive and recreational uses, as well as low-density residential-uses. The central theme of the *Basin Plan* is to maintain and enhance the “existing 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 while protecting private property rights and promoting low-density development”. The rural character of the Lower Blue Basin, according to the *Basin Plan*, is best preserved through stewardship and tailored policies to manage the land in an ecologically sensitive, socially responsible, and economically viable manner. The *Basin Plan* relies heavily on the continuing input and participation of Lower Blue Basin residents through citizen involvement.

The *Basin Plan* designates the subject property for a future land use designation or **Rural Residential**. The future land use designation assigned to each property are intended to provide guidance for future land use decisions. The future land use

designations further describe appropriate uses for a property to ensure that growth and development occur in appropriate locations and that the rural mountain character is maintained. Land designated as *Rural Residential* on the Land Use Map should provide for single-family residential development and density. Policy and Action items from the *Basin Plan* related to the property under consideration are outlined below:

- The *Rural Residential* designation is intended for parcels zoned A-1 containing more than 20-acres of land.
- Emphasize protection of the existing rural ranchlands and associated open space by minimizing and reducing pressure to convert lands zoned for agricultural uses to more intensive uses.
- Limited to uses allowed by zoning and consistent with valued features such as wildlife, open space, forestlands, wilderness areas, environmentally sensitive areas, and significant view corridors.
- Future development is required to minimize impacts to natural features. Important features identified in the *Basin Plan* include air quality, wildlife, water quality/quantity, and forest health, management and wildfire protection.
- Transportation systems should be designed to be efficient, safe, multi-modal and consistent with the rural character of the Basin. Improvements to Highway 9 should be to increase safety and not to increase capacity.
- Mining and developed recreational uses require a conditional use permit to ensure impacts of such uses are appropriately addressed. According to the *Basin Plan*, "if adequate mitigation is not possible such uses should be denied."

Land Use and Development Code

As per Section 3812: Mining/Milling, it is the intent of the BOCC to allow mining operations in Summit County provided that the specific and cumulative impacts of the proposed operation will have no significant adverse impacts on the health, safety, and welfare of the community and environment. The requirement to avoid or adequately mitigate adverse impacts is particularly pertinent as to those properties in the vicinity of, or along transportation routes to, the mining/milling operation. A conditional use permit is required in order to operate a mining or milling operation on the subject property. There are specific criteria set forth in the Land Use and Development Code that a mining/milling operation must comply with, including but not limited to, demonstrating that the proposed operation will have no significant adverse impact on the environment, including air quality, surface and ground water quality, visual and scenic quality, noise, terrestrial and aquatic animal life or plant life, wetlands and riparian areas.

At this time, the applicant's submission to the DRMS does not provide any detail about how the applicant proposes to mitigate the impacts to traffic on State Highway 9; leaving open the question of whether such mitigation can or will be sufficient to meet the intent of County regulations.

General Comments

Applications for mining permits from DRMS are required to demonstrate compliance with all applicable Federal, State, and local regulatory requirements, including those for air and water quality. The proposed Peak Ranch Resource property-mining plan notes that they will comply with all applicable Federal and State requirements. However, there is no information on which standards or what monitoring protocols are necessary to determine compliance.

The application states they will need to acquire additional water supplies to replace out-of-priority evaporative losses and other depletions, like dust control. The applicant should demonstrate that the Colorado Water Court has approved and decreed the necessary augmentation rights prior to approval of a mining permit, as this is a key component of their overall operations.

Staff has identified a potential geologic hazard in the form of a ground fault running parallel to the Blue River near the proposed project. The Code also requires that the proposed operation not be subject to or will not subject others to significant risk from geologic hazards. This geologic hazard warrants further investigation with mitigation measures, if necessary, put in place prior to approval.

The application indicates that “rangeland” with a groundwater lake will be the final post-mining land use. However, in Exhibit H-Wildlife Info_2020-08-05 the affected land is in an area used by bald eagles and black bear as well as having elk, moose and mule deer present on the site with lynx habitat on the west side of the adjacent Blue River.

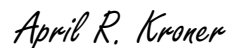
While it would seem that “rangeland” is a potentially appropriate post-mining land use within the permit boundary, staff would want to ensure that the land would be unavailable for any more intense development or activities inconsistent with open vista and wildlife habitat. Staff believes that a potentially more appropriate post-mining land use could be “wildlife habitat” which would also be consistent with the County’s masterplan policies. The reclamation cost estimate should also be adjusted to ensure adequate funds to establish and monitor suitable habitat for wildlife.

Summit County staff offers these comments for consideration by the DRMS. We look forward to hearing back and would ask that we be made aware of next steps in the Peak Ranch Resources DRMS application process. If you have any questions, or would like to discuss these concerns in more detail, please do not hesitate to contact me at 970.668.4068.

Sincerely,



Dan Osborn
Senior Planner



April R. Kroner, AICP
Director of Planning

Cc: April Kroner, Planning Director
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