Summit Capital LLC

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VIA EMAIL: drms.temp@state.co.us
AND CERTIFIED MAIL

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Re: Objection to Application by Kilgore Companies, LLC (dba Peak Materials) for the Peak Ranch Resource Mine (File No. M2020041) as it Relates to Peak Materials' Mining Permit M1996-049 at the Maryland Creek Ranch Aggregate Mine

Gentlemen:

Summit Capital, LLC manages the Eagle's Nest Mountain Ranch near Silverthorne, Colorado and is the agent for Eagle's Nest Mountain Ranch, LLC (ENMR), owner of the ranch. Eagle's Nest Mountain Ranch is directly across Colorado Highway 9 from Kilgore Companies, LLC's (dba Peak Materials (Peak)) Maryland Creek Ranch Aggregate Mine (MCRA Mine). Eagle's Nest Mountain Ranch includes a large constructed wetland, known as the Love Pit Wetland. Construction of the Love Pit Wetland was completed by Everist Materials in 2003 as mitigation for wetland disturbance associated with the Love Pit Mine. Figure 1 (attached to this letter) shows the extent of the Love Pit

Wetland and its close physical proximity to the MCRA Mine processing facility (aka Lake 6), the water treatment facilities, the CDPHE Outfalls, and the mining areas for the MCRA Mine.

Peak filed an application with the Colorado Division of Reclamation, Mining and Safety (DRMS) for a permit (File No. M2020041) to construct a new mine, Peak Ranch Resource Mine (PRR Mine), about six miles north of Eagle's Nest Mountain Ranch. The application for the proposed PRR Mine states that Peak will extract gravel raw materials at the PRR Mine and transport the extracted raw materials to the MCRA Mine for processing into construction products including sand, gravel, aggregate, fill, asphalt, concrete, and road base.

ENMR objects to Peak's application for the PRR because the application is incomplete and misleading, among other things. The application does not provide any assessment of the impacts of processing the raw materials to be extracted at the PRR Mine and transported to the MCRA Mine. By Peak's own admission in the application, mining aggregate at the proposed PRR Mine would not be possible without an off-site processing facility. The MCRA Mine is Peak's proposed processing facility. Therefore, the MCRA Mine and the proposed PRR Mine are inextricably related and concomitant. The mining permit for the MCRA Mine does not contemplate or consider processing raw materials from off-site sources such as the proposed PRR Mine. The potential environmental impacts of the additional processing at the MCRA Mine are significant enough that those impacts should be addressed in the PRR Mine application. Therefore, we respectfully request the following:

1. DRMS postpones consideration of or denies the PRR Mine application unless and until Peak provides a full assessment of the environmental impacts of processing raw materials to be extracted from the PRR Mine at the MRCA Mine processing facility;
2. DRMS requires Peak to submit a concurrent application for an Amendment to Mining Permit M1996-049 (MCRAM) that addresses processing the raw materials to be extracted from the proposed PPR Mine or any other off-site sources, which Mining Permit does not currently contemplate or consider processing materials from any off-site sources; and
3. DRMS designates Eagle's Nest Mountain Ranch party status with respect to the application.

The basis for our objection is described below.

Water Treatment and Water Quality Effects on Love Pit Wetland from Process Water Treatment

As noted above, Eagle's Nest Mountain Ranch includes a large constructed wetland, known as the Love Pit Wetland. Construction of the Love Pit Wetland was completed by Everist Materials in 2003 as mitigation for wetland disturbance associated with the Love Pit Mine. Figure 1 (attached to this letter) shows the extent of the Love Pit Wetland and its close physical proximity to the MCRA Mine processing facility (aka Lake 6), the water treatment facilities, the CDPHE Outfalls, and the mining areas for the MCRA Mine. The close proximity of the water treatment facilities and Outfall 002A to the northern end of the Love Pit Wetland raises serious environmental impact concerns. Peak's application for the proposed PRR Mine, and its supporting exhibits, do not address the potential environmental impacts resulting from the additional processing of raw materials to be extracted at the PRR Mine.

The wet mining method currently used at the MCRA Mine is similar to the proposed Phase 2 of the PRR Mine, using drag-lines to pre-wash the raw material and leaving fine soils in the mine pit. However, there is no such pre-washing during the proposed Phase 1 of the PPR Mine. **Exhibit I – Soils Information** of Peak's PRR Mine application states that the principal raw materials will be Handran Gravelly Loam and Sandy Loam. Sandy Loam, according to the USDA soils classification system can contain as much as 20% clay or as much as 50% silt, neither of which is a desirable component of marketable aggregates. The drill logs provided in Section 7.2 of **Exhibit D – Mining Plan** of Peak's PRR Mine application list sand and gravel as the expected raw material for the PRR Mine, but that classification can contain up to 20 percent of clay and silt. Section 5.0 of **Exhibit D – Mining Plan** of Peak's PRR Mine application states that the expected production rate will be 400,000 tons per year. Therefore, without pre-washing the raw materials at the PRR Mine site, as much as 80,000 tons of clay per year or as much as 200,000 tons of silt per year (or a combination of clay and silt) must be hauled with the gravel and removed by processing at the MCRA Mine during the proposed Phase 1. Silt and clay in the sand and gravel raw materials are commonly called "fines" and constitute a waste stream from processing. In hard-rock mining that waste stream is called "tailing" and is closely regulated by DRMS at other mines in Colorado. Potentially up to 100,000 cubic yards of such waste must be washed from the PRR Mine's raw material each year, for three years during the

proposed Phase 1. That is a significant element of the proposed PRR Mine plan that will affect the operations and reclamation at the MCRA Mine. The application for the proposed PRR Mine does not address where the waste fines will be impounded and how the final reclamation will accommodate that waste.

Water quality is an additional environmental concern. There is no evidence in **Exhibit G – Water Information** of Peak's PRR Mine application that the applicant considered/assessed the water treatment requirements for the wash water used in processing the raw materials to be extracted from the PRR Mine at the MCRA Mine. The chemical properties of the fine soils (clay/silt fraction) at the proposed PRR Mine may be different than those at the MCRA Mine and would require different or more aggressive treatment. An inability to treat the wash water from the proposed PRR Mine would be manifested as suspended solids discharged at Outfall 002A, adjacent to the north end of the Love Pit Wetland. That would have a substantial impact on the Love Pit Wetland. The application does not describe how this will be prevented.

For these reasons, among others, the application should address the impacts of off-site processing at the MCRA Mine of the raw materials to be extracted from the PPR Mine, especially during the proposed Phase 1.

MCRA Mine Permit does not Contemplate or Consider Processing of Off-Site Materials and Requires an Amendment of the Permit

Peak's original application, subsequent Amendments, and Technical Revisions to the MCRA Mine Permit No. M1996-049 do not contemplate or consider processing raw materials from off-site locations, as is proposed by Peak in the PRR Mine application. Figure 2 shows the current mining area, projected future mining cells, and the process facilities as "Lake 6". The 1996 MCRA Mine application states that the expected production schedule for the MCRA Mine will be as follows (Reference 1996-49 Application, Exhibit D, Page D-2):

- Years 27 through 30 – Mining of Cell 4
- Years 31 through 38 – Mining of Cell 5
- Years 39 through 45 – Mining of Cell 6 (Process Plant Area)
- Years 46 through 50 – Finish lining augmentation pond and demobilize

The MCRA Mine permit and the above production schedule only contemplate and consider the processing or raw materials extracted from the MCRA Mine. The PRR Mine application does not, but must, address the timing and manner for the production of the PRR Mine in relation to the mining schedule for MCRA Mine. The application for the PRR Mine and an amendment to the MCRA Mine permit must address the following questions at a minimum:

1. How will mining of the process area (Lake 6) accommodate the production from the proposed PRR Mine? For example, where will processing occur when Lake 6 is mined and reclaimed?
2. How will the proposed off-site mining schedule at the PRR Mine align with the continued mining of Lake 4 and future mining of Lake 5 at the MCRA Mine?
    a. Will mining at the PRR Mine be delayed until after Lake 5 is completed according to the MCRA Mine plan? or
    b. Will mining be concurrent? In which case, will the water treatment requirements change?
3. If the treatment area shown on Figure 1 is used to impound fine soils from the proposed Phase 1 of the PRR Mine, how will the reclamation of the MCRA Mine accommodate that change, both in timing and design?

Potential Impacts on the Love Pit Wetlands Requires Party Status for ENMR

For the reasons identified above regarding potential impacts on the Love Pit Wetland, DRMS must designate Eagle's Nest Mountain Ranch, LLC Party Status with respect to Peak's application for the PRR Mine and any Amendment to Peak's MCRA Mine permit.

Conclusion

As demonstrated above, the existing MCRA Mine and the proposed PRR Mine are inseparable. As a result, DRMS' consideration of the proposed PRR Mine application must be delayed or denied unless and until the applicant addresses the environmental impacts of processing raw materials to be extracted from the PRR Mine at the MCRA Mine, and DRMS must require an Amendment to the existing permit for the MCRA Mine if any processing of off-site raw materials are to be allowed there.

We also request that this letter be added to the DRMS MCRA Mine file and that the impacts to the MCRA Mine outlined in this letter be added to the DRMS Board meeting agenda for the hearing on the proposed PRR Mine application. Our technical consultant in this matter is Steven D. Steffens, PE at Steffens and Associates, Inc.

Sincerely,

Robert J. Hooke, General Counsel
Summit Capital, LLC
On behalf of Eagle's Nest Mountain Ranch, LLC

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Attachments

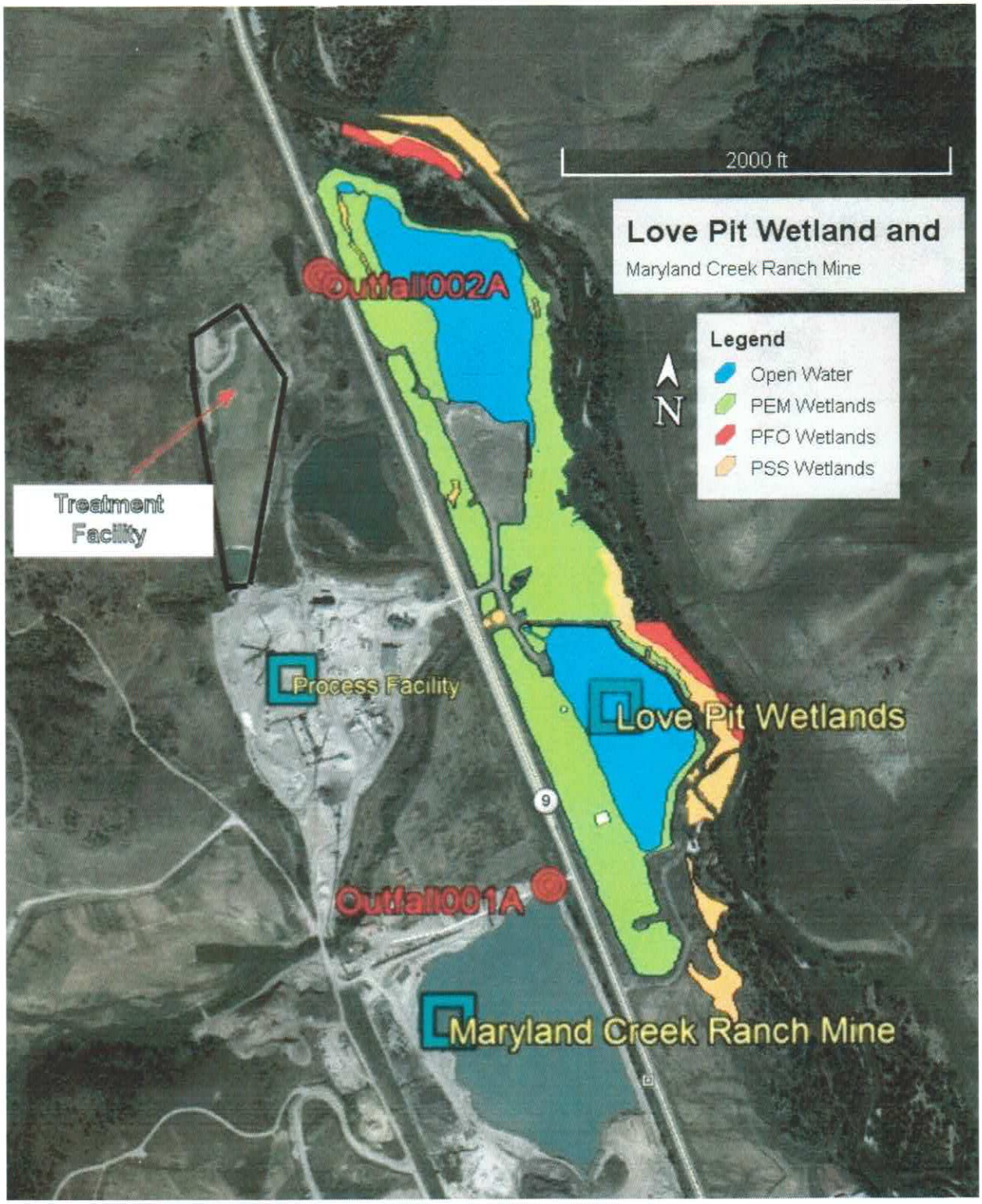

Figure 1 Maryland Creek Ranch Aggregate Mine and Love Pit Wetlands

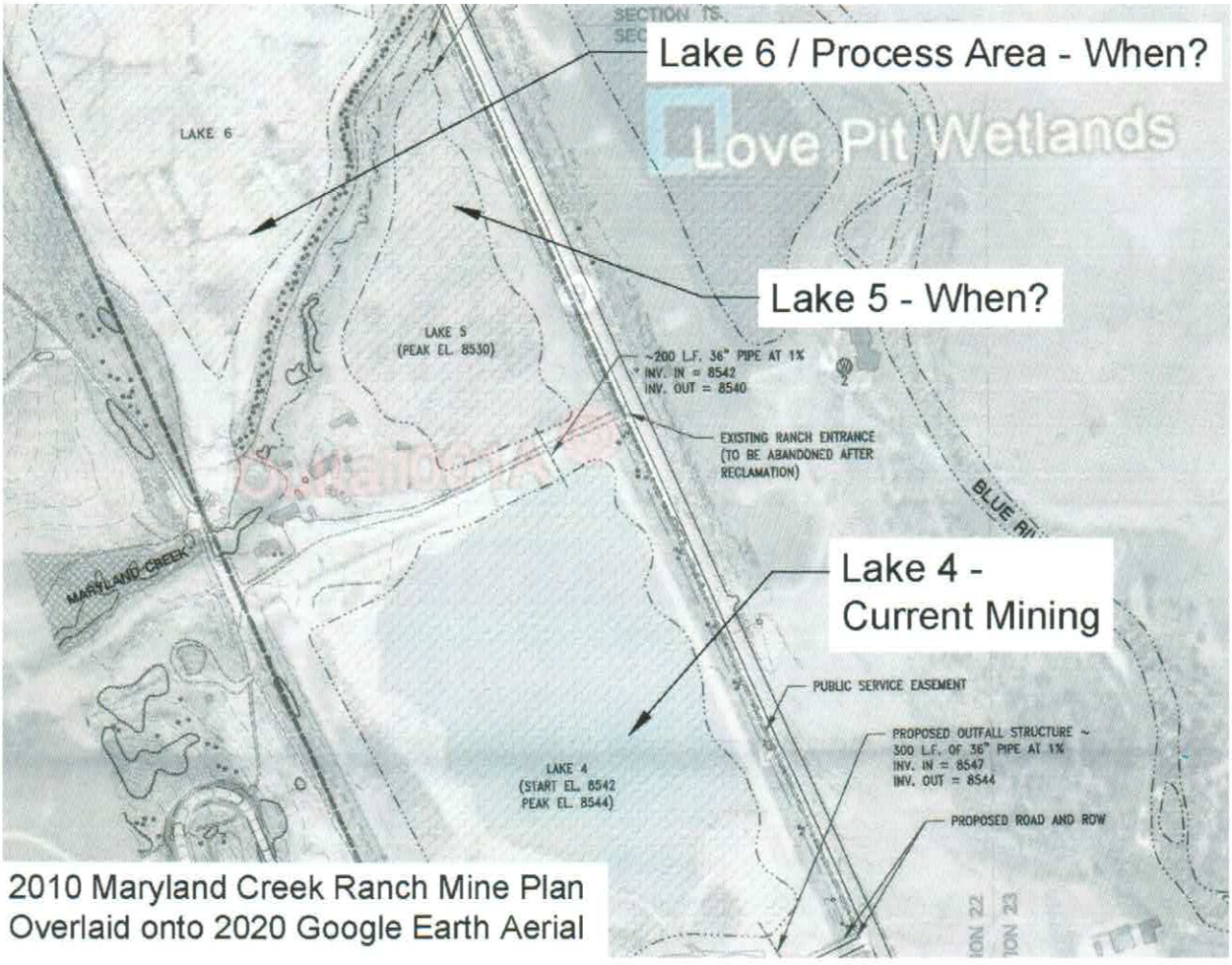

Figure 2 - Overlay of MCRAM 2010 Mine Plan and 2020 Google Earth Aerial Photo