



TOWN OF MORRISON

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February 10, 2021

Jim Stark, Program Director
Office of Mined Land Reclamation
1313 Sherman Street, Room 215
Denver, Colorado 80203

Re: Notice of Protest
Application of Aggregate Industries WCR, Inc.; Your file No. M-1973-021, AM-07

Dear Mr. Stark:

On behalf of and as authorized by the Board of Trustees of the Town of Morrison, Colorado (the "Town"), I submit the following protest to the referenced application. This protest is filed pursuant to CRS Section 34–32.5–114.

The Town's interest

The operation of Aggregate Industries which is the subject of the referenced permit application is solely located within the corporate boundaries of the Town of Morrison. Accordingly, the operation is subject to the laws and ordinances of the Town of Morrison, including without limitation, the Town's land use and zoning code (the "Land Use Code"). Pursuant to the Land Use Code, Aggregate Industries applied for and received approval of a planned unit development-industrial (PUD – I), First Amendment, 1998 (the PUD Plan).

Aggregate must comply with the PUD Plan

Under the PUD Plan, Aggregate is required to comply with all of the regulatory aspects of the PUD Plan, as detailed below.

Also, as a matter of state law, Aggregate is required to comply with the Town's Land Use Regulations, which include principally the PUD Plan. CRS 34–32.5–109(3) provides, in part:

The operator shall be responsible for assuring that the mining operation and the post-mining land use comply with city, town, county or city and county land use regulations and any master plan for extractions adopted pursuant to

Section 34–1–304 unless a prior declaration of intent to change or waive the prohibition is obtained by the applicant from the affected political subdivisions. Any mining operator subject to this article shall also be subject to zoning and land use authority and regulation by political subdivisions as provided by law.

Request for denial or conditional approval of permit

Pursuant to CRS Section 34–32.5–115(4) the Town requests that the referenced permit application be denied, or in the alternative, that it be conditioned to require full compliance with the PUD Plan. This request is authorized by CRS 34–32.5–115(4), which provides in pertinent part:

The board or office shall not deny a permit except upon one or more the following grounds:

- (a) . . .
- (b) . . .
- (c) . . .
- (d) The proposed mining operation, the reclamation program, the proposed future use is contrary to the laws or regulations of the state or the United States, including but not limited to all federal, state and local permits, licenses and approvals, as applicable to the specific operation.

Aggregate is not in compliance with local land use regulations

The Aggregate Industries' current and proposed operation under the application is not in compliance with the PUD Plan in the following major respects:

1. Noise. The governing PUD mandates noise to be monitored and noise levels recorded at the haul road with documented noise levels kept on file for 12 months. Aggregate Industries has confirmed that no noise monitoring has taken place. If approved, the Town requests the application be conditioned upon immediate installation of noise monitoring as required by the governing PUD.
2. Screening. The governing PUD requires the Operator to maintain the fence along the access road above the scale house to screen the headlights from Forest Avenue. The Town reasonably believes the required fencing has not been maintained and does not provide the required screening. If approved, the Town requests the application be conditioned upon a site visit being ordered to confirm compliance.
3. Truck Pull Off. The governing PUD requires the Operator to install and maintain a truck pull-off on the haul road sufficient to accommodate at least 4 parked trucks at a location west of Colorado Highway 8 with the principal purpose of allowing truck drivers to tarp their loads before entering Colorado Hwy 8 and the Operator shall assure that all drivers are aware of the need to tarp their loads before entering Highway 8. The Town

reasonably believes that trucks are not tarping their loads. If approved, the Town requests the application be conditioned upon the Operator being ordered to submit Operational Procedures and accommodate a Town site visit to ensure compliance.

4. Truck Wheel Wash Facility. The governing PUD requires the Operator to install and maintain a truck wheel wash facility and establish a procedure for its use by drivers. This required facility is not operational. If approved, the Town requests the application be conditioned upon the Operator being ordered to install and maintain the required truck wheel wash facility and to establish operating procedures for use by drivers to be provided to the Town.
5. Air Quality and Dust Control – Wind Velocity. The governing PUD requires the Operator to install and maintain an anemometer and that informational data from the anemometer shall be included and maintained on videotapes for a period of one year. If approved, the Town requests the application be conditioned upon the Operator being ordered to install and maintain an anemometer, present the anemometer data to the Town, and submit the Annual Report that includes data and information concerning closures as a result of wind conditions as required by the governing PUD.
6. Air Quality and Dust Control - Dust Monitoring. The governing PUD requires the Operator to maintain and operate a camcorder-type system that monitors dust in the quarry and on the haul road during all hours of operation and to record and keep the dust monitoring film on file for 1 year. If approved, the Town requests the application be conditioned upon the Operator being ordered to submit the required dust monitoring film from the past three months.
7. Discharge and Management of Storm Drainage. The Town reasonably believes that discharge and management of storm drainage has deviated from the approved Drainage Plan. If approved, the Town requests the application be conditioned upon the Operator being ordered to immediately submit an updated Drainage Plan subject to Town Board approval per the governing PUD.
8. Final Drainage Plan. Although mining in the South Quarry has begun, a Final Drainage Plan for the South Quarry area has not been completed in accordance with the requirements of the Town. If approved, the Town requests the application be conditioned upon the Operator being ordered to submit a Final Drainage Plan.
9. Lighting. The governing PUD sets forth lighting standards for the access road and Hwy 8 overhead lighting, shielded/downcast lighting in general, free standing pole lighting and industry standard lighting requirements. The

Town reasonably believes site lighting is not in conformance with the lighting standards as set forth in the governing PUD. If approved, the Town requests the application be conditioned upon the Operator being to submit a Lighting Plan that demonstrates compliance with the governing PUD lighting standards.

10. Security Fencing. The governing PUD requires the Operator to maintain a security fence made up of four strands of barbed wire surrounding the entire area of the Morrison Quarry. The Town reasonably believes the required fencing has not been maintained. If approved, the Town requests the application be conditioned upon the Operator being to repair all inadequate portions of the security fencing to be inspected by Town Staff.
11. Screening of Asphalt and Concrete Plans. The governing PUD requires the Operator to screen asphalt and concrete plants and concrete and/or asphalt stockpile and washout areas in the quarry (or appropriately screened as determined by the Town review and approval), and drainage shall be contained on site. If approved, the Town request the application be conditioned upon the Operator being ordered to confirm based on the fact that concrete is sold by Aggregate Industries, there is still no "Plant" on site to produce them.
12. Seismic Monitoring. The governing PUD requires seismic monitoring and the Operator retain the resulting data from the blasting operation for two (2) years, and specific date/time data be furnished to the Town. If approved, the Town requests the application be conditioned upon the Operator being ordered to submit seismic monitoring data and retain such data for two (2) years.
13. Annual Reports. The governing PUD requires Annual Reports on operations related to noise, complaints, truck traffic/routes, days of operation, progress report on reclamation, seismic monitoring, violation of air quality standards shall be submitted by the Operator on or before February 1st of each year. The Town requests the Operator to be ordered to submit 2019 and 2020 Annual Reports.
14. Miscellaneous - Shape, Setback and Safety Requirements. The governing PUD requires the Operator to comply with the excavation shape, setback, and safety requirements as set forth in the reclamation plans approved by the Colorado Division of Minerals and Geology. If approved the Town requests the application be conditioned upon the Operator being ordered to submit to the Town, the reclamation plans approved by the Colorado Division of Minerals and accommodate a Town site inspection to confirm compliance.

15. Miscellaneous - Ridges and Peak width. The governing PUD limits the width of ridges and peaks created by the mining activity to 30 feet. If approved the Town requests the application be conditioned upon the Operator being ordered to accommodate a Town site inspection to confirm compliance.
16. Miscellaneous - Lake Creation. The governing PUD does not allow lakes created by the mining operation, except those included in the approved reclamation plans. If approved the Town requests the application be conditioned upon the Operator being ordered to submit the approved reclamation plans and accommodate a Town site inspection to confirm compliance.
17. Miscellaneous - Reclamation. The governing PUD requires reclamation to be accomplished as submitted in the approved application submitted to the Colorado Division of Minerals and Geology and that the reclamation plan shall not be amended without the specific approval of the Town Board. If approved the Town requests the application be conditioned upon the Operator being ordered to submit the approved reclamation plan and the updated reclamation plan submitted for DRMS approval of AM-07. Further, the Town requests the updated reclamation plan not be approved by the Board until specific approval is granted by the Morrison Town Board.

The Town's detailed compliance analysis of the Aggregate operation, key elements of which are summarized above, is attached for the record.

Petition for hearing

Pursuant to CRS 34-32.5-114, and as supported by the foregoing, the Town of Morrison hereby files this written objection and statement in support thereof, and petitions for a hearing before the Board to determine whether the permit should be granted or granted with conditions.

Respectfully submitted this 10th day of February 2021.

By: Kara Winters

Enc.