

April 6, 2021

Zane Luttrell
Cornerstone Materials LLC
23628 Uncompahgre Road
Montrose, CO 81403



1313 Sherman Street, Room 215
Denver, CO 80203

RE: Blue Creek Staging Area, File No. M-2021-016, Comments Regarding Special (111) Operation

Mr. Luttrell:

On April 5, 2021 the Division of Reclamation, Mining and Safety (Division) received an objection (copy enclosed) to the above referenced application from George and Christina Sterner, via Chris Mochulsky, of Shumacher and O'Loughlin, LLC, Attorneys at Law.

Please provide the Division with your response to the jurisdictional issues presented by Mr. Mochulsky.

If you require additional information, or have questions or concerns, please contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dustin Czapla'.

Dustin Czapla

Environmental Protection Specialist
Division of Reclamation, Mining and Safety
Phone: (303) 866-3567, ext. 8188
dustin.czapla@state.co.us

Enc.

Mochulsky Objection letter dated April 5, 2021



Schumacher & O'Loughlin, LLC

~ Attorneys at Law ~

CHRISTOPHER MOCHULSKY
232 W. TOMICHI AVE., SUITE 204
GUNNISON, CO 81230

TELEPHONE (970) 641-4900
CHRIS@GUNNISONLAW.NET

TO: COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY
1313 SHERMAN STREET, ROOM 215
DENVER, CO 80203

FROM: CHRIS MOCHULSKY

RE: PERMIT NO. 2021016

OBJECTION TO BLUE CREEK STAGING AREA MINE AND PETITION FOR HEARING PURSUANT COLORADO DIVISION OF RECLAMATION, MINING AND SAFETY REGULATIONS FOR THE EXTRACTION OF CONSTRUCTION MATERIALS RULE 1.7.3 AND C.R.S. § 34-32.5-115

April 5, 2021

George and Christina Sterner formally submit this written objection to Cornerstone Materials, LLC's, ("Cornerstone's") Blue Creek Staging Area Special 111 Operation Application, Permit No. 2021016 (the "Application"). The Sterners incorporate the Objection to Blue Creek Staging Area Mine and Petition for Hearing Pursuant to CRS 34-32.5-114 dated March 11, 2021 into this Objection.

The Application should be Denied for failure to File the Application with the Clerk and Recorder and failure to Provide full Application Online.

On March 5, 2021, the Colorado Division of Reclamation, Mining and Safety ("DRMS") sent a notice to Cornerstone that the Application was incomplete. The DRMS required Cornerstone to submit a site description, mining plan, reclamation plan, terms of government contract, and permanent man-made structures.

On March 12, 2021, Cornerstone filed an update stating that they have filed the supporting documentation required by the DRMS in the March 5, 2021 notice. However, **none** of that supporting documentation is filed online, and the application is not available for review at the Gunnison County Clerk and Recorder's Office. The Gunnison County Clerk and Recorders Office represented that they have no application available for review.

As such, the public does not have complete information on the Application and is left in the blind on critical components such as the reclamation plan. The Application should be denied based on the failure of Cornerstone and the DRMS to provide the full Application for public review. The Sterners question whether or not Cornerstone even filed the required material as it is not available for the public anywhere.

If the DRMS does not deny the Application based on this flaw, the Sterners request inspection of all applications, public notices, inspection reports, documents, maps, exhibits, correspondence, tests,

analyses, records of actions or findings of the Board or Office pursuant to the Mineral Rules and Regulations for Construction Materials Rule 1.3(1), and request an extension on the comment period for 5 days after the inspection is complete.

The Application should be Denied for failure to provide Fully Executed Financial and Performance Warranties.

Both the Application form and the Rules at rule 4.1(2) **require** that a fully executed performance warranty be submitted with the application and reviewed by the Board or Office.

Cornerstone did not submit a fully executed warranty with the Application. Therefore, the Application is incomplete and the Board or Office cannot and has not reviewed the fully executed performance warranty.

Because the requirements of the Rules have not been complied with, the Application should be denied. See application form p. ii, ("if the requirements of the Act and Rules have not been satisfied, the Office will deny the application.").

Failure to post Notice at Proposed Access to the Site

Colorado Division of Reclamation, Mining and Safety Regulations for the Extraction of Construction Materials Rule 1.6.2(1)(b) requires that an operator post notice of a 111 application at the proposed access to the mining site. The Operator failed to post notice at the proposed access to the mining site, and as such, the Application is incomplete.

Petition for Hearing Pursuant to C.R.S. § 34-32.5-114

C.R.S. § 34-32.5-114 gives an aggrieved person the right to object to a project and petition for a hearing. The Sterners are aggrieved persons within the meaning of C.R.S. § 34-32.5-103(1.5) and Rule 1.1(4) as they will suffer actual loss or injury to their aesthetic interests, potential loss or injury to their economic interests, as well as adverse health impacts from dust. As such, they object to the Blue Creek Project and submit this petition for a hearing to determine if the Application should be approved or denied, if the notice requirements have been met, what actual and potential injury or loss will result from the Blue Creek Project, and all supporting documents for noise, light, dust, and truck traffic, as well as economic impacts on property value. In the absence of a hearing, the Sterners will immediately appeal the Office or Board's decision pursuant to Rule 1.4.11, and will follow that up with legal action if necessary.

Sincerely,



Chris Mochulsky

Attorney for Christina and George Sterner