



File Code: 2810
Date: May 14, 2021

Robert Congdon
Elbram Stone LLC
PO Box 932
Carbondale, CO 81623

M-1999-042
White Banks Mine

RECEIVED

MAY 19 2021

**DIVISION OF RECLAMATION
MINING AND SAFETY**

Dear

NOTICE OF NON-COMPLIANCE

CERTIFIED RETURN RECEIPT #7017 2620 0000 6745 3307

Dear Mr. Congdon,

This letter concerns your use of National Forest System (NFS) lands associated with the White Banks Quarry (BLM Lead File CMC #255401), which include the White Banks through White Banks 9 unpatented mining claims located in Section 28, Township 9 South, Range 88 West in the Avalanche Creek drainage on the Aspen/Sopris Ranger District.

As the Operator for Elbram Stone LLC (under lease from Mystic Eagle Quarry LLC), you accepted a Modified Plan of Operations in January 2015 (Plan) related to the above-referenced NFS lands. Under the Plan, your use of NFS lands was approved through May 2019 for Development Phase activities necessary for mineral classification. The Plan also detailed a conditional Production Phase for full scale alabaster/gypsum and marble exploration, development, and production through May 2035. The conditional Production Phase was contingent on (i) successful completion of the Development Phase, and (ii) classification of the marble deposit as a locatable mineral. If either contingency was not met, a supplemental plan of operations was required. Specifically, the Plan stated that "[i]f sufficient marble for classification purposes is not removed during Development Phase operations by May 2019, ESC [Elbram Stone LLC] will be required to file a supplemental plan of operations." Plan at 1. Additionally, the Plan specified that "if the marble does not qualify as a locatable mineral, . . . ESC will be required to submit a supplemental plan of operations" for development and production of only alabaster/gypsum. Plan at 1.

Forest Service records indicate that you have neither completed the Plan's required Development Phase nor submitted any proposed supplemental plan of operations, as required to move into the conditional Production Phase. Accordingly, you have had no approval for your use and occupancy of NFS lands at the White Banks Quarry since the Development Phase concluded in May 2019. Further, it appears that you ceased mining operations at the White Banks Quarry at least 2 years ago and that you have never verified your intent to maintain the structure, equipment, and other facilities at the White Banks Quarry, provided any expected reopening date, nor filed any annual statement as required by 36 CFR § 228.10(a)-(c) for operations which



have ceased only temporarily.

Despite these issues, your personal property remains on NFS lands at the White Banks Quarry and the site has not been reclaimed. The Forest Service has determined that such use and occupancy constitutes a significant disturbance of surface resources, which requires an approved plan of operations under 36 CFR § 228.4. Furthermore, having ceased operations for more than a year without following the procedures mandated by 36 CFR § 228.10, you are required by the Plan, 36 CFR § 228.8(g), and 36 CFR § 228.10 to remove your equipment and reclaim the site.

NOTICE IS HEREBY GIVEN that you are in non-compliance with the requirements of the Plan, 36 CFR § 228.4(a) (plan of operations requirements), 228.5(a) (operations shall be conducted in accordance with an approved plan of operations), 228.8(g) (reclamation), 228.10 (cessation of operations), and 261.10(a) and (p) (use or occupancy of NFS lands without an approved plan of operations). Compliance with these regulations is required by 16 U.S.C. § 551.

Because your mining operations have permanently ceased and you have no existing approval for use of NFS lands under the Plan, to resolve the above-detailed non-compliance you are required to remove all of your remaining personal property from NFS lands at the White Banks Quarry and complete all items detailed in the Reclamation Plan Requirements no later than August 31, 2021. *See Plan at 27 (Appendix B).* Any portion of the Reclamation Plan that is not completed by August 31, 2021, will be completed using the Colorado Division of Reclamation, Mining, and Safety Financial Warranty 1999-042. However, if you intend to maintain your equipment/structures on the White Banks Quarry lands in furtherance of new mining operations that may be conducted on those lands in the future, please be advised that you will need to submit a new proposed plan of operations before August 31, 2021.

Appeal of decisions of an authorized officer made pursuant to 36 CFR § 228 subpart A are governed by 36 CFR part 214. If you wish to appeal this Notice of Non-compliance, you must submit a written notice of appeal in accordance with the requirements of 36 CFR § 214.8, attached. The notice of appeal, including the reasons for appeal, must be postmarked or received by the Appeal Deciding Officer (White River National Forest Supervisor Scott Fitzwilliams, 900 Grand Avenue Glenwood Springs, CO 81601) within 45 days of the date of this letter.

If you would like to discuss this non-compliance issue, please contact me at the address shown above. I look forward to resolving this situation.

Sincerely,



KEVIN WARNER
District Ranger

Encl: 2015 Modified Plan of Operations & Appeal Regulations

cc: cc: Scott Fitzwilliams, Greg Rosenmerkel, Olivia Garcia, Amy Yeldell (State of Colorado Division of Reclamation, Mining, and Safety)

Modified Plan of Operations
for Mining Activities on National Forest
System Lands - White Banks Claims

January 13, 2015

in accordance with 36 CFR part 228, subpart A

I. General Information

A. Name of Mine/Project: White Banks Quarry

B. Type of Operation: Underground Lode in development

C. This plan replaces a previous plan of operations.

D. Proposed start-up date for operations: *May 1, 2015*

E. Duration of this operation:

Development Phase: Full Scale Alabaster Exploration, Development, and Production and Limited Marble Exploration and Development for Mineral Classification Purpose thru May 2019

Production Phase: Full Scale Alabaster/Gypsum and Marble Exploration, Development, and Production thru May 2035

The Development Phase operations must be complete by May 2019 (approximately 4 years). If sufficient marble for classification purposes is not removed during Development Phase operations by May 2019, ESC will be required to file a supplemental plan of operations detailing their future plans to complete Development Phase operations. Approval of the supplemental plan of operations would most likely not require additional environmental analysis if the components of the plan are consistent and within the range of effects identified with this analysis and decision.

Additionally, if the marble does not qualify as a locatable mineral, production under this decision will be limited to alabaster/gypsum as a locatable mineral. ESC will be required to submit a supplemental plan of operations indicating what is needed for its development and production of alabaster/gypsum or other locatable minerals. Approval of the supplemental plan of operations would not require additional environmental analysis if the components of the plan are

consistent with the requirements for alabaster/gypsum mining identified with this analysis and decision. ESC could also apply for a separate mineral material permit for marble production if it is determined to be a salable mineral.

The Production Phase operations apply to years 5-20 or after Development Phase operations are fully complete thru May 2035.

If the marble is determined to be a salable mineral under the Mineral Materials Act of 1947, the District Ranger will have the discretion whether or not to authorize continued mining operations for that particular mineral. As such, some of the conditionally approved activities for the Production Phase may not be needed for continued alabaster/gypsum mining operations only. Specifically, the size, extent, and timing of surface uses may not be needed if mining is limited to alabaster/gypsum based on historic production.

If ESC feels the conditionally approved activities for the production phase are needed for the continued exploration, development, and production of the alabaster/gypsum resource, they will need to submit a supplemental plan of operations detailing what is needed for this activity. Approval of the supplemental plan of operations would not require additional environmental analysis if the components of the plan are consistent with alabaster/gypsum mining and within the range of effects identified with this analysis and decision.

F. Expected date for completion of all required reclamation: End of operations.

II. Principles

A. Name and address and phone number of operator: Elbram Stone LLC,* 801 Colorado Avenue Glenwood Springs Colorado 81601 (970) 274-2513 or (970)379-0691

B. Same as above.

C. Mystic Eagle Quarry LLC (970) 274-2513 or (970) 379-0691

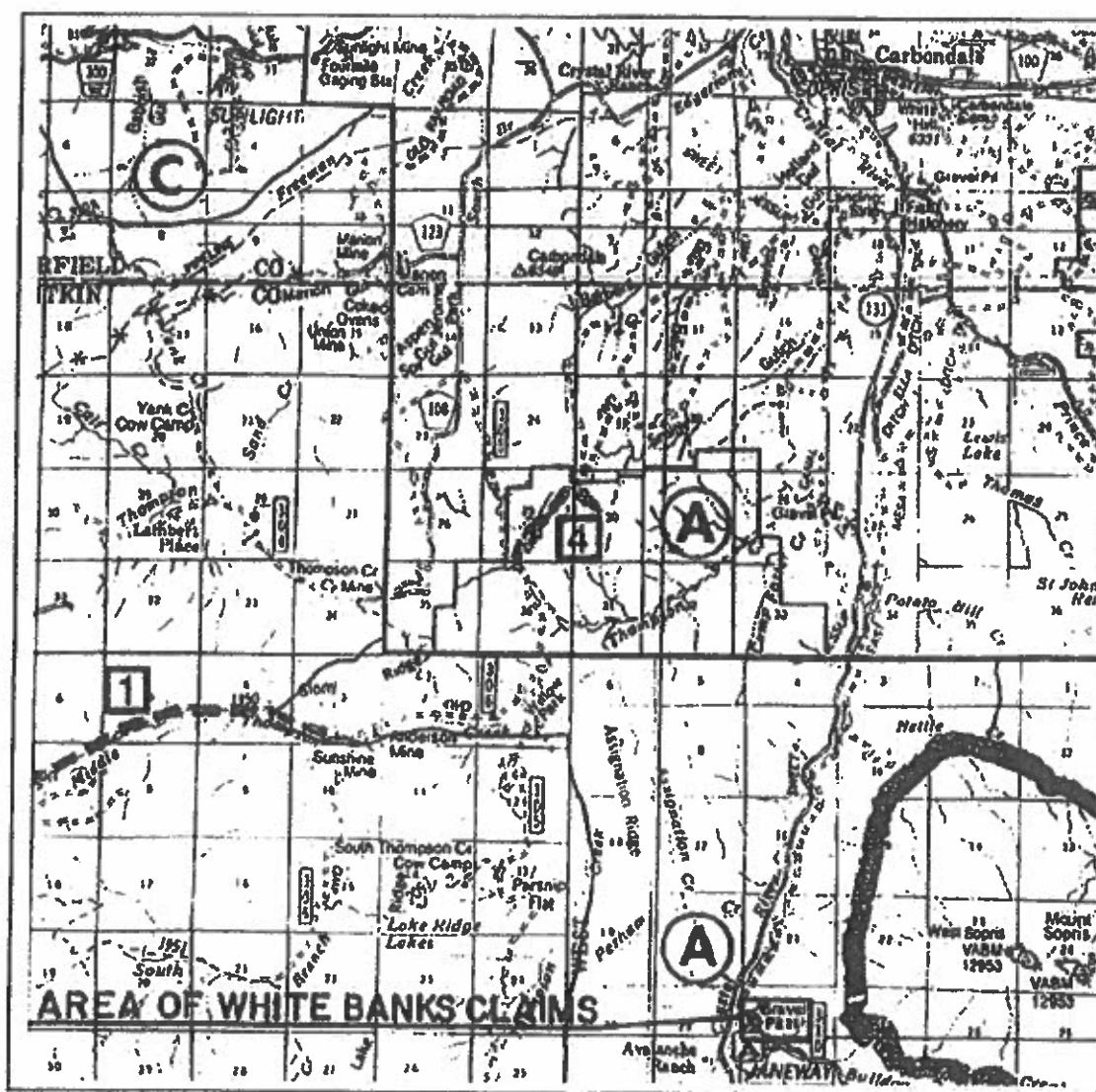
D. Elbram Stone LLC* is operator under lease from Mystic Eagle Quarry LLC, 801 Colorado Avenue Glenwood Springs Colorado 81601

* Elbram Stone LLC through this document referred to as ESC.

III. Property or Area

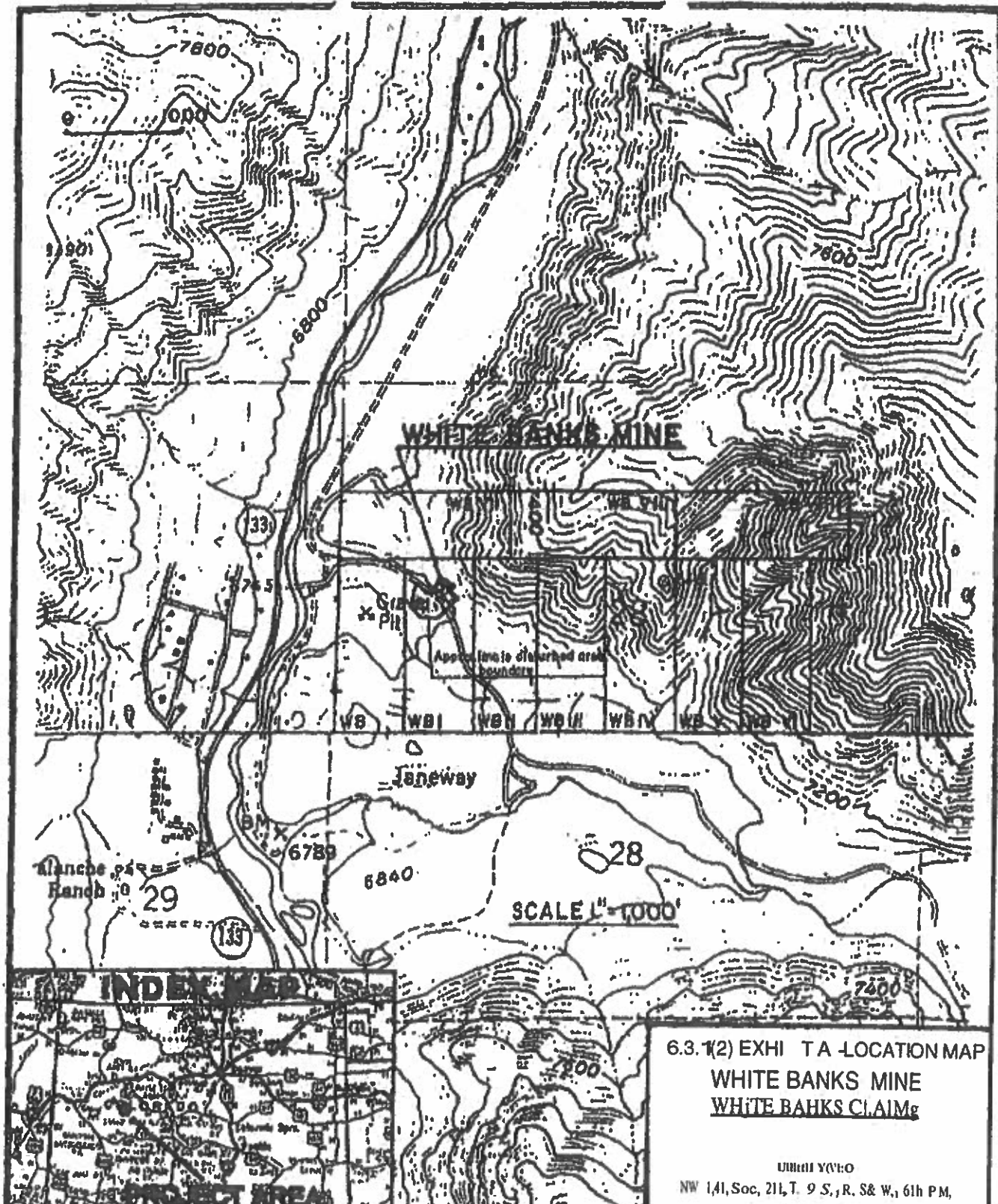
CMC	Name	Section	Township	Range
255410	White Banks	NW ¼ Sec. 28	9S	88W
255409	White Banks 1	NW ¼ Sec. 28	9S	88W
255408	White Banks 2	NW ¼ Sec. 28	9S	88W
255407	White Banks 3	NW ¼ Sec. 28	9S	88W
255406	White Banks 4	NW ¼ Sec. 28	9S	88W
255405	White Banks 5	NW ¼ Sec. 28	9S	88W
255404	White Banks 6	NW ¼ Sec. 28	9S	88W
255403	White Banks 7	NW ¼ Sec. 28	9S	88W
255402	White Banks 8	NW ¼ Sec. 28	9S	88W
255401	White Banks 9	NW ¼ Sec. 28	9S	88W

Property is located in the White River National Forest Sopris District, State of Colorado, County of Pitkin. Mining district is Spring Butte.

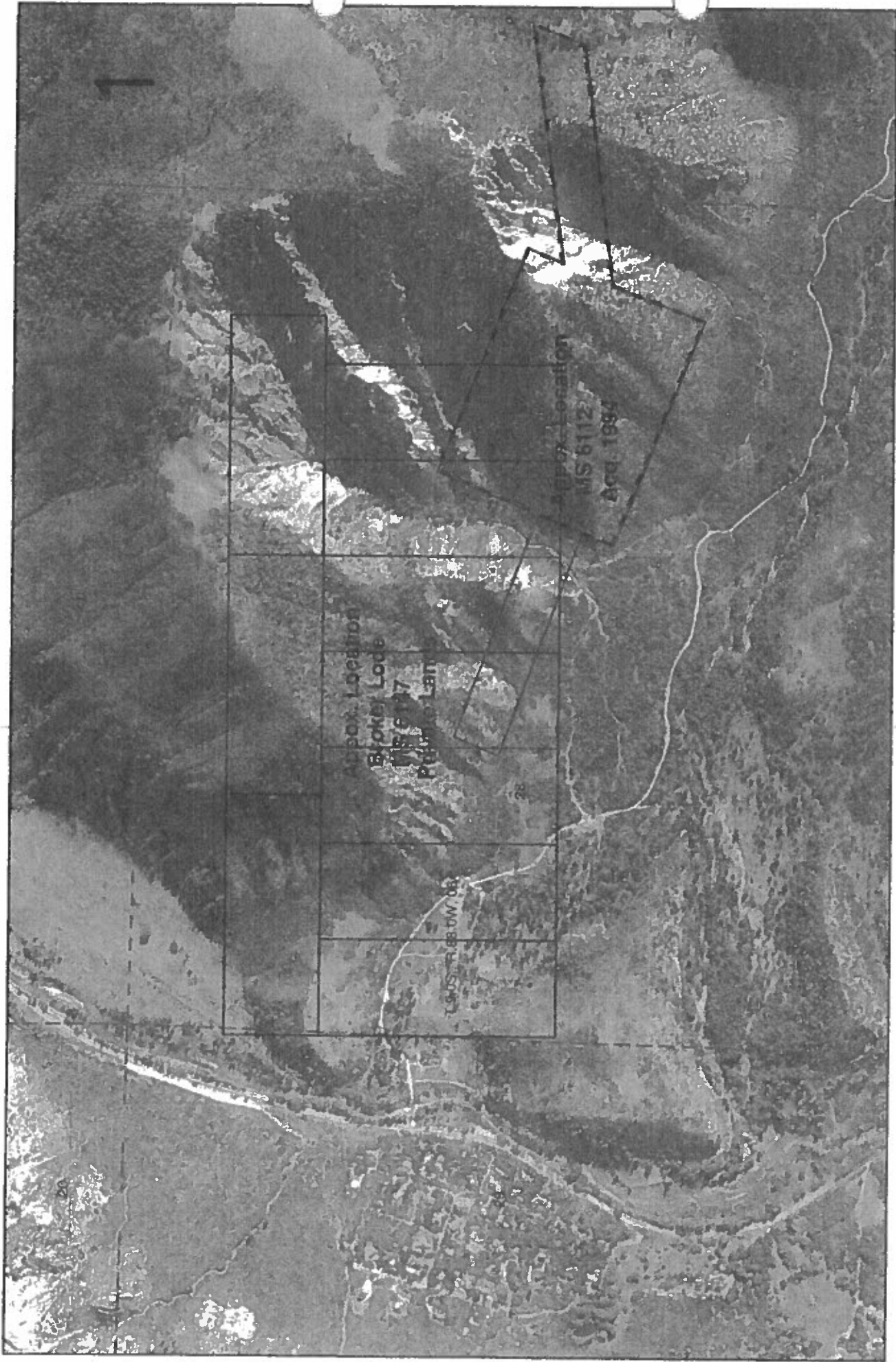


IV. Description of the Operations

A. Access: Forest Service road 310. Location map.



On December 7, 2010 the Bureau of Land Management (BLM) notified Elbram Stone, LLC and the Forest Service that five of the ten White Banks mining claims are either located on patented land (MS 6147 Broker Lode) or other land withdrawn from mineral entry (MS 6112 acquired by the USFS in 1994). This includes portions of White Banks Claims II, III, IV, V, and VI (see Figure 1). This decision applies to WRNF system lands open to mineral entry only.



Legend

- Broker-6112
- White Banks

SCALE
1:10,000

Approximate Locations:
White Banks Unpatented Claims
Broker MS 6147
MS 6112

New Road:

Road Reroute of NFSR 310 around the mining site may be constructed. A bond review and adequate reclamation bond is required for this activity. Prior to construction exact site location, surveys, and design need to be approved by the Forest Service.

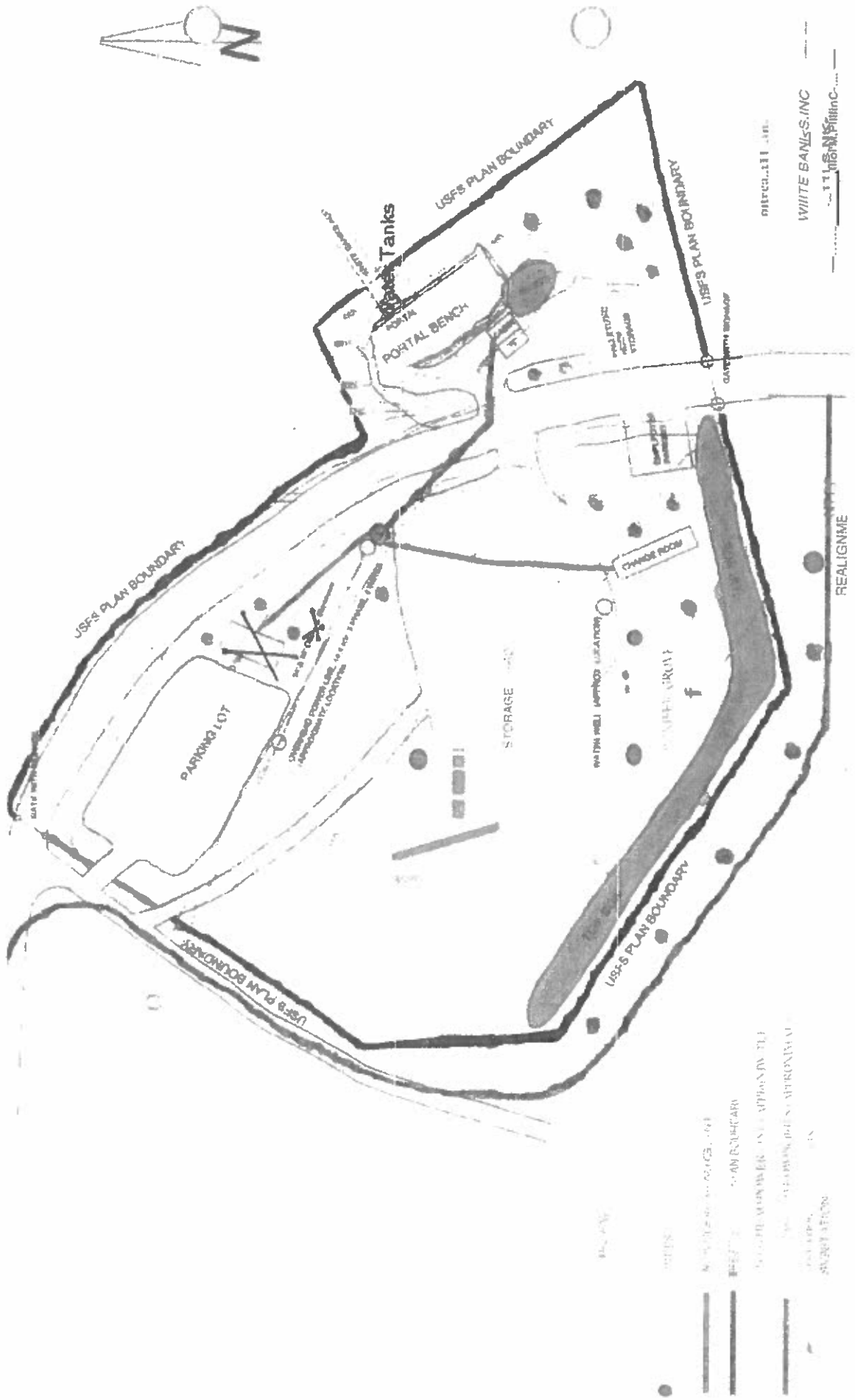
Secondary Escape Way

When required by the Mine Safety and Health Administration (MSHA) the escape way may be constructed. A supplemental plan of operations, bond review, and adequate reclamation bond is required for this activity. On the ground identification of the exact location and road to and from the surface opening will need to be cleared by the Forest Service prior to construction.

B. Map, Sketch or Drawing:

The site map reflects the removal of the office/showroom and camping area that were not approved in the 2013 Decision Memo. See Figure 2 – Revised Site Map

JUN24 2011



C. Project Description

The operations at the White Banks claims will remain the same as the current plan of operations and amendments with the exception of the changes/clarifications listed. *See Tables 1 and 2.*

(Bridge report attached C)

Table 1: Development Phase - Activities Approved with this Decision

Activity	Approved
Mining	Type: Full Scale Alabaster/Gypsum Exploration, Development, and Production and Limited Marble Exploration, Development, and Production for Mineral Classification Purposes with Conditions
Infrastructure	Secondary Escape Way Existing Log Storage/Shop Portable Toilet Existing Mobile Bath House or Replacement Two Existing Water Tanks (1 x 300 gallon and 1 x 1,000 gallon tanks) Storage yard (for up to 50 pallets) Road Reroute - (Proposed under Production Phase in Plan of Operations. If operator can demonstrate need during Development Phase, it can be approved during development. If need is not demonstrated, approval will remain under Production Phase.) Water Well - (Proposed under Production Phase in Plan of Operations. If operator can demonstrate need during Development Phase, it can be approved during development. If need is not demonstrated, approval will remain under Production Phase.)
Site Improvements	Gates Fences Landscaping
Timber Harvest	For mining operations (Off-claim exchange)

All Development Phase activities shall comply with the Development Phase conditions of approval described below in Table 2 and the design features listed in Appendix A.

Table 2: Development Phase - Conditions of Approval

Activity	Condition(s) of Approval
Mining	<p>Type: Marble mining is limited to a quantity sufficient for the Forest Service to make a mineral classification determination during the Development Phase.</p> <p>Duration: Development Phase operations must be complete by September 2018.</p> <p>Surface Operations: May 1 to November 30 of each year as per design features in Appendix A. From December 1 to April 30 each year, surface use and occupancy is allowed for operators to access the mine; use facilities; remove underground mine waste and product; product sorting, stacking, and storage; and product shipment 2 times per week on week days only (excluding holidays). Shipments would occur during the hours of 12:00 pm and 4:00 pm.</p> <p>One Time Winter Operations Trial Period: A year-round, one time only, approval for a winter operations trial period is included with limited winter operations from December 1 through April 30 during the Development Phase. Limited operations include:</p> <ul style="list-style-type: none"> ▪ Weekdays only (Monday–Friday) surface use operating hours between 9:00 am and 3:00 pm ▪ No on-site winter camping by minestaff/operators ▪ Surface activity includes ingress and egress, removing product and waste from mine, storing product, snowplowing, and loading product for transport to market or off-site. ▪ Limit large trucks to a maximum of 5 roundtrips per day Monday – Friday only <p>Underground Operations: Year-round through September 2018 as per Appendix A.</p>
Infrastructure	<p>Secondary Escape Way when approved by the Mine Safety and Health Administration (MSHA) the escape way may be constructed. On the ground identification of the exact location and road to and from the surface opening will need to be cleared by the Forest Service prior to construction.</p> <p>Existing Log Storage/Shop to serve as the office. ESC may make improvements to this structure as needed, and when doing so must meet requirements set forth in the design features in Appendix A.</p> <p>Portable Toilet must be properly maintained and serviced.</p> <p>Existing Mobile Bath House may be used or replaced with a temporary structure. All waste generated from the mobile facilities will be pumped regularly and disposed of properly off-site.</p> <p>Two Existing Water Tanks as per the requirements in Appendix A.</p> <p>Storage yard for sorting and classifying stone products and temporary storage in preparation of materials for transport to market purposes only. The yard should be no larger than what is needed and requested to accommodate up to 50 pallets. A travel way for truck entry, loading, and exiting may be constructed to access and load the material. The storage yard area will need to be identified on the ground and an update with drawings and dimensions made to the site plan shown in the plan of operations. The storage yard will not be used as a retail sales location.</p> <p>Road Reroute (if need demonstrated) of NFSR 310 around the mining site may be constructed. Prior to construction exact site location, surveys, and design will need to be approved by the Forest Service.</p> <p>Water Well (if need demonstrated) may be drilled to produce water for operations. Details, clearances, and permits must be provided prior to drilling. The water tanks currently on site will accommodate produced water. Construction of a shallow pit to catch excess water and lay a hose system to utilize water from the tanks and capture excess water back to the tank is approved. Until a well is drilled water will be trucked in.</p>
Site Improvements	<p>Gates – Installation of an electronically controlled gate with a voice call box is required to for winter operations. Gate will be installed where the current gate is located on Forest Service Road 310. The Forest Service may install a gate on the road beyond the mine to meet wildlife objectives.</p> <p>Fences as per the requirements in Appendix A.</p> <p>Landscaping as per the requirements in Appendix A.</p>
Timber Harvest	<p>Free of charge timber from National Forest lands as described under the mining law and defined in 36 CFR 223.9. The exchange of existing on-site timber for near-by timber equivalent in kind and quantity identified by the Forest Service is approved. ESC must identify their claim corners prior to requesting any exchange. The Forest Service will identify and/or confirm timber needed for mining operations. Straight, standing dead from the closest location with road access will be sought. ESC will incur the cost to truck the timber from distant sources. When off-site timber is identified, potential additional environmental analysis needs will be determined.</p>

Outside Operations:

The primary activity outside will be sorting/classifying of stone product and preparing the material for shipment. Product will be categorized by size, color and shape. This will be done by manual labor. Material will then be stacked on pallets (approx. 2 ton per pallet) and secured to the pallet with shrink wrap or wire. Pallets will be weighed and placed in the storage yard for shipping. Blocks of material will be evaluated for color and soundness then inventoried in the storage yard for shipping.

All lockable structures will be secured during off-shifts at the quarry. Mining supplies will be stored in a neat manner in the storage yard on the south side of FS road 310. This includes but is not limited to mine timber, roof bolts, ventilation pipe and fans, water and air pipe, electrical cable, pallets, water tanks, core drill, tires. A security guard can be available on site during non-shift hours.

The existing log structure will be used as mine operations office, lunch room, first aid station and MSHA records storage.

ESC will work with the FS to apply and receive a commercial well permit through the Colorado Division of Water Resources before drilling a well. Water needs will not exceed 1000 gals per day. Water will be used for coolant on cutting/drilling equipment, dust control, safety, stone breakage. Water will be recycled.

Water well may be drilled to produce water for operations. A bond review and adequate reclamation bond is required for this activity. Details, clearances, and permits must be provided to the FS prior to drilling. The water tanks currently on site will accommodate produced water. Construction of a shallow pit to catch excess water and lay a hose system to utilize water from the tanks and capture excess water back to the tank is approved. Until a well is drilled water will continue to be trucked in.

Stone product described as:

Any and all locatable materials including: marble (*if classified during the four year development stage*), alabaster, gypsum, located on the claim. Surface and underground operations remain exactly the same for the different products.

A mineral classification examination has already been started for the White

Banks marble resource. Additional information is needed in order to complete this classification. As ESC has proposed in their Plan of Operations, they need to expose the marble underground in order to determine the specific grade and characteristics of the marble. ESC also needs to remove bulk samples for marketing in order to demonstrate it has distinct and special value. A Certified Mineral Examiner will complete a mineral classification report to document the findings of the examination based on the required information.

If it is determined the marble at the White Banks Mine is not locatable, it would be classified as a salable mineral falling under the Mineral Materials Act of 1947. Sale of Mineral Materials is a discretionary action by the deciding officer.

Waste Material

There will be virtually no waste material from the quarry after development phase. During development any small material will be used as road, storage area fill. Any top soil generated will be stored in the designated top soil storage area as shown on the maps. All top soil storage will be seeded per *approved reclamation plan*. Any alabaster material of smaller sizes will be crushed and sold as organic soil conditioner.

Rock crushing is not approved with this decision. Specific rock crushing operations were not clearly identified in the plan of operations. When the rock crusher and screens are needed, their use could be considered under a supplemental plan of operations.

List of authorized people at the quarry:

1. Full time and part time employee's of ESC (4 to 6
2. Security personal
3. Contractors working for ESC
4. trucking contractors (up to ten trips per day)

Unauthorized individuals will be kept out of the working operations area by fencing and security guards. The mine and all out buildings will remain locked during non-operation hours.

Underground mining methods utilized to produce product will be by the following established mining methods:

- a. Use of a continuous underground road-header miner.
- b. Use of jack-legs, track drill for drilling and blasting extraction. All blasting will be done by contractors who are certified and licensed to work in the state of Colorado. No onsite storage of explosives will take place. Contractors will be responsible to adhere to MSHA and DRMS regulations.
- c. Use of diamond stone cutting saws (circular, chain, wire) for block/slab extraction.
- d. Use of expanding mechanical wedges, expanding water bags for block and slab extraction.
- e. The above mentioned equipment will be used to develop the quarry using room and pillar development technique.
- f. At all times MSHA regulations will be followed for safety.

D. Equipment and Vehicles:

- a. Skid Loader: Loading of trucks and moving material
- b. 915 Emco Loader: Underground haulage
- c. Pick up Trucks: Supplies and equipment (5 trips per day)
- d. Stone Splitter: Splits stone (stationary)
- e. pallet scales: Weighs product (stationary)
- f. 5th Wheel Trailer: Hauls equipment supplies (5 trips per day)
- g. Diesel Generator: Stand by power
- h. ventilation fans: Fresh air for mine (stationary)
- i. 1 ton International hoist truck: Moves material
and equipment (limited use)

All surface equipment operates on existing mine roads or storage areas.

Structures:

- a. Log Structure Storage/Shop (Existing)
- b. Mobile Bath House (Existing to be removed)

- c. Water Tanks- 1,000 gal tank, 300 gal tank (for fire safety)
(Existing above mine portal)

Time Line for Operations:

Development Stage

ESC will be in development stage for the next 4 years. During the development stage Alabaster will be removed for the art market. Underground surveying needs to take place to determine the proper location of the secondary escape way. In order for ESC to go into production stage the economic conditions of the construction industry must improve. Building stone has a very small, if any, market at the current time. Until commercial and residential construction turn around the quarry will finish its development/maintenance work and service the smaller art market. Once the market for building materials picks up ESC will begin surface development. (secondary escape way)

No.	White Banks Plan of Operations Design Features and Requirements	Source
Operation period		
#1	<p>During the four-year period for marble exploration-development and during the review for a supplemental POO should marble be found to qualify as a locatable mineral:</p> <p>From May 1 to November 30</p> <p>Hours of <u>surface</u> operations will be limited daily between 7:00 a.m. and 7:00 p.m., Monday through Saturday. No surface operations would occur on Sundays and Memorial Day, July 4th, and Labor Day. This includes the transport of materials.</p> <p>Hours for <u>underground</u> operations outside of blasting are allowed 7 days a week, 24 hours a day excluding Memorial Day, July 4th, and Labor Day.</p> <p>From December 1 to April 30</p> <p>Hours for <u>underground</u> operations outside of blasting are allowed 7 days a week, 24 hours a day excluding New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas.</p>	Plan of Operations, BE, EA

Production Stage

Table 3: Production Phase - Activities Conditionally Approved with this Decision

Activity	Approved
Mining	Type: Full Scale Alabaster and Marble Exploration, Development, and Production
Infrastructure	Secondary Escape Way (If not implemented during the Development Phase) Road Reroute (If not implemented during the Development Phase) Existing Log Storage / Existing Mobile Bath House Facilities Parking Area Water Well (If not implemented during the Development Phase) Storage Yard (Up to 500pallets)

All Production Phase activities shall comply with the Production Phase conditions of approval described below in **Table 4** and the design features listed in **Appendix A**. To the extent these activities are needed to support the operation for alabaster/gypsum mining, they could be approved during the Development Phase. If these are strictly needed for the marble Production Phase, implementation must await a determination the marble is a locatable mineral.

Table 4: Production Phase - Conditions of Approval

Activity	Condition(s) of Approval
Mining	<p>Type: Full Scale Alabaster/Gypsum and Marble Exploration, Development, and Production</p> <p>Duration: Production Phase operations apply to years 5-20 or after Development Phase operations are fully complete through <i>September 2034</i>.</p> <p>Surface Operations: Year Round through <i>September 2034</i> as per design features in Appendix A. Year-round with limited winter operations from December 1 through April 30. Limited operations include:</p> <ul style="list-style-type: none"> ▪ Weekdays only (Monday–Friday) surface use operating hours between 9:00 am and 3:00 pm ▪ No on-site winter camping by mine staff/operators ▪ Surface activity includes ingress and egress, removing product and waste from mine, storing product, snowplowing, and loading product for transport to market or off-site. ▪ Limit large trucks to a maximum of 5 roundtrips per day Monday – Friday only <p>Underground Operations: Year-round through <i>September 2034</i> as Appendix A.</p>
	<p>Secondary Escape Way when required by the Mine Safety and Health Administration (MSHA) the escape way may be constructed. On the ground identification of the exact location and road to and from the surface opening will need to be approved by the Forest Service prior to construction. This activity is approved in the Development Phase if required for safety by MSHA.</p> <p>Road Reroute of NFSR 310 around the mining site may be constructed. Prior to construction exact site location, surveys, and design will need to be approved by the Forest Service.</p> <p>Existing Log Storage/Shop and Existing Mobile Bath House Facilities. The existing log storage/shop to serve as the office. ESC may make improvements to this structure as needed, and when doing so must meet requirements set forth in the design features in Appendix A. The existing mobile bath house may be used or replaced with a temporary structure. All waste generated from the mobile facilities will be pumped regularly and disposed of properly off-site.</p> <p>Parking Area may be constructed. The parking area will need to be identified on the ground and an update made to the site plan with dimensions. The parking area should be commensurate to the need, namely sized to accommodate the number of employees who will be parking on-site.</p> <p>Water Well may be drilled to produce water for operations. Details, clearances, and permits must be provided prior to drilling. The water tanks currently on site will accommodate produced water. Construction of a shallow pit to catch excess water and lay a hose system to utilize water from the tanks and capture excess water back to the tank is approved. Until a well is drilled water will be trucked in.</p> <p>Storage yard for sorting and classifying stone products and temporary storage in preparation of materials for transport to market purposes only. The yard should be no larger than what is needed and requested to accommodate up to 500 pallets. A travel way for truck entry, loading, and exiting may be constructed to access and load the material. The storage yard area will need to be identified on the ground and an update with drawings and dimensions made to the site plan shown in the plan of operations. The storage yard will not be used as a retail sales location.</p>

V. ENVIRONMENTAL PROTECTION MEASURES

In addition to the specific requirements listed below, Appendix A includes all design criteria and features approved in the 2013 Decision Notice for an operational period of May 1 to November 30. Refer to Tables 2 (thru May 2019) and Table 4 for operational period December 1 – April 30 (5-20 years).

A. Air Quality:

All diesel equipment, including highway tractor-trailers and other trucks, will be operated and maintained in accordance with applicable federal and state regulations, including such regulations as may pertain to air quality.

Some dust generated during site development construction activities. To the extent possible such dust will be minimized by utilizing water sprays, water trucks, or other practicable means. Underground mining is not expected to produce dust visible on the surface.

Minor amounts of dust will be generated from increased traffic on FDR 310. This dust will originate from employee vehicles, product shipping trucks, the water truck, and supplier trucks, all estimated to average an additional 10 vehicle round trips (20 trips) per day. ESC will encourage car-pooling and combined supply trips wherever possible to minimize additional traffic. If ESC activities result in dust generation in measurable greater quantities than existing traffic on FDR 310, or if required by WRNF in any case, ESC will perform dust abatement. Such abatement shall consist of treatment of the road surface with a dust suppressant acceptable to WRNF, such as magnesium chloride solution or lignin-based solution; if dust suppression is required on existing roads.

ESC intends to operate in full compliance with the Clear Air Act, as amended (42 U.S.C. 1857 et seq.)

B. Water Quality:

The daily anticipated water use is approximately 1,000 gal a day. All water use will take place underground for use in cooling, cutting and drilling equipment. Small amounts of water will be used outside for occasional dust suppressant and

landscaping maintenance. All water during development will be purchased from a private contractor and trucked to the site.

The portal bench will be sloped to the south west inside corner to direct runoff water from settling both the bench itself and the portal face. The western portion of the bench will drain in to the ditch conveying the dry gulch at the northwest corner of the bench and thence down the west side of the portal bench access road, through the energy dissipation rocks and into the existing FDR 310 drainage ditch. Runoff from the storage yard area, which will be gently sloped toward the meadow beyond, will drain into the meadow by sheet flow rather than concentrated in a ditch or ditches where it will lose whatever sediment it may carry in the grass (we do not anticipate either a significant drainage or significant sediment in what drainage that might occur from this area.

All existing drainage ditches developed in the current plan of operations will remain in use. A more complete drainage and sediment control plan is in the DRMS (Division of Reclamation, Mining, and Safety) reclamation plan included in this document under the reclamation section.

Fluids (except water or foods) stored in surface structures will be stored in metal cans and in such a manner that in case of spills the cannot contaminate soil or surface water, i.e. they will be stored in bermed areas or in metal containments sufficient to hold the entire contents of the containers stored therein. Fluids stored underground will be stored in such a manner that they cannot run out of the mine in event of a spill.

Because of the northern-plunging of the synclinal nature of the alabaster/marble deposit ESC has not and does not expect to encounter significant ground water in the future. No water has been detected in the deposit in horizontal core holes drilled 120 into the deposit. ESC will not discharge any ground water without advising WRNF and obtaining any and all necessary permits, including National Pollution Discharge Elimination System (NPDES) permits in advance.

ESC does anticipate the drilling of a water well. If and when the drilling of a well becomes necessary, it will be the subject of an SPO in accordance with 36 CRF 228.4(d).

ESC intends to operate in full compliance with the Federal Water Pollution Control Act as amended (33 U.S.C. 115 *et seq.*) and all other applicable federal and state water quality control regulations.

C. Solid Wastes:

The toilet will be serviced by the contractor and waste disposed of off WRNF.

Trash, garbage and other solid refuse will be stored in bear proof containers. Trash cans or dumpsters will be emptied regularly and their contents disposed off WRNF property.

D. Scenic Values:

ESC is committed to constructing and locating its facilities in such a manner as to minimize visual impact. The first priority is to minimize visibility of the facilities from common sightlines. Second is to blend the facilities into the landscape to the extent possible by using natural colors and shapes. Insofar as structures and facilities that cannot be hidden are concerned, ESC intends to construct them to resemble an old-fashioned mining complex that fits in with the historic context of the area by avoiding or disguising block or sheet metal construction, industrial colors, and so on. Certain impacts, such as traffic control signs and signs marking fuel storage, fire extinguishers, and so on, cannot be avoided as they are required by WRNF, Mine Safety & Health Administration (MSHA), or other rules and regulations. Top soil storage piles will be graded unevenly and seeded with a mixture approved by WRNF. ESC will plant trees and/or shrubs marginal to the storage area if required by and at the direction of WRNF.

E. Fish and Wildlife:

A Biological Specialist Report for Terrestrial and Aquatic and Plants was prepared in 2003 by the WRNF (**attached D**) to study the potential effects year round operations would have. Four species of wildlife were addressed as having potential management concerns regarding impacts from the quarry. They are Bighorn sheep, Elk and Mule deer, Bald Eagles.

F. Cultural Resources

The existing permitted area has gone through a cultural site review and no concerns have been identified. Any new surface expansion outside the existing area or approved area will be subject to a cultural review.

(attached May 5 1992 Cultural resources inventory report E)

G. Hazardous Substances

1. & 2. Onsite Stored Hazardous substances:

A. Hydraulic and compressor oil will be purchased and stored in individual containers of 5 gallons or less. No more than 50 gallons will be stored on site at any time. These fluids will be stored on the surface in the existing shop building in a plastic or metal container. When operations change from development to production an underground storage area will then take the place of the outside storage area.

B. Antifreeze will be purchased and stored on the surface in the existing shop building in a plastic or metal container. When operations change from development to production an underground storage area will then take the place of the outside storage area. Used antifreeze will be disposed of offsite in an approved manner and location.

C. Gasoline will be purchased and stored on site in 5 gallon metal containers. No more than 10 gallons will be stored on site at any time. With electrical power now on site and most of the equipment runs on diesel gasoline use will be minimal. Product will be stored on the surface in the existing shop building in metal containers.

D. Motor Oil will be purchased and stored in individual containers of 5 gallons or less. No more than 25 gallons will be stored on site at any time. Oil will be stored on the surface in the existing shop building in a plastic or metal container. When operations change from development to production an underground storage area will then take the place of the outside storage area. Used oil will be disposed of offsite in an approved manner and location.

E. Heavy gear oil, grease and other lubricants will be stored in small amounts as needed.

F. Miscellaneous Very small amounts of other materials such as

detergents, soaps, cleaners, battery fluids, windshield cleaners, aerosol lubricants, paints, stains, insecticides, fertilizers, weed killers may be used from time to time in accordance with label instructions, including disposal of the containers in an approved manner.

D. Diesel fuel will be brought in on a need basis. Any on site storage will be in 5 gallon metal containers. No more than 10 gallons will be stored on site at any time. When operations change from development to production a 500 gallon diesel storage site will be established according to all state, federal and county requirements.

Diesel fuel storage tank

A supplemental plan of operations, bond review, and adequate reclamation bond is required for this fuel storage tank. Prior to construction exact site location, surveys, and design need to be approved by the Forest Service.

Fluids stored in surface structures will be stored in such a manner that in case of spills they cannot contaminate soil or surface waters. Fluids stored underground will be stored in such a manner that in case of spills they cannot run out of the mine in case of a spill.

3. Measures for spill prevention and cleanup:

All fueling and lubricating will be done in a centralized location. Drip pans will be used under any leaking equipment and repaired as soon as possible.

A list of all chemicals, including MSDS information, that will be onsite will be kept on file in the safety office with current contact names and phone numbers for the Carbondale Fire Department, Local Emergency Planning Committee (LEPC) and the Colorado Emergency Planning Commission (CEPC).

Should a release occur, the first step will be for the operator to immediately begin the clean up by impounding the spill and stockpiling contaminated soils on plastic sheets. After stockpiling the soil will be covered for transport to a class three disposal site.

Report any release of a hazardous material to the District Ranger as soon as possible.

H. Reclamation

ESC will adhere to all the reclamation requirements in the DRMS's current plan #M-1999-042 issued January 4, 2000. ESC is fully bonded with the state. (Copy of plan attached F)

Appendix B includes the Reclamation Plan approved in the 2013 Decision Notice.

Miscellaneous Issues:

Pitkin County permit (attached G)

25 year permit issued on April 8, 1998

Fire Plan: (attached H)

Timber Rights: Timber will be used for underground props, cribbing, sawn mine beams, pallet material, shipping crates, log building construction. It is important for the safety of the mine to have a readily available source of timber at the mine site at all times.

ESC must identify their claim corners prior to requesting a timber exchange. The Forest Service will identify and/or confirm timber needed for mining operations. Straight, standing dead from the closest location with road access will be sought. ESC will incur the cost to truck the timber from distance sources.

Appendix A: Design Features

To reduce environmental impacts, the operator will be required to follow the requirements listed below during operations.

No.	White Banks Plan of Operations Design Features and Requirements	Source
Operation period		
#1	<p>During the four-year period for marble exploration-development and during the review for a supplemental POO should marble be found to qualify as a locatable mineral:</p> <p>From May 1 to November 30</p> <p>Hours of <u>surface</u> operations will be limited daily between 7:00 a.m. and 7:00 p.m., Monday through Saturday. No surface operations would occur on Sundays and Memorial Day, July 4th, and Labor Day. This includes the transport of materials.</p> <p>Hours for <u>underground</u> operations outside of blasting are allowed 7 days a week, 24 hours a day excluding Memorial Day, July 4th, and Labor Day.</p> <p>From December 1 to April 30</p> <p>Hours for <u>underground</u> operations outside of blasting are allowed 7 days a week, 24 hours a day excluding New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas.</p>	Plan of Operations, BE, EA
Non-Locatable Minerals		
#1	A mineral material permit would be required for removal of any mineral determined to be common variety (salable).	36 CFR 228 Subpart C
Surface and Ground Water		
#1	Hazardous material must be stored in accordance with the Mine Safety and Health Administration (MSHA) standards.	29 CFR 1910.106
#2	New road construction and expansion of the storage/parking areas will incorporate best management practices to disperse runoff and sediments and avoid rilling and gulying during runoff events.	FSH 2509.25 MM #10, #11
#3	Where vehicle traffic is expected, surfaces will be hardened to avoid muddy, rutted conditions following snowmelt and rainfall events.	FSH 2509.25, MM #10
#4	Drainage from hardened surfaces such as the storage yard, parking area and new buildings will incorporate control designs that facilitate soil infiltration and mitigate erosion from the site.	FSH 2509.25 MM #10, #11
#5	Hazardous material will be stored upslope of the alluvial fan area and in the amounts and container types identified in the proposed Plan of Operations. All hazardous material will be stored in such a way that leakages and spills will be contained and not enter the soil surface. Contour berms, trenches and liners will be used as needed to meet these criteria.	FSH 2509.25 MM #15

No.	White Banks Plan of Operations Design Features and Requirements	Source
#6	All onsite fueling and lubrication activities will occur within a designated impervious containment area designed to protect soil and water resources from spills.	FSH 2509.25 MM #16
#7	ESC will be required to have a Forest Service-approved Spill Prevention, Control and Countermeasures (SPCC) plan for any aboveground fuel storage tanks equivalent to 1,320 gallons or greater. In case of a spill, the Aspen-Sopris District Ranger will be notified as soon as possible and appropriate actions per the SPCC plan will be followed.	40 CFR 112, SPCC Rule
#8	To reduce any risk of stream contamination the dumpster and portable toilet facility will be located as far up the slope from the surface of the alluvial fan as possible. The toilet will meet Forest Service specifications to protect surface and groundwater quality.	FSH 2509.25 MM #15
Air Quality		
#1	Dust suppression methods will be employed during road and building construction; along NFSR 310 between Avalanche Creek bridge and the mine, and within the project area including the mine portal, parking area and storage areas, as needed. Magnesium chloride (MgCl) is an acceptable dust suppressant; specific locations, application rates, and timing of MgCl shall be approved by the Forest Service in advance. Application shall not occur within 25 feet of any water bodies or when rainfall is forecast.	Plan of Operations
Vegetation		
#1	ESC will be responsible for noxious weed control within the permit boundaries. Prior to any pesticide application, ESC will need to submit a pesticide use proposal to the forest weed program coordinator.	IDT
#2	Surveys by or as approved by a Forest Service botanist for special status plant species are required prior to construction of the secondary escape-way and road re-route. If any threatened, endangered, proposed, sensitive or other rare plant species are discovered, affected sites will be avoided.	Forest Plan Plants Standard #1; Proposed, TES Species Standard #3
#3	Upon completion of the earthwork, re-grade cut and fill slopes to 3:1 or as otherwise deemed appropriate, to facilitate re-vegetation and seed with native species, as approved by the Forest Service, during optimal growing times (i.e. fall and early spring). A sterile cover crop (e.g. Regreen and Triticale) may be used for soil stabilization while native species become established.	IDT
Terrestrial Wildlife		
#1	No dogs are permitted on site.	Plan of Operations
#2	Bear proof dumpsters are required for trash storage. Dumpsters will be properly secured (closed and locked).	Plan of Operations

No.	White Banks Plan of Operations Design Features and Requirements	Source
#3	Fencing around the mine should use a wildlife-friendly design approved by a qualified wildlife biologist. Fencing on the south side of the mine yard is to be laid down on the ground December 1 to April 30 annually to facilitate wildlife migration, providing this complies with MSHA requirements.	Forest Plan Wildlife Guideline #1
#4	Surface operations are restricted at night to avoid disturbing bedded wildlife. No nighttime surface blasting, rock crushing, or dumping ½ hour after sunset to ½ hour before sunrise.	Forest Plan Sensitive Species Standard #3
#5	The secondary escape-way is to be covered to avoid trapping bats in the shaft. Mine reclamation should include installation of bat gates and removal of all surface operations and infrastructure in winter range.	Forest Plan Wildlife Standard #2
#6	Well construction, tree removal, installation of the secondary escape-way, and construction of the bypass road and access road to the secondary escape-way including installation of closure gates is to occur after July 15 until the start of winter period/December 1 to avoid impacts to wintering bighorn sheep and nesting birds.	Forest Plan Wildlife Standard #1
Traffic and Road Maintenance		
#1	Posted speed limit on NFSR 310 is 15 mph.	FSH 7709.56, Ch. 4
#2	The operator and Forest Service will share road maintenance up to the mine, commensurate with use; the operator is responsible for all road maintenance within the mine surface operations area. Maintenance may include but is not limited to: replacing aggregate surface; blading; ditch cleaning; dust abatement; removing earth slides, fallen timber or boulders; cleanout of debris flow; maintenance on or near the bridge; maintenance of gates and signs at entry points.	FSH 7709.59, Ch. 6
Scenery and Lighting		
#1	The existing overhead power lines (33kV or less) may remain as is as burial would lead to further resource impacts. Any new lines would need to be buried.	Forest Plan Utility Standard #6
#2	Trees will be planted on the south side of the new bypass road for long term visual screening. An adequate buffer will be left between the permit boundary and bypass road to accommodate trees.	Plan of Operations; IDT
#3	Select color schemes for above ground facilities, structures, and miscellaneous equipment that blend with the surrounding landscape. The colors should be muted, subdued colors to blend with the natural color scheme. Colors should be approved through the White River Design Review process.	White River National Forest Design Review Guidelines
#4	Any above ground facilities, structures, and miscellaneous equipment needs to meet reflectivity guidelines. Facilities and structures with exteriors consisting of galvanized metal or other reflective surfaces will be treated or painted dark non-reflective colors that blend with the forest background to meet an average neutral value of 4.5 or less as measured on the Munsell neutral scale.	White River National Forest Design Review Guidelines

No.	White Banks Plan of Operations Design Features and Requirements	Source
#5	Newly disturbed rock surfaces will be treated with rock stain such as Eonite or Permeon to minimize the visual impact of freshly exposed rock. This includes any portal faces or vertical surfaces.	IDT
Heritage and Paleontological Resources		
#1	If new archaeological sites are discovered during project implementation, the activity shall cease within the affected area until a qualified archaeologist can evaluate the site and determine the appropriate mitigation.	National Historic Preservation Act § 106; 36 CFR 800
#2	Any new ground-disturbing activities proposed in areas not previously surveyed will need to be evaluated by a qualified archeologist and paleontologist. Foreexample, once the location of the secondary escape-way and road re-route is determined, a cultural resource inventory and paleontological survey will be required prior to construction.	36 CFR 800

Appendix B: Reclamation Plan Requirements

A Reclamation Plan will be incorporated in the Plan of Operation and address the following:

1. Removal and off-site disposal of all hazardous materials stored on site
2. Demolition, removal and disposal of uncontaminated structures, equipment, and materials
3. Demolition, removal, and off-site disposal of existing structures and existing fencing
4. Reclamation of bypass road, parking/storage areas and hardened travel ways
5. Reclamation of all mine waste generated from operation
6. Environmental and health and safety mitigations
7. Overall site restoration including earthwork and revegetation.
8. Monitoring for effectiveness of site restoration activities.

The goal of the reclamation plan is to ensure measures are taken so the site is returned to reclaimed in accordance with the requirements at 36 CFR 228.8(g).

Approved Seed Mix for White Banks Mine – Revised 8/14/2014

Mountain Brome - Native
Slender Wheatgrass – Native
Western Wheatgrass – Native
Mountain Mahogany - Native
Gambel's Oak – Native
Serviceberry – Native
Snowberry - Native

VI. FOREST SERVICE EVALUATION OF PLAN OF OPERATIONS

A. Required changes/modifications/special mitigation for plan of operations:

Refer to Table 2 Development Phase – Conditions of Approval and Table 4 Production Phase – Conditions of Approval from the White Banks Decision Notice dated 05/23/2013.

B. Bond.

4/29/2014 - Increase in Financial Warranty for M-1999-042 received by the Division of Reclamation of Mining and Safety Colorado Natural Resources Management. Current reclamation bond in the amount of \$41,927.00 posted with the State.

Reclamation of all disturbances connected with this plan of operations is covered by Reclamation Performance Bond No. _____, dated (mm/dd/yy) _____, signed by _____ (Principal) and _____ (Surety), for the penal sum of _____. This Reclamation Performance Bond is a guarantee of faithful performance with the terms and conditions listed below, and with the reclamation requirements agreed upon in the plan of operations. This Reclamation Performance Bond also extends to and includes any unauthorized activities conducted in connection with this operation.

The bond amount for this Reclamation Performance Bond was based on a bond calculation worksheet. The bond amount may be adjusted during the term of this proposed plan of operations in response to changes in the operations or to changes in the economy. Both the Reclamation Performance Bond and the bond calculation worksheet are attached to and made part of this plan of operations.

Acceptable bond securities (subject to change) include:

1. Negotiable Treasury bills and notes which are unconditionally guaranteed as to both principle and interest in an amount equal at their par value to the penal sum of the bond; or
2. Certified or cashier's check, bank draft, Post Office money order, cash, assigned certificate of deposit, assigned savings account, blanket bond, or an irrevocable letter of credit equal to the penal sum of the bond.

VII. TERMS AND CONDITIONS

- A. If a bond is required, it must be furnished before approval of the plan of operations.
- B. Information provided with this plan marked confidential will be treated in accordance with the agency's laws, rules, and regulations.
- C. Approval of this plan does not constitute certification of ownership to any person named herein and/or recognition of the validity of any mining claim named herein.
- D. Approval of this plan does not relieve me of my responsibility to comply with other applicable state or federal laws, rules, or regulations.
- E. If previously undiscovered cultural resources (historic or prehistoric objects, artifacts, or sites) are exposed as a result of operations, those operations will not proceed until notification is received from the Authorized Officer that provisions for mitigating unforeseen impacts as required by 36 CFR 228.4(e) and 36 CFR 800 have been complied with.
- F. This plan of operations has been approved for a period of _____ or until (mm/dd/yy) 5/30/2035. A New or revised plan must be submitted in accordance with 36 CFR part 228, subpart A, if operations are to be continued after that time period.

VIII. OPERATING PLAN ACCEPTANCE

☒ We have reviewed and agreed to comply with all conditions in this plan of operations including the required changes, modifications, special mitigation, and reclamation requirements.

☒ We understand that the bond will not be released until the Authorized Officer in charge gives written approval.

Robert Congdon _____ 1-5-15
☐ Operator (or ☒ Authorized Representative) (Date)
(mm/dd/yy)

IX. OPERATING PLAN APPROVAL

Karen Schroyer _____ District Ranger
(Name) (Title)
Karen Schroyer _____ 1/30/15
(Authorized Officer) (Date)
(mm/dd/yy)

Attachment 4 - 36 CFR 214 Appeal Regulations

If you wish to appeal this Notice of Noncompliance, you must submit a written notice of appeal. In accordance with 36 CFR 214.8, appeal documents may be filed in person, by courier, by mail, by private delivery service, by facsimile, or by electronic mail. Parties to an appeal are responsible for ensuring timely filing of appeal documents. The notice of appeal, including the reasons for appeal, must be postmarked or received by the Appeal Deciding Officer within 45 days from this letters date.

The Appeal Deciding Officer is the Forest Supervisor, White River National Forest. Appeals filed by regular mail or express delivery must be sent to: Appeal Deciding Officer; White River National Forest; 900 Grand Avenue, Glenwood Springs, CO 81601. Appeals may also be hand-delivered to the above address between the hours of 8:00 AM and 4:30 PM Mountain Time, Monday through Friday, excluding holidays. Appeals may also be submitted via fax at (970) 945-3266.

A copy of the notice of appeal should be mailed simultaneously to the Aspen-Sopris District Ranger – Kevin Warner, Sopris Ranger District, 620 Main Street, PO Box 309, Carbondale, CO 81623. A copy may also be hand-delivered to the above address between the hours of 8:00 AM and 4:30 PM Mountain Time, Monday through Friday, excluding holidays, or submitted via fax at (970) 963-1012.

Furthermore, appeals must meet the content requirements at 36 CFR 214.8. The specific content requirements are outlined below.

36 CFR § 214.8 Appeal Content

(a) *General requirements for the contents of an appeal.* All appeals must include:

- 1) The appellant's name, mailing address, daytime telephone number, and email address, if any;
- 2) A brief description of the decision being appealed, including the name and title of the Responsible Official and the date of the decision;
- 3) The title or type and, if applicable, identification number for the written authorization and the date of application for or issuance of the written authorization, if applicable;
- 4) A statement of how the appellant is adversely affected by the decision being appealed;
- 5) A statement of the relevant facts underlying the decision being appealed;
- 6) A discussion of issues raised by the decision being appealed, including identification of any laws, regulations, or policies that were allegedly violated in reaching the decision being appealed;
- 7) A statement as to whether and how the appellant has attempted to resolve the issues under appeal with the Responsible Official and the date and outcome of those efforts;
- 8) Any statement of the relief sought;
- 9) Any documents and other information upon which the appellant relies; and
- 10) The appellant's signature and the date.

(b) *Specific requirements for the contents of an appeal.* In addition to the general requirements in § 214.8(a), the following specific requirements must be included in an appeal, where applicable:

- 1) A request for an oral presentation under § 214.16;
- 2) A request for a stay under § 214.13.

N/A, applies to grazing permit decisions only