

October 8, 2021

**Delivery via email to tom.bell@dgslaw.com**

Davis Graham & Stubbs  
c/o Tom Bell

**Re: M1983-033 AFS Walstrum Spur Amendment**

Dear Tom:

We are in receipt of your letter to DRMS dated October 7, 2021 regarding the Walstrum Spur Amendment, and we respectfully provide this written response to address Mr. Young's access concerns.

The non-exclusive access easement that Mr. Young uses for purpose of ingress to/egress from his 40-acre property is not a structure and the access road is not owned by Young. "An Easement, regardless of the manner of its creation, does not carry any title to the land over which it is exercised, nor does it serve to dispossess the landowner." *See Lazy Dog Ranch v. Telluray Ranch Corp.*, 965 P.2d 1229, 1234 (Colo. 1998); *see also Matoush v. Lovingood*, 177 P.3d 1262, 1264-65 (Colo. 2008); ("An easement is an interest in property which, though distinct from an ownership interest in the land itself, nevertheless confers upon the holder of the easement an enforceable right to use property of another for specific purposes.") (Emphasis added). As such, it is not listed as a structure in the structure list on Exhibit C-4 of our mine permit amendment application. Since the easement is not a structure, (i) no effort was made to obtain a structure agreement from Mr. Young/Young Ranch East, LLC; (ii) no agreement for compensation for damage was sought; and (iii) no engineering evaluation on the access road has been performed.

Notwithstanding the foregoing, AFS has and will continue to provide all easement holders with utilities and access in accordance with the terms of each respective easement as noted on the Mining Map Exhibit C-5, Note 10, "...utilities and access to utilities, structures, and property as granted in each respective easement will be maintained at all times." If or when a relocation of any utilities, utility structures, or access easements are needed as a result of ongoing quarry operations, AFS will first seek consent for same from such easement holder or obtain a declaratory judgment from a court in order.

With regard to illustrating a "Potential Future Road Location" on Reclamation Map F-1, the primary purpose was not to show an expected or proposed future location, but rather to demonstrate our continued commitment to providing an access road to all relevant easement holders during mining and upon final reclamation.

Very truly,



Al Frei, Jr.,  
President,  
Albert Frei & Sons

Cc: Peter Hayes, via email [peter.hays@state.co.us](mailto:peter.hays@state.co.us)  
Russ Means, via email [russ.means@state.co.us](mailto:russ.means@state.co.us)  
Jeff Fugate, via email [jeff.fugate@coag.gov](mailto:jeff.fugate@coag.gov)