

January 10, 2022

Dustin Czapla
Colorado Division of Reclamation, Mining, and Safety
1313 Sherman St, Rm 215
Denver, CO 80203
(303) 866-3567

**DRMS Recd:
January 10, 2022**

Delivered Via Email

**RE: Carol Ann Pit, Permit No. M-1997-026
Amendment Adequacy Response**

Mr. Czapla

Carol Ann Pit LLC, the permittee, is providing the following information in response to your January 6, 2022 adequacy review letter.

Eagle County approved Special Use Permit ZS-9075 in Resolution 2021-079 on September 28, 2021. This approval resolution is attached to this letter. On page two, under *C. Zone District Standards* the resolution states:

Pursuant to Section 5-250.B.3, the underlying Resource zone district for the parcel requires a special use permit. The Special Use meets the definition of industrial processing.

As noted in the above language, the zoning of the parcel is Resource. In accordance with the zoning and land use rules in Eagle County, the Carol Ann Pit's proposed post mine land use is now the Newby Aggregate Recycling facility, an industrial facility. Therefore, the appropriate post mine land use for the CDRMS reclamation permit is industrial/commercial, despite the zoning of the underlying parcel not being industrial or commercial.

Please contact my office with any questions.

Regards,



Ben Langenfeld, P.E.
Lewicki & Associates, PLLC
benl@lewicki.biz
(720) 842-531, ex. 1

Attachments

Eagle County Resolution 2021-079

Commissioner McQueeney moved adoption
of the following Resolution:

**BOARD OF EAGLE COUNTY COMMISSIONERS
COUNTY OF EAGLE, STATE OF COLORADO**

RESOLUTION NO. 2021- 079

**RESOLUTION FOR THE APPROVAL
OF THE SPECIAL USE PERMIT
FOR NEWBY AGGREGATE RECYCLING**

Eagle County File No. ZS-9075

WHEREAS, on or about October 22, 2019, the County of Eagle, State of Colorado, accepted for filing an application submitted by Eagle River Materials, LLC (the "Applicant") for approval of a special use permit (the "Special Use") for Newby Aggregate Recycling, an aggregate recycling facility located at Parcel 2111-042-00-018, Gypsum Area, and legally described as (hereinafter referred to as the "Property"):

A parcel of land located in Tracts 62 and 42, Section 4, Township 5 South, Range 85 West of the 6th Principal Meridian, lying westerly of Tract 64 of said Township and Range, southerly of the centerline of the Eagle River, and northerly of the Denver and Rio Grande Western Railroad right-of-way, more particularly described as follows: Beginning at Angle Point 4 of said Tract 64; thence N. 00°02'40" E. 816.35 feet along the westerly line of said Tract 62 to the northerly right-of-way line of said railroad, the true point of beginning; thence N. 88°04'33" E. 1835.41 feet along said right-of-way line; thence North 1610.26 feet to the centerline of said Eagle River; thence N. 69°25'00" W. 552.72 feet along said centerline thence S. 86°57'20" W. 157.60 feet along said centerline; thence S. 64°03'24" W. 331.42 feet along said centerline; thence S. 52°51'39" W. 727.18 feet along said centerline; thence S. 72°31'13" W. 294.54 feet along said centerline to the westerly line of said Tract 62; thence S. 00°02'40" W. 1185.34 feet to the true point of beginning.

WHEREAS, the Special Use proposes an aggregate recycling facility on the Property consistent with the approved "Operations Plan" attached as Exhibit A. The proposal consists of a facility area containing areas for production and storage of construction materials (the "Facility"). The Facility is anticipated to intake and produce a total of 100,000 cubic yards, or 150,000 tons, of material per year; and

WHEREAS, in accordance with Eagle County Land Use Regulations (the "ECLUR"), Section 5-210.E - *Notice of Public Hearings*, notice of the proposed Special Use application was mailed to all owners of property adjacent to the Special Use and was duly published in a newspaper of general circulation throughout the County concerning the subject matter of the application and setting forth the dates and times of meetings for consideration of the applications by the Eagle County Planning Commission (the "Planning Commission") and the Board of County Commissioners of the County of Eagle (the "Board"); and

WHEREAS, at its public hearing held on July 7, 2021, the Planning Commission, based upon its findings, recommended approval, with conditions, of the Special Use to the Board; and

WHEREAS, at its regular public hearing of September 21, 2021, the Board considered the Special Use; associated plans; the statements and concerns of the Applicant, the Eagle County Planning Division and Engineering staff, and other interested persons; and the recommendation of the Planning Commission; and

WHEREAS, based on the evidence, testimony, exhibits, and study of the 2005 Eagle County Comprehensive Plan for the unincorporated areas of Eagle County, as well as the comments of the Eagle County Planning Division, comments of public officials and agencies, recommendation of the Planning Commission, and comments from all interested parties, the Board, finds as follows:

1. **THAT**, proper publication and public notice **was provided** as required by the ECLUR and state law for the hearings before the Planning Commission and the Board.
2. **THAT**, the application for the Special Use for the Property complies with the standards in ECLUR Section 5-250.B - *Standards for Special Use*, as set forth below:
 - A. **Consistent with the Comprehensive Plan.** Pursuant to Section 5-250.B.1, the Special Use, is in substantial compliance with the policies of the 2005 Eagle County Comprehensive Plan including the goals of Economic Resources, Emergency and Community Services and Infrastructure and Services. Thus, the Special Use is in substantial conformance with applicable policies within the 2005 Eagle County Comprehensive Plan.
 - B. **Compatibility.** Pursuant to Section 5-250.B.2, the Special Use will not negatively impact adjacent lands. The Special Use is adjacent to similar industrial uses such as the Schmidt Ranch gravel mine and the biomass plant. In weighing the potential impacts of the Special Use to nearby residential and recreational uses, the proposed Operations Plan, the utilization of large berms, vegetation screening and the location and site topography mitigates potential impacts. Thus, the Special Use will be generally compatible with the existing and currently permissible future uses of adjacent land and other substantially impacted land, services, or infrastructure improvements.
 - C. **Zone District Standards.** Pursuant to Section 5-250.B.3, the underlying Resource zone district for the parcel requires a special use permit. The Special Use meets the definition of industrial processing. The Board considered the Applicant's variation requests for building height and the front yard setback and approves them as part of this Special Use. The Applicant requested a building height increase for an asphalt hopper up to 50 feet instead of the maximum 40 feet and a front yard setback reduction for the existing scale house to remain at 15 feet from the front property line. The Board considered these pursuant to the purpose of obtaining desired design qualities. With these two variations, the Special Use complies with the standards of the zone district in which it is located and the standards applicable to the particular use with condition one.
 - D. **Design Minimizes Adverse Impact.** Pursuant to Section 5-250.B.4, the design of the Special Use, reasonably avoids adverse impacts, including visual impacts of the Special Use on adjacent lands as the Applicant will utilize large berms and vegetation screening to limit the visibility of the improvements from adjacent roadways and properties. Traffic, service

delivery, parking and loading, odors, noise, glare, and vibration will not otherwise cause or create a nuisance based on the Operations Plan, attached as Exhibit A.

- E. **Design Minimizes Environmental Impact.** Pursuant to Section 5-250.B.5, the design of the Special Use, minimizes environmental impacts and will not cause significant deterioration to an already disturbed site. The Applicant supplied an environmental impact report which demonstrates that the Special Use will minimize potential environmental impacts to scenic resources among other potential environmental impacts based on: 1) the overall design of the project; 2) impact mitigation strategies from the Operations Plan; and 3) the location of the project relative to surrounding existing and future uses. Thus the Special Use will fully minimize environmental impacts, and will not cause significant deterioration of water and air resources, wildlife habitat, scenic, and other natural resources.
- F. **Impact on Public Facilities.** Pursuant to Section 5-250.B.6, the Special Use will be adequately served by Emergency Services as the Property is located near these services. The Special Use will be adequately served with Potable Water and Wastewater Facilities through legal water supply from the CM Stremme Gates Ditch. The Special Use will be adequately served by Roads and Pedestrian Paths as it is accessed via Highway 6, a public road owned and maintained by the Town of Gypsum, who has issued an access permit for this use. The Special Use will not have impacts on parks nor is there a requirement for additional parks. Given the nature and location of the Special Use there will be little impact on emergency services, water, wastewater facilities, pedestrian paths, parks, and schools.
- G. **Site Development Standards.** Pursuant to Section 5-250.B.7, the Special Use, as conditioned, is in compliance with Article 4 Site Development Standards. The Special Use meets the Off-Street Parking and Loading standard, by providing 12 designated parking spaces and ample options for temporary parking when necessary. Trucks accessing the Property will use a circular commercial driveway through the Facility for loading, turnaround, and weighing of trucks. The Special Use meets the Landscaping and Illumination standard because the Applicant will utilize vegetation to screen the operation and has included a reclamation plan when the use ceases. Minimal downcast lighting will be incorporated for the scale house and no nighttime activity is proposed other than for emergency repairs. The Special Use meets the Sign Regulations standard because any future proposed signage would comply with the ECLUR Site Development Standards, as amended. The Applicant met the Natural Resource Protection standard because the Applicant supplied an environmental impact report which demonstrates that the Special Use will minimize potential impacts on natural resources and other potential environmental impacts, as noted in ECLUR Standard 5-250.B.5. The Special Use will meet the Commercial and Industrial Performance standard because the site will be constructed and operated to meet or exceed all performance standards set forth in the ECLUR Division 4-5. The Special Use will not generate significant noise, vibrations, smoke or particulate matter, toxic or noxious matter, odorous matter, explosive hazards, glare, heat, liquid or solid waste or radioactive materials by utilizing the mitigation strategies outlined in the Operations Plan attached as Exhibit A. The Special Use meets the Improvements Standards because the commercial driveway conforms to all geometric design standards including width, grade, and radii. There is a railroad crossing on the Property that must be approved for the Special Use. Thus, as conditioned, the proposed Special Use will comply with all applicable standards in the ECLURs, Article 4, Site Development Standards.
- H. **Other Provisions.** The proposed Special Use must be licensed under local and state

requirements. In order to ensure eventual reclamation of the site, the Applicant will submit a reclamation bond with the county. No other provisions of the ECLUR for use, layout, and general development characteristics in addition to those already referenced and/or addressed have been found applicable to this application. Thus, the Special Use does comply with all standards required by all other applicable provisions of the ECLURs for use, layout, and general development characteristics.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Eagle, State of Colorado:

THAT this application for a Special Use Permit is hereby APPROVED, subject to the following conditions, and that violation of any condition shall be the basis for revocation of the Special Use Permit pursuant to the ECLURs:

1. Any improvements, structures, or uses operated for this special use shall only operate during the times of year there is a legal source of water, which is May 1 through October 31. Therefore, such improvements, structures, and uses of this special use shall not operate from November 1 to April 30 unless the Applicant provides evidence of a legal water supply from November 1 to April 30 to Eagle County Community Development for consideration and the Community Development Director verifies that it is an adequate supply of water.
2. This Special Use permit approval time frame shall coincide with the Applicant's Town of Gypsum's valid access permit, as amended or extended from time to time.
3. The Applicant shall provide the executed Railroad Crossing Agreement between it and the appropriate railroad company to the Community Development Director and demonstrate compliance with and completion of any conditions of said agreement prior to issuance of grading or building permit for any improvements or structures used in operation of the special use.
4. The Applicant shall pay a road impact fee of \$94,948.82 to Eagle County prior to issuance of grading or building permit for any improvements or structures used in operation of the special use.
5. Prior to issuance of grading or building permit for any improvements or structures used in operation of the special use, the Applicant shall obtain all required local, state and federal permits. A copy of such permits shall be provided to Eagle County upon request.
6. The Applicant shall submit a bond in the value of \$101,026.00 to Eagle County in a form acceptable to the County Attorney's Office and execute an agreement with Eagle County regarding the reclamation being bonded prior to issuance of grading or building permit for any improvements or structures used in operation of the special use.
7. Except as otherwise modified by this development permit, all material representations made by the Applicant in this application and in the public meeting shall be adhered to and considered conditions of approval.

THAT, this Special Use Permit shall be subject to review as provided for by the ECLUR.

THAT, the Board directs the Department of Community Development to provide a copy of this Resolution to the Applicant.

THAT, the Board hereby finds, determines and declares that this Resolution is necessary for the health, safety and welfare of the citizens of Eagle County.

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MOVED, READ AND ADOPTED by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 28th day of September, 2021, *nunc pro tunc* June 16, 2020.

ATTEST:

DocuSigned by:
Regina O'Brien
Clerk to the Board



COUNTY OF EAGLE, STATE OF
COLORADO, By and Through Its
BOARD OF COUNTY COMMISSIONERS

By: DocuSigned by:
Matt Scherr
Matt Scherr
County Commissioners Chair

DocuSigned by:
Jeanne McQueeney
Jeanne McQueeney
Commissioner

DocuSigned by:
Kathy Chandler-Henry
Kathy Chandler-Henry
Commissioner

Commissioner Chandler-Henry seconded adoption of the foregoing resolution. The roll having been called, the vote was as follows:

Commissioner Scherr	Aye
Commissioner McQueeney	Aye
Commissioner Chandler-Henry	Aye

EXHIBIT A
OPERATIONS PLAN

EXHIBIT A

OPERATIONS PLAN

*Newby Agg Recycling
April 2020*

 Greg Lewicki and Associates, PLLC

EXHIBIT A

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OPERATION INFORMATION

This operations plan is designed to show how Newby Aggregate Recycling will function in accordance and alignment with the Eagle County Land Use Regulation ("ECLUR") Article 4.

1. Maps

All maps referred to in this operations plan can be found in Appendix 5 of the Special Use Permit application.

Map 1 – Baseline Conditions

Map 4 – Drainage Plan

Map 2 – Development Plan

Map 5 – Site Plan

Map 3 – Cross Sections

Map 6 – Site Plan 2

Map 7 – Lighting Plan

Map 8 – Reclamation Plan

2. Facility Management

The facility manager listed in this section ("Facility Manager") will maintain up to date contact information with Eagle County Environmental Health, Stratton Flats Homeowners Association, Habitat for Humanity Vail Valley, the Colorado Department of Public Health and Environment (CDPHE), and the Town of Gypsum. Any change in facility manager information will be provided to Eagle County and the area neighbors within 30 days of the change. Eagle County will be notified in writing for record purposes.

Implementation of this plan will be the responsibility of the facility manager. Eagle County representatives may inspect the operations of Newby Aggregate Recycling, with 24 -hours notice. This operations plan is critical to the Eagle County Special Use Permit for the land upon which Newby Aggregate Recycling is located (the "Special Use Permit"). Therefore, said plan runs with the Special Use Permit and the operation; any operator of Newby Aggregate Recycling is bound to the terms, controls, and best management practices outlined in this plan.

The Facility Manager, or their designated senior on-site person, is the responsible party to address incidents that may occur at Newby Aggregate Recycling. The Facility Manager will

EXHIBIT A

address the immediate concern, document the incident, and report its details to the Stakeholder Group. Specific categories of incidents are addressed in this operations plan as needed.

3. Reporting

Eagle County will be provided with an Annual Compliance Report demonstrating conformance with all mitigation and controls outlined in this plan, and required by other permits, by March 15th of each year. This report will also contain the following information:

- A summary of any and all state or federal inspections or reports as required by state or federal regulatory agencies.
- A summary of any and all incidents or complaints against the operation along with their resolution.

In the event that any issues or complaints are received by the facility, the Facility Manager will share those issues or complaints with representatives the landowner, an Eagle County Code Enforcement Officer and the Stakeholder Group within three working days of the occurrence of the issue or receipt of the complaint. The Stakeholder Group will consist of, at a minimum, the immediate neighboring landowners, the Stratton Flats HOA, and the Town of Gypsum. A phone number to directly contact a management office of the operator will be on a sign posted at the site entrance.

3.1 Stakeholder Group

Membership in the stakeholder group will be decided by Eagle County and the operator/landowner. Stakeholder participation will be encouraged by annual contact from the operator via a mail or email list maintained by both the operator and Eagle County. The operator will hold an annual feedback meeting with stakeholders. The operator will document attendance at said meeting.

Complaints received by the operator or Eagle County will be shared at either the annual meeting or via the mail/e-mail list on at least an annual basis. Included in the complaints report will be a brief summary of the resolution of said complaint, if resolved, or the status of a resolution if not yet resolved.

EXHIBIT A

4. Revisions or Modifications to this Plan

Proposed modifications or revisions to this operations plan shall be formally submitted to the Eagle County Community Development Department and be administered per either ECLUR 5-250.H (Special Use Minor Deviations), ECLUR 5-250.I (Special Use Amendment), or other applicable process as outlined in the Eagle County Land Use Regulations.

EXHIBIT A**DESCRIPTION OF OPERATIONS****1. General Operations**

Access to the entire site is via The currently existing property access off highway US-6. This access crosses a Union Pacific railroad and will also serve as the access for the landowner to his home on the north side of the property.

The project area will be staked prior to any construction. Map 2 shows the configuration of the site during operations. Material recycling will consist mostly of crushing and screening which will take place on the west side of the project area. asphalt, washed rock, and concrete production using the recycled material will also take place on this western side. This side of the site will be known as the Production Area. Material may be directly loaded and sold from the Production Area. Material that is to be stockpiled for future sales will be stored in the Storage Area on the east side of the site. Map 2 shows both areas in their full operation configuration.

It is anticipated that traffic to the site will visit both sides of the operation. Depositing Customers bringing material for recycling will enter the Production Area to dump their material.

Withdrawing customers will either load within the Production Area for material such as hot mix asphalt or concrete or will proceed to the Storage Area on the east side to load the product that they are purchasing. All traffic will then exit back out the main entrance road, with Exiting trucks crossing the scale for weighing prior to departure. Map 2 shows the overall traffic pattern within the site.

Material handling will be conducted with loaders, hoes, dozers, and off-highway haul trucks. Deposited material will be processed by a track mounted crusher and then loaded into a screen, as needed, by a loader. Finished material will either be directly loaded into customer trucks or hauled to the Storage Area and added to those stockpiles.

Material accepted by the operation will mostly be of the following types:

- Broken concrete
- Broken asphalt
- Soil
- Compacted fills

EXHIBIT A

All material to be accepted to the site will be accompanied by a certification from the Depositor. The Certification documents will describe the material, detail its source, the age of the material, and if any hazardous material is believed to be present. The Depositor will also certify the chain of custody for any material brought to Newby Aggregate Recycling. No hazardous material will be accepted by Newby Aggregate Recycling. All material brought to the site will be recycled for sale as recycled construction materials products such as road base, concrete, washed rock, and asphalt. Any solid waste generated during recycling, such as rebar from reinforced concrete, will be hauled to the local landfill for disposal. Any hazardous material that is identified during recycling procedures will be hauled to an appropriate hazardous waste disposal site.

1.1 Potentially Hazardous Material

The facility will not accept any material that is not typical construction demolition material or general earth excavation.

General related waste, such as rebar from reinforced concrete or wood from foundation framing, may be encountered during processing of imported material. This waste will be segregated and hauled offsite to the local landfill for appropriate disposal. Waste material to be hauled offsite will be stored in a designated area in the Production Area and hauled to the local landfill at least once a week (See Site Map 1).

Potentially hazardous material from old construction, such as asbestos and lead, may be encountered during construction demolition. Therefore, all material brought to the site for recycling must be certified lead and asbestos free by the customer bringing the material in. Material will not be accepted without this certification. Each importing job will be required to supply certification prior to any trucks bringing material from said job into the facility. The source of the demolished concrete and/or asphalt will be documented. An example documentation form is attached in this section.

In the event that asbestos or lead materials are identified onsite after their import, said material will be separated from other import and high traffic areas. A licensed hazardous material disposal firm will be brought onsite to document and remove any asbestos or lead found onsite. All employees will be trained in the identification of asbestos and lead in accordance with US Occupational Health and Safety Administration (OSHA) standards.

EXHIBIT A

Material Recycling Description and Certification	
Customer Information	
Name:	Address:
Date & Time of Delivery:	
Phone number:	
Material Information	
Demolished material: <input type="checkbox"/> Other (name below)	Material Source: <input type="checkbox"/> Industrial
<input type="checkbox"/> Concrete	<input type="checkbox"/> Residential <input type="checkbox"/> Other (describe below)
<input type="checkbox"/> Asphalt	<input type="checkbox"/> Commercial
Material Source Name:	Material Source Address:
Material Source Age (approx.):	
Hazardous Material Presence	
1. Has asbestos been identified in any structures at the material source? Describe.	2. Has an asbestos inspection taken place?
3. If Yes to (1), has the material been segregated from known asbestos sources onsite? Describe.	4. Does the material contain any lead paints, sealants, treatments, or other possible lead sources?
5. Has any other hazardous material been identified at the material source? If Yes, describe.	
General Material Information	
Estimated Material Quantity:	
Customer Certification	
I certify that the above information is true, to the best of my knowledge. I also certify that I am knowledgeable of the quantity and quality material being delivered to Newby Aggregate Recycling.	
Form Completed By (Print Name)	Sign and Date
Newby Agg Recycling Certification of Receipt	
Name	Sign and Date

EXHIBIT A

2. Equipment

The following equipment is anticipated to be used onsite. Additional related equipment may be brought onsite if needed.

- Front-end loaders
- Bulldozers
- Haul trucks (off highway)
- Crusher and screener
- Stacking conveyors
- Office trailer
- Truck scale and scale house
- Portable asphalt plant (1)
- Portable concrete batch plant (1)
- Wash plant
- Water truck

The office trailer and plants will all be portable. The truck scale and scale house will have a concrete foundation. Asphalt and concrete plants will operate on independent schedules, and thus may operate simultaneously at times. All plants onsite will be operated by the operator only, not contractors. All portable plants may leave the site as needed to support operations in other areas (ex: asphalt plant may leave to supply a paving job somewhere else). Portable plants may be stored onsite during the off season in a dormant mode.

Maintenance vehicles will visit the site regularly to provide oil, grease, and perform other minor maintenance on vehicles and equipment. Any major repair work required will be performed off site. All chemicals needed for minor maintenance will be kept within the visiting maintenance truck and will not be stored onsite.

A water tank in compliance with the latest Uniform Fire Code in effect will be maintained in the Maintenance Area.

All trash will be stored in bear proof containers.

EXHIBIT A

3. Facilities

The location of all permanent facilities can be seen on Map 2. Potable water and toilet facilities will be located at the office. All wastewater facility designs can be seen on the LKP Engineering design in Appendix 5 of the Special Use Permit.

4. Site Regrading

The entire site will require regrading at the beginning of operations to establish the topography shown on Map 2. Prior to its use as a recycling operations, the site was a sand and gravel pit permitted with the State of Colorado. As part of the site preparation for the recycling facility, the final grading of slopes and re-establishment of vegetation will take place in the areas shown on the Landscaping Plan in Appendix 5 of the Special Use Permit.

5. Operational Time Frames

Newby Aggregate Recycling will operate from 7 am to 7 pm Monday through Friday, 8 am to 5 pm on Saturday, and be closed on Sunday and holidays. The operation will work throughout the year, if weather and water supply allow.

Nighttime activity will be restricted to emergency maintenance of the site or equipment. Any lighting needed for this activity will be minimal and downcast. Security lighting on the office trailer will be flush.

Upon the event that the operation ceases, reclamation of all disturbed ground will take place. Topsoil will be replaced to a depth of at least 12 inches and seeded. The seed mix can be seen on Map 8 – Reclamation Plan in Appendix 5 of the Special Use Permit.

6. Plant Maintenance

All plants at the Newby Recycling Facility will be maintained in accordance with manufacturer recommendations and schedules. Daily, weekly, and seasonal inspections will be conducted to ensure that all equipment and plants are in good working order. All plants will be operated under approved Colorado Department of Public Health and Environment issued air permits. These permits limit particulate matter (PM, PM2.5 & PM10), SO_x, NO_x, CO, and VOCs (volatile organic compounds).

EXHIBIT A

If complaints related to plant operations, such as nuisance odors or noises, are received by the operator, the operator will provide the concerned citizen with Eagle County Planning contact information: 970-328-8746 and comdev@eaglecounty.us

EXHIBIT A**IMPACT MANAGEMENT PLAN****1. General Impact Mitigation**

All impacts generated at Newby Aggregate Recycling will be confined to the Production Area and Storage Area. Both areas are roughly 40 feet below the grade of land to the south, including the railroad and highway US-6. This topographic difference will significantly screen the operation activities from neighbors to the south where most of the neighboring population is. Additionally, landscaping along the perimeter of the site will be designed and built to provide maximum practical screening of the operation.

Specific impacts and the operational controls and best management practices (BMPs) that will be used to address them are discussed in detail below.

2. Noise Control

A variety of best management practices will be employed to mitigate noise impacts. They include:

- Non-beeping back up alarms (ambient-controlled broadband)
 - Backing up by contractor vehicles not out fitted with these alarms will be minimized
- Containing all activity to the floors of the Production Area and Storage Area as much as possible
- Operation of processing plants limited to the hours of operation
- Haul trucks will not use J-brakes
- Processing in a fixed location behind screening landscaping
- Using an existing access point to US-6
- Periodic decibel measurements at the property line to ensure compliance with state and local limits
- Aggregate stockpiles or similar noise barrier should be maintained with heights of 20 feet tall (or at least 3 feet taller than the noise source they are blocking) and near the noise source.

EXHIBIT A

- Internal speed limit of 10 mph

In the event that equipment or activity generates nuisance noise in a manner that was unanticipated, such activity or equipment will be taken offline until it can be operated in a non- nuisance manner. The Facility Manager can be contacted by anyone in the area or at Eagle County that detects a nuisance noise.

Contractor equipment will be required to operate under the same constraints as that of the operator.

3. Dust Control

Fugitive dust is regulated by the CDPHE Air Pollution Control Division. Prior to operations, a fugitive dust permit shall be obtained from CDPHE. This permit will include limits on processing, disturbed area, haul distances, and other factors that all combine to affect fugitive dust generation. The operation of the facility below original grade and behind landscaping will limit the dust that can physically leave the site. In addition to the site plan (Map 2), the following best management practices will be in place for the operation:

- Recycling operations will only take place when dust control water is available
- Processing will be limited to the Processing Area
- Crushing and screening of material will be wet
- All disturbed ground will either be coated in magnesium chloride or watered four times a day
- Haul roads and area floor will be graveled once they have been constructed
- Product stockpiles will be maintained moist either from processing or from truck watering
- Internal haul routes in place for >90 days will be treated with magnesium chloride
- Product stockpiles will be treated an additional time with water and/or a binding agent such as magnesium chloride at the end of business each Saturday
- Product stockpiles will be “depeaked” to minimize the profile exposed to wind
- All areas outside of operational uses will be revegetated

EXHIBIT A

- Maintain a dust hotline for members of the Stakeholder Group. This will be a phone number that any member of the Stakeholder Group can call in the event that dust creates a visibility problem that needs immediate rectification. This number will always reach a person-in-charge at Newby Aggregate Recycling. Upon approval of the Special Use Permit, the Facility Manager shall distribute the hotline number to each member of the Stakeholder Group and to the Eagle County Community Development Director. Upon receipt of a call on the hotline, the Facility Manager, or his designee, will immediately investigate the complaint.
- In the event that any identified dust incident cannot be immediately rectified or satisfactorily controlled, the Facility Manager will immediately shut down the activity in that area until such incident is rectified or controlled in order to prevent further dust generation or dissemination.

If additional dust suppression is needed at any time, additional watering will take place. This will be determined by the Facility Manager. In the event of a dust "incident," the Facility Manager will determine if the incident can be corrected via additional controls (watering, magnesium chloride, etc.) or if operation shut down is needed.

The Facility Manager, and his/her designees will be responsible for maintaining a day-to-day, hour-by-hour sense of the conditions on site and their propensity to generate dust. As an example, if equipment traffic is concentrated in a specific area, the Facility Manager would instruct the water truck to spray this area first and foremost to prevent dust generation as much as possible. Similarly, the Facility Manager would be aware that high afternoon temperatures during the summer months dry out watered areas of the site faster and increase the likelihood of dust generation at that time of day. Therefore, the Facility Manager would task the water truck to spray active areas of the site additional times in the hot summer afternoon. It is in this flexible manner that the dust coming from the Newby Aggregate Recycling can and will be minimized.

In the event that water supply is interrupted or suspended to the point that there is not sufficient water for dust control, operations will be suspended until water supply is restored.

4. Visual Control

EXHIBIT A

The bulk of the site will not be visible to the south as the Production Area and Storage Area floors are roughly 40 feet below the ground level to the south. This can be seen on the cross sections on Map 4. Landscaping will be built along the south side of the operation to provide further visual mitigation. This will include landscaping as shown in detail on the Landscape Plan in Appendix 5 of the Special Use Permit. The goal of landscaping is to minimize the visibility of the operation on the whole. Some specific facilities, such as a portable hot mix asphalt plant, will be visible when onsite, as the tallest portion (~70 feet tall) of such a plant is too tall to obscure.

Vegetation along the Eagle River prevents visibility of the property from I-70.

5. Traffic Control

Traffic will travel via the existing property access to US-6. This access was built to accommodate the traffic of a busy gravel pit, and therefore will be more than sufficient for the proposed facility.

Additional operational practices to control traffic will include:

- Maintenance of signage and speed limits for truck traffic entering and leaving the frontage road
- Maintenance of a designated parking area away from stockpiles and internal traffic
- Usage of a designated maintenance area for all minor equipment maintenance such as greasing and refueling in the facilities area
- Tracking pads will be used at all entrances to the site to ensure sediment and mud control

6. Stormwater Control Plan

See the attached Plan.

EXHIBIT A**7. Water Consumption for the Operation**

Water consumption for Newby Aggregate Recycling will fall into three main categories as detailed below. Water supply for the operation will be by the water right on the CM Stremme Gates ditch. Additional water may be secured, and proof of that additional water supply will be provided to Eagle County as needed.

7.1 Control Dust on the Haul Roads and Excavation Areas

Water application for dust control will take place at least four times a day over all active or unfixed disturbed areas. Unfixed disturbed areas are areas such as the pile being actively recycled where the nature of activity prevents the use of magnesium chloride. Active stockpiles require additional watering to ensure material stays wet. Magnesium chloride will be used to control dust on disturbed areas such as fixed haul paths and inactive disturbed areas (ground beneath plants or stockpiles).

It is also assumed that additional watering will be needed during very dry windy conditions during operations. The Facility Manager will determine when and where this is needed during operations.

7.2 Crushing and Screening Plant Operations

The crushing/screening plant uses water to control dust with water sprays and on the screen deck. It will also have sprays at the entrance.

7.3 Wash Plant Operations

The wash plant will be used to remove fines from material to create washed rock for sale.

Wash plant water recycling will produce fines in the bottom of the wash ponds adjacent to the plant. These ponds will be inspected monthly for capacity. Fines will need to be removed periodically from the wash ponds. The frequency of this clean out will depend on production rates and how “dirty” the recycled material is at any time. Fines removed from the wash ponds via cleanout will be sold as product. These fines will never be placed outside of stormwater controls.

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8. Lighting Control

No operations will take place at night. Emergency site work may take place at night if needed to maintain environmental protection and site stability. All lighting for this activity will be downcast.

9. Spill Contingency Plan

The only hazardous materials that will be stored at Newby Aggregate Recycling will be fuels, typically diesel, maintenance oils, and dilute solvents for equipment cleaning. Fuel will be brought to the site by a mobile fueling truck. On site fuel storage needs will vary depending on the plants that are located on site at any one time. Mobile equipment will typically require at least a 2000-gallon diesel tank which will be located at the fuel farm location as identified on Map 2. Other plants will similarly have attached diesel tanks. Free standing tanks will all be located at the fuel farm located on Map 2. An inventory of tanks will be provided to Eagle County in each annual report.

All tanks will have secondary containment of at least 110% of the full tank capacity. All tanks onsite will either be double-walled or be contained within an open-air trough. All fuel and non-fuel tanks of potentially hazardous materials are regulated by the Environmental Protection Agency (EPA) under a Spill Prevention Containment and Control (SPCC) Plan. The SPCC Plan will be located in the office and employees will be trained to take the appropriate steps for inspections and spill response in case of a spill. All portable plants will have their own tanks built into the plant that have built-in secondary containment and are covered under their own portable plant SPCC Plans.

If any fuel spill occurs, the contaminated material will be removed from the site within 72 hours. Spill kits will be kept onsite. The County health department will be notified in the case of any toxic or hazardous substance, including spills of petroleum product in excess of 25 gallons. Final reclamation of the site will see the removal of all tanks. Each year's annual report will dictate the quality and status of all tanks, secondary containment, and spill kits.

Two primary hazardous material discharges (spill) situations exist at Newby Aggregate Recycling: a minor and a major. A minor spill is the most likely. This can be an overturned oil

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drum, a leak from a diesel line, or other similar discharge. In the event that such a spill is encountered, the flow chart below should be used as a guide.

A spill kit will be kept near all plants and hazardous material storage during the life of Newby Aggregate Recycling. These kits consist of sorbent materials, personal protective equipment, and a container for gathering and disposing of contaminated soil. The SPCC plan for the site will comprehensively address the size, quantity, and quality of the chemical storage onsite. These plans are administered by the Environmental Protection Agency (EPA) and will be available onsite for inspection at the request of any regulator. All employees will be trained according to the SPCC Plan and EPA guidelines for spill prevention, containment, and control.

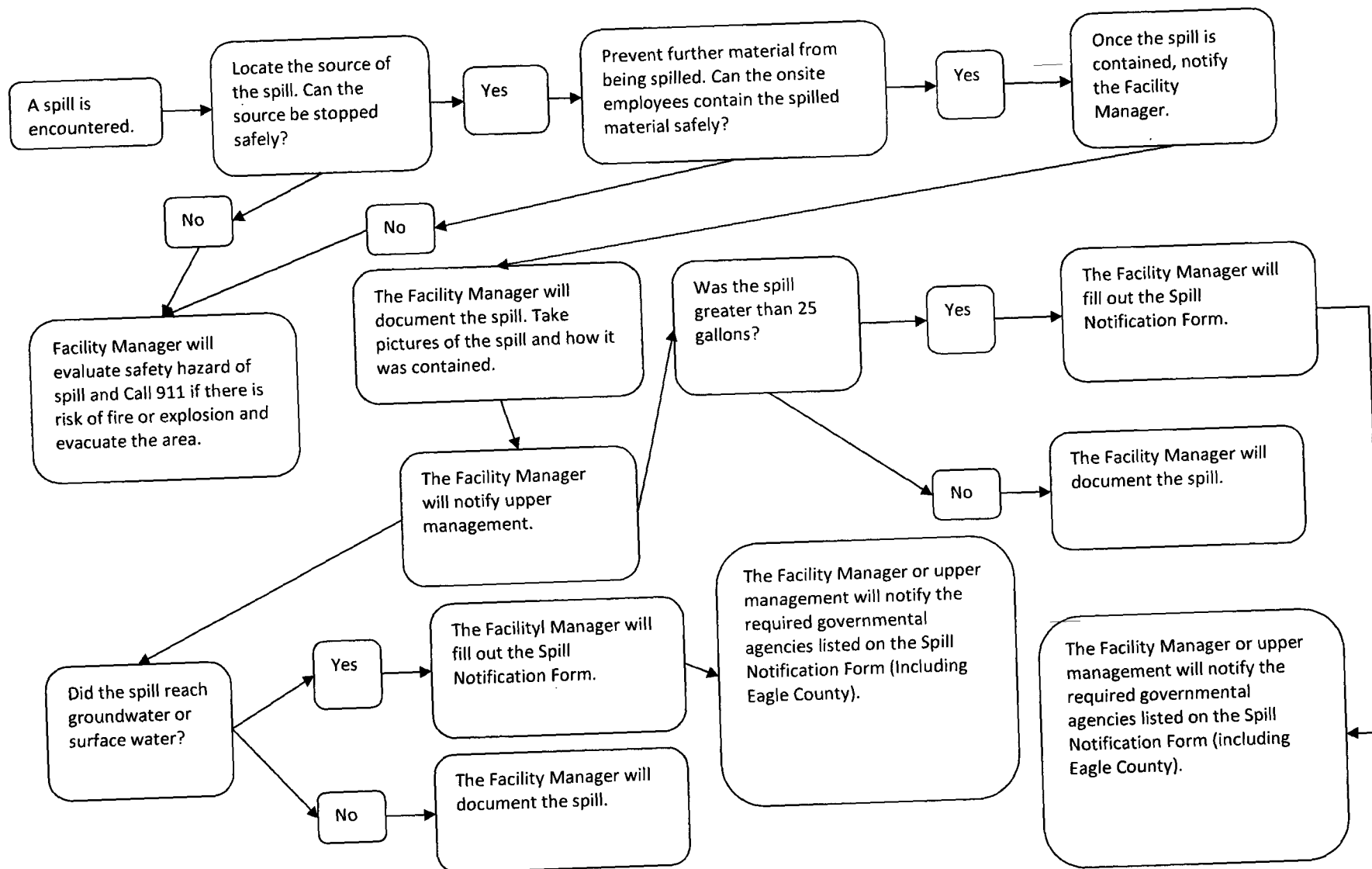
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Due to the secondary containment of the oil and fuel tanks on site, the possibility of a major discharge to the Eagle River is unlikely.

A “major” discharge is defined as one that cannot be safely controlled or cleaned up by facility personnel, such as when:

- The discharge is large enough to spread beyond the immediate discharge area;
- The discharged material enters local water;
- The discharge requires special equipment or training to clean up;
- The discharged material poses a hazard to human health or safety; or
- There is a danger of fire or explosion.

In the event of a major discharge from the site, the following guidelines apply:

- If there is a chance of an ignition or any other condition that would put the site personnel at risk, all workers must immediately evacuate the discharge site via the designated access road.
- If the Facility Manager is not present at the facility, the senior on-site person notifies the Facility Manager of the discharge and has authority to initiate notification and response. Certain notifications are dependent on the circumstances and type of discharge. For example, if oil reaches a sanitary sewer, the publicly owned treatment works (POTW) should be notified immediately. A discharge that threatens the Eagle River may require immediate notification to downstream users. The Facility Manager (or senior on-site person) must call for medical assistance if workers are injured.
- The Facility Manager (or senior on-site person) must notify the Fire Department or Police Department and Eagle County Environmental Health.
- The Facility Manager (or senior on-site person) must call the spill response and cleanup contractors listed in the Emergency Contacts list in this section.
- The Facility Manager (or senior on-site person) must immediately contact the CDPHE Colorado Office of Emergency Management (303-273-1778) and the National Response Center (888-424-8802).

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- The Facility Manager (or senior on-site person) must record the call on the Discharge Notification form in this section and attach a copy to this SPCC Plan.
- The Facility Manager (or senior on-site person) coordinates cleanup and obtains assistance from a cleanup contractor or other response organization as necessary. Immediate clean up and control of the spill will be completed within 72 hours of discovery, with long term clean up complete within 30 days. Additional long -term monitoring will be conducted as needed depending on the type and size of spill.

If the Facility Manager is not available at the time of the discharge, then the designated senior personnel onsite assumes responsibility for coordinating response activities.

9.1 Fuel Handling Practices

All fueling at the proposed facility will take place at the fuel farm. Refueling at the fuel farm will take place at a designated location adjacent to the fuel farm. This location will have an impermeable floor, such as concrete, that drains back to the secondary containment of the fuel farm. A spill kit will be maintained at the fuel farm.

9.2 Other Chemicals

All other chemicals used onsite will be stored in secondary containment with their appropriate equipment or plant. This includes any and all concrete dyes, concrete cement, asphalt tar, spare hydraulic fluids, and/or maintenance greases.

10. Slope Stability

Backfilled and graded portions of the site will be monitored by the operator for slope stability. All slopes will be graded to 3H:1V or less, which is known to be inherently stable in soils like those used in typical backfill. During stormwater inspections, personnel will visually check all backfilled slopes for signs of movement such as sloughing or sliding. Additionally, vegetation of said slopes will be visually checked for quality and consistency to prevent slope erosion.

EXHIBIT A**11. Vegetation Plan**

Vegetation will be maintained onsite in accordance with the Landscape Plan found in Appendix 5 of the Special Use Permit. This includes the planting and maintenance of shrubs, trees, and other plants identified in the Landscape Plan. The seed mix to be use in areas of general revegetation is identified below. This mix will also be used on all perimeter berms prior to the initiation of operations. Any vegetation that fails to be self-sustaining after two years will be replaced.

The following specifics shall be applied to all seeded areas within the site:

- Prior to planting or seeding, the irrigation system shall be fully in place and operational.
- All seed areas are to be lightly raked 1/4" into the soil after seeds have been evenly distributed per the specified seeding rate.
- Mulch all seed areas with 1" - 2" of certified weed free straw or hay, all straw areas are to be tackified with approved organic tackifier at the rate of 2000 lbs. / acre, or hydromulched.
- All disturbed slopes steeper than 3:1 shall be stabilized using hydromulch or another appropriate method.
- Soil preparation of all seed areas will include the following:
 - Loosening the soil to a minimum of 4" depth removing rocks over 2" in diameter, roots, sticks, debris and any other extraneous material.
 - Graded to a smooth, free draining even surface with a loose, moderately coarse texture. Remove ridges and fill depressions as required to drain.

Seed Mix

Species	Pounds Loose Seed Per Acre (Drill Seeding)
Smooth Brome	4.0
Ephraim Crested Wheatgrass	3.0
Barton Western Wheatgrass	4.0
Indian Ricegrass	3.5
Streambank Wheatgrass	3.5
Total	18

EXHIBIT A**PERMIT COMPLIANCE PLAN**

The following permits are necessary for the operation of Newby Aggregate Recycling. Also listed is the contact information for that regulator and what reporting requirements said permit has.

Permit and Agency	Contact Information	Reporting Requirements
Colorado Department of Public Health and Environment Fugitive Dust Permit	4300 Cherry Creek S Dr, Denver, CO 80246 PH: (303) 692-3100	Ongoing reporting of production and maintenance of dust suppression control logs
Eagle County Special Use Permit	500 Broadway St, Eagle, CO 81631 PH: (970) 328-8755	Copy of annual reclamation report
Town of Gypsum access permit	50 Lundgren Boulevard PO BOX 130 Gypsum, CO 81637 PH: (970) 524-7514	None