

March 16, 2022

Mr. Robert Zuber
Division of Reclamation, Mining, and Safety
1313 Sherman Street, Room 215
Denver, Colorado 80203

RE: Monarch Mountain Minerals and Aggregates, LLC. Monarch DENM Gravel Mine, File No. M-2022-009, Incomplete Submittal of 112 Construction Materials Reclamation Permit Application Package; Response

Dear Mr. Zuber:

This letter is being generated to address the Incompleteness letter dated March 15th, 2022 for the Monarch DENM Gravel Mine 112 Construction Materials Reclamation Permit Application Package. I have included a revised application form, the signed letter to the West Greeley Conservation District that was delivered February 24th, and the redacted lease agreement. I believe this addresses all of the points from your March 15th, 2022 letter.

Please feel free to contact me with any questions or concerns at Kyle@civilresources.com or my cell number 408-930-2544.

Regards,

CIVIL RESOURCES, LLC



Kyle Regan
Project Geologist

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5.3 Anticipated end use of incidental commoditie(s) to be mined: _____

6. **Name of owner of subsurface rights of affected land:** HS Land and Cattle, LLC
If 2 or more owners, "refer to Exhibit O".

7. **Name of owner of surface of affected land:** HS Land and Cattle, LLC

8. **Type of mining operation:** ☒ Surface ☐ Underground

9. **Location Information:** The center of the area where the majority of mining will occur:

COUNTY: Weld

PRINCIPAL MERIDIAN (check one): ☒ 6th (Colorado) ☐ 10th (New Mexico) ☐ Ute

SECTION (write number): S 19

TOWNSHIP (write number and check direction): T 4 ☒ North ☐ South

RANGE (write number and check direction): R 66 ☐ East ☒ West

QUARTER SECTION (check one): ☐ NE ☒ NW ☐ SE ☐ SW

QUARTER/QUARTER SECTION (check one): ☐ NE ☐ NW ☒ SE ☐ SW

GENERAL DESCRIPTION: (the number of miles and direction from the nearest town and the approximate elevation): Approximately 2 miles northwest of Gilcrest, elevation ~ 4754'

10. **Primary Mine Entrance Location** (report in either Latitude/Longitude **OR** UTM):

Latitude/Longitude:

Example: (N) 39° 44' 12.98"
(W) 104° 59' 3.87"

Latitude (N): deg 40 min 18 sec 15.77 (2 decimal places)

Longitude (W): deg 104 min 48 sec 40.22 (2 decimal places)

OR

Example: (N) 39.73691°
(W) -104.98449°

Latitude (N) _____ (5 decimal places)

Longitude(W) _____ (5 decimal places)

OR

Universal Transverse Mercator (UTM)

Example: 201336.3 E NAD27 Zone 13
4398351.2 N

UTM Datum (specify NAD27, NAD83 or WGS 84) Nad 83 Zone 13

Easting _____

Northing _____

11. **Correspondence Information:**

APPLICANT/OPERATOR (name, address, and phone of name to be used on permit)

Contact's Name: Eric Leigh Title: Mining Advisor
Company Name: Monarch Mountain Minerals and Aggregates, LLC.
Street/P.O. Box: 5 Concourse Pkwy Suite 1900 P.O. Box: _____
City: Atlanta
State: GA Zip Code: 30328
Telephone Number: (720) - 289-5584
Fax Number: () -

PERMITTING CONTACT (if different from applicant/operator above)

Contact's Name: Kyle Regan Title: Project Geologist
Company Name: Civil Resources, LLC
Street/P.O. Box: 8308 Colorado Blvd. Suite 200 P.O. Box: _____
City: Firestone
State: CO Zip Code: 80504
Telephone Number: (303) - 833-1416
Fax Number: () -

INSPECTION CONTACT

Contact's Name: Eric Leigh Title: Mining Advisor
Company Name: Monarch Mountain Minerals and Aggregates, LLC.
Street/P.O. Box: 5 Concourse Pkwy Suite 1900 P.O. Box: _____
City: Atlanta
State: GA Zip Code: 30328
Telephone Number: (720) - 289-5584
Fax Number: () -

CC: STATE OR FEDERAL LANDOWNER (if any)

Agency: _____
Street: _____
City: _____
State: _____ Zip Code: _____
Telephone Number: () -

CC: STATE OR FEDERAL LANDOWNER (if any)

Agency: _____
Street: _____
City: _____
State: _____ Zip Code: _____
Telephone Number: () -

12. **Primary future (Post-mining) land use (check one):**

- | | | |
|---|--|--|
| <input type="checkbox"/> Cropland(CR) | <input type="checkbox"/> Pastureland(PL) | <input type="checkbox"/> General Agriculture(GA) |
| <input type="checkbox"/> Rangeland(RL) | <input type="checkbox"/> Forestry(FR) | <input type="checkbox"/> Wildlife Habitat(WL) |
| <input type="checkbox"/> Residential(RS) | <input type="checkbox"/> Recreation(RC) | <input type="checkbox"/> Industrial/Commercial(IC) |
| <input checked="" type="checkbox"/> Developed Water Resources(WR) | | <input type="checkbox"/> Solid Waste Disposal(WD) |

13. **Primary present land use (check one):**

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Cropland(CR) | <input type="checkbox"/> Pastureland(PL) | <input type="checkbox"/> General Agriculture(GA) |
| <input type="checkbox"/> Rangeland(RL) | <input type="checkbox"/> Forestry(FR) | <input type="checkbox"/> Wildlife Habitat(WL) |
| <input type="checkbox"/> Residential(RS) | <input type="checkbox"/> Recreation(RC) | <input type="checkbox"/> Industrial/Commercial(IC) |
| <input type="checkbox"/> Developed Water Resources(WR) | | |

14. **Method of Mining:** Briefly explain mining method (e.g. truck/shovel):

Slurry wall lined dry mining with excavators, scrapers and front end loaders.

15. **On Site Processing:**



Crushing/Screening

13.1 Briefly explain mining method (e.g. truck/shovel):

Scrapers and excavators to dry mine, dredge to wet mine fresh water ponds and siltation pond.

List any designated chemicals or acid-producing materials to be used or stored within permit area:

Diesel, lubricants

16. **Description of Amendment or Conversion:**

If you are amending or converting an existing operation, provide a brief narrative describing the proposed change(s).

Maps and Exhibits:

Two (2) complete, unbound application packages must be submitted. One complete application package consists of a signed application form and the set of maps and exhibits referenced below as Exhibits A-S, Addendum 1, and the Geotechnical Stability Exhibit. Each exhibit within the application must be presented as a separate section. Begin each exhibit on a new page. Pages should be numbered consecutively for ease of reference. If separate documents are used as appendices, please reference these by name in the exhibit.


With each of the two (2) signed application forms, you must submit a corresponding set of the maps and exhibits as described in the following references to Rule 6.4, 6.5, and 1.6.2(1)(b):

EXHIBIT A	Legal Description
EXHIBIT B	Index Map
EXHIBIT C	Pre-Mining and Mining Plan Map(s) of Affected Lands
EXHIBIT D	Mining Plan
EXHIBIT E	Reclamation Plan
EXHIBIT F	Reclamation Plan Map
EXHIBIT G	Water Information
EXHIBIT H	Wildlife Information
EXHIBIT I	Soils Information
EXHIBIT J	Vegetation Information
EXHIBIT K	Climate Information
EXHIBIT L	Reclamation Costs
EXHIBIT M	Other Permits and Licenses
EXHIBIT N	Source of Legal Right-To-Enter
EXHIBIT O	Owners of Record of Affected Land (Surface Area) and Owners of Substance to be Mined
EXHIBIT P	Municipalities Within Two Miles
EXHIBIT Q	Proof of Mailing of Notices to County Commissioners and Conservation District
EXHIBIT R	Proof of Filing with County Clerk or Recorder
EXHIBIT S	Permanent Man-Made Structures
Rule 1.6.2(1)(b)	ADDENDUM 1 - Notice Requirements (sample enclosed)
Rule 6.5	Geotechnical Stability Exhibit (any required sections)

The instructions for preparing Exhibits A-S, Addendum 1, and Geotechnical Stability Exhibit are specified under Rule 6.4 and 6.5 and Rule 1.6.2(1)(b) of the Rules and Regulations. If you have any questions on preparing the Exhibits or content of the information required, or would like to schedule a pre-application meeting you may contact the Office at 303-866-3567.

Responsibilities as a Permittee:

Upon application approval and permit issuance, this application becomes a legally binding document. Therefore, there are a number of important requirements which you, as a permittee, should fully understand. These requirements are listed below. Please read and initial each requirement, in the space provided, to acknowledge that you understand your obligations. If you do not understand these obligations then please contact this Office for a full explanation.

-  1. Your obligation to reclaim the site is not limited to the amount of the financial warranty. You assume legal liability for all reasonable expenses which the Board or the Office may incur to reclaim the affected lands associated with your mining operation in the event your permit is revoked and financial warranty is forfeited;

RL 2. The Board may suspend or revoke this permit, or assess a civil penalty, upon a finding that the permittee violated the terms or conditions of this permit, the Act, the Mineral Rules and Regulations, or that information contained in the application or your permit misrepresent important material facts;

RL 3. If your mining and reclamation operations affect areas beyond the boundaries of an approved permit boundary, substantial civil penalties, to you as permittee can result;

RL 4. Any modification to the approved mining and reclamation plan from those described in your approved application requires you to submit a permit modification and obtain approval from the Board or Office;

RL 5. It is your responsibility to notify the Office of any changes in your address or phone number;

RL 6. Upon permit issuance and prior to beginning on-site mining activity, you must post a sign at the entrance of the mine site, which shall be clearly visible from the access road, with the following information (Rule 3.1.12):

- a. the name of the operator;
- b. a statement that a reclamation permit for the operation has been issued by the Colorado Mined Land Reclamation Board; and,
- c. the permit number.

RL 7. The boundaries of the permit boundary area must be marked by monuments or other markers that are clearly visible and adequate to delineate such boundaries prior to site disturbance.

RL 8. It is a provision of this permit that the operations will be conducted in accordance with the terms and conditions listed in your application, as well as with the provisions of the Act and the Construction Material Rules and Regulations in effect at the time the permit is issued.

RL 9. Annually, on the anniversary date of permit issuance, you must submit an annual fee as specified by Statute, and an annual report which includes a map describing the acreage affected and the acreage reclaimed to date (if there are changes from the previous year), any monitoring required by the Reclamation Plan to be submitted annually on the anniversary date of the permit approval. Annual fees are for the previous year a permit is held. For example, a permit with the anniversary date of July 1, 1995, the annual fee is for the period of July 1, 1994 through June 30, 1995. Failure to submit your annual fee and report by the permit anniversary date may result in a civil penalty, revocation of your permit, and forfeiture of your financial warranty. It is your responsibility, as the permittee, to continue to pay your annual fee to the Office until the Board releases you from your total reclamation responsibility.

 10. For joint venture/partnership operators: the signing representative is authorized to sign this document and a power of attorney (provided by the partner(s)) authorizing the signature of the representative is attached to this application.

NOTE TO COMMENTORS/OBJECTORS:

It is likely there will be additions, changes, and deletions to this document prior to final decision by the Office. Therefore, if you have any comments or concerns you must contact the applicant or the Office prior to the decision date so that you will know what changes may have been made to the application document.

The Office is not allowed to consider comments, unless they are written, and received prior to the end of the public comment period. You should contact the applicant for the final date of the public comment period.

If you have questions about the Mined Land Reclamation Board and Office's review and decision or appeals process, you may contact the Office at (303) 866-3567.

Certification:

As an authorized representative of the applicant, I hereby certify that the operation described has met the minimum requirements of the following terms and conditions:

1. To the best of my knowledge, all significant, valuable and permanent man-made structure(s) in existence at the time this application is filed, and located within 200 feet of the proposed affected area have been identified in this application (Section 34-32.5-115(4)(e), C.R.S.).
2. No mining operation will be located on lands where such operations are prohibited by law (Section 34-32.5-115(4)(f), C.R.S.);
3. As the applicant/operator, I do not have any extraction/exploration operations in the State of Colorado currently in violation of the provisions of the Colorado Land Reclamation Act for the Extraction of Construction Materials (Section 34-32.5-120, C.R.S.) as determined through a Board finding.
4. I understand that statements in the application are being made under penalty of perjury and that false statements made herein are punishable as a Class 1 misdemeanor pursuant to Section 18-8-503, C.R.S.

This form has been approved by the Mined Land Reclamation Board pursuant to section 34-32.5-112, C.R.S., of the Colorado Land Reclamation Act for the Extraction of Construction Materials. Any alteration or modification of this form shall result in voiding any permit issued on the altered or modified form and subject the operator to cease and desist orders and civil penalties for operating without a permit pursuant to section 34-32.5-123, C.R.S.

Signed and dated this 15TH day of MARCH, 2022.

MONARCH MOUNTAIN MINERALS AND AGGREGATES
Applicant/Operator or Company Name

If Corporation Attest (Seal) No Seal

Signed: [Signature]

Signed: _____

Corporate Secretary or Equivalent

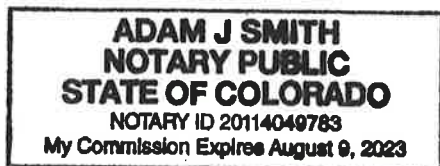
Title: MINING ADVISOR

Town/City/County Clerk

State of COLORADO)

County of WELD) ss.

The foregoing instrument was acknowledged before me this 15TH day of MARCH, 2022, by ERIC LEIGH as MINING ADVISOR of MONARCH MOUNTAIN MINERALS AND AGGREGATES, LLC.



[Signature]
Notary Public

My Commission expires: 8/9/2023

SIGNATURES MUST BE IN BLUE INK

You must post sufficient Notices at the location of the proposed mine site to clearly identify the site as the location of a

February 24, 2022

VIA: Certified Mail/Hand Delivered

West Greeley Conservation District
4302 W 9th St.
Greeley, CO 80634

RE: MLRB (112) Operation Reclamation Permit Application, Weld County, Colorado; Monarch DENM Gravel Mine

To Whom it May Concern:

Monarch Mountain Minerals and Aggregates, LLC. is applying for a MLRB permit amendment to mine sand at the project site. The site is located on the west side of Highway 60 about one half mile west of the Town Of Gilcrest. More specifically, the site is within parts of Sections 18, 19 and 30, Township 4 North, Range 66 West of the 6th Principal Meridian. The mine is in an area of irrigated agricultural land with common oil and gas wells and related infrastructure and is west of Highway 60, north of Weld County Road 40, and bounded on the north and east by the South Platte River.

As required by the DRMS regulations, we have enclosed the following information for your review:

- Construction Material Regular (112) Operation Reclamation Permit application form
- Exhibit B Index Map
- Exhibit C Pre-Mining Plan Map
- Exhibit D Mining Plan
- Exhibit E Reclamation Plan
- Exhibit F Reclamation Plan Map
- Exhibit I Soils Information
- Exhibit J Vegetation Information

If you have any questions, please feel free to contact me at my cell 408-930-2544 or email me at Kyle@civilresources.com.

Sincerely,

CIVIL RESOURCES, LLC



Kyle Regan
Project Geologist

J:\Quikrete - 282\Monarch DENM\DRMS\Notices\Soil Conservation Dists\NOTICE Ctr Platte Valley SCS-Section 20.doc

 Received 2/24/22

LEASE AGREEMENT

This **LEASE AGREEMENT** (this "**Lease**") is made as of August 26, 2021 (the "**Effective Date**"), by and between **HS LAND AND CATTLE, LLC**, a Colorado limited liability company ("**Landlord**"), and **MONARCH MOUNTAIN MINERALS & AGGREGATES, LLC**, a Georgia limited liability company ("**Tenant**").

RECITALS

WHEREAS, Landlord owns the surface and mineral estates in and to an approximately 712 acres of real property located in Weld County, CO, which is more particularly shown and described on **Exhibit "A"** attached hereto, together with all mineral rights on and beneath the real property, all rights to all other substances on and beneath the real property, all roads, all rights and easements appurtenant to or benefiting the real property and all other appurtenances thereto (the "**Property**"), but excluding any water rights, buildings and other improvements thereof; and

WHEREAS, Tenant desires to lease from Landlord the Property, for the purposes and on the terms and conditions set forth herein, but primarily for mining, exploration, development and production of sand, gravel, rock and other quarry products from and under the Property (the "**Materials**"), but excluding natural gas, petroleum, gold and precious minerals. Gold and precious minerals will be addressed under a separate agreement, if at all.

NOW, THEREFORE, in consideration of the foregoing, the parties do hereby agree as follows:

1. **Lease.** Subject to the terms, provisions and conditions hereof, Landlord does hereby lease and rent exclusively unto Tenant, and Tenant does hereby lease and rent from Landlord, the Property. [REDACTED]

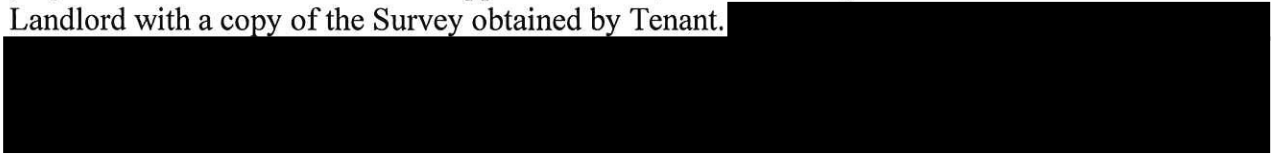
2. **Permitting; Due Diligence.** In addition to any other conditions contained in this Lease, Tenant's obligations under this Lease are subject to and conditioned upon the satisfaction (or waiver by Tenant) of the following conditions precedent:

(a) For a period of [REDACTED] from and after the Effective Date (the "**Permitting Period**"), Tenant intends, at Tenant's sole cost and expense, to take such action as may be necessary to obtain all licenses, permits and other approvals necessary for Tenant to conduct its operations as contemplated in this Lease. Tenant may extend the Permitting Period by [REDACTED] provided Tenant provides written notice to Landlord not later than 30 days prior to the expiration of the Permitting Period (or any extension thereof). Landlord agrees, at no cost to Landlord, to reasonably cooperate with Tenant in order for Tenant to obtain such license, permits and approvals.

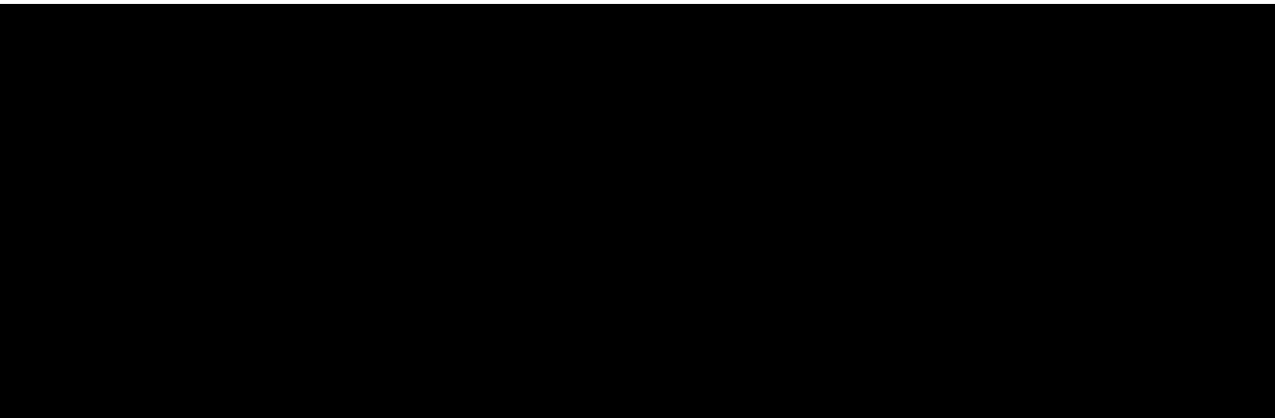
(b) During the Permitting Period, Tenant may, at Tenant's sole cost and expense, obtain a title commitment issued by a national title insurance company reasonably

acceptable to Tenant, showing that, as of the Effective Date, Landlord holds fee simple title to the Property and the Materials, together with legible and complete copies of all recorded documents referenced therein (collectively, the “**Title Commitment**”). In the event Tenant desires to obtain a leasehold title insurance policy based on the Title Commitment, Tenant shall be responsible for the payment of the title insurance premium therefor and Landlord agrees to execute such affidavits and other documents as may be required by such title company as a condition to its issuance of the leasehold title insurance policy. Tenant shall furnish Landlord with copies of any Title Commitment or title policy obtained by Tenant.

(c) During the Permitting Period, Tenant shall, at Tenant’s sole cost and expense, obtain a boundary survey prepared by a licensed land surveyor reasonably acceptable to Tenant (the “**Survey**”) showing the boundary lines of the Property. The Survey shall otherwise be prepared in accordance with all applicable laws, rules and regulations. Tenant shall furnish Landlord with a copy of the Survey obtained by Tenant.



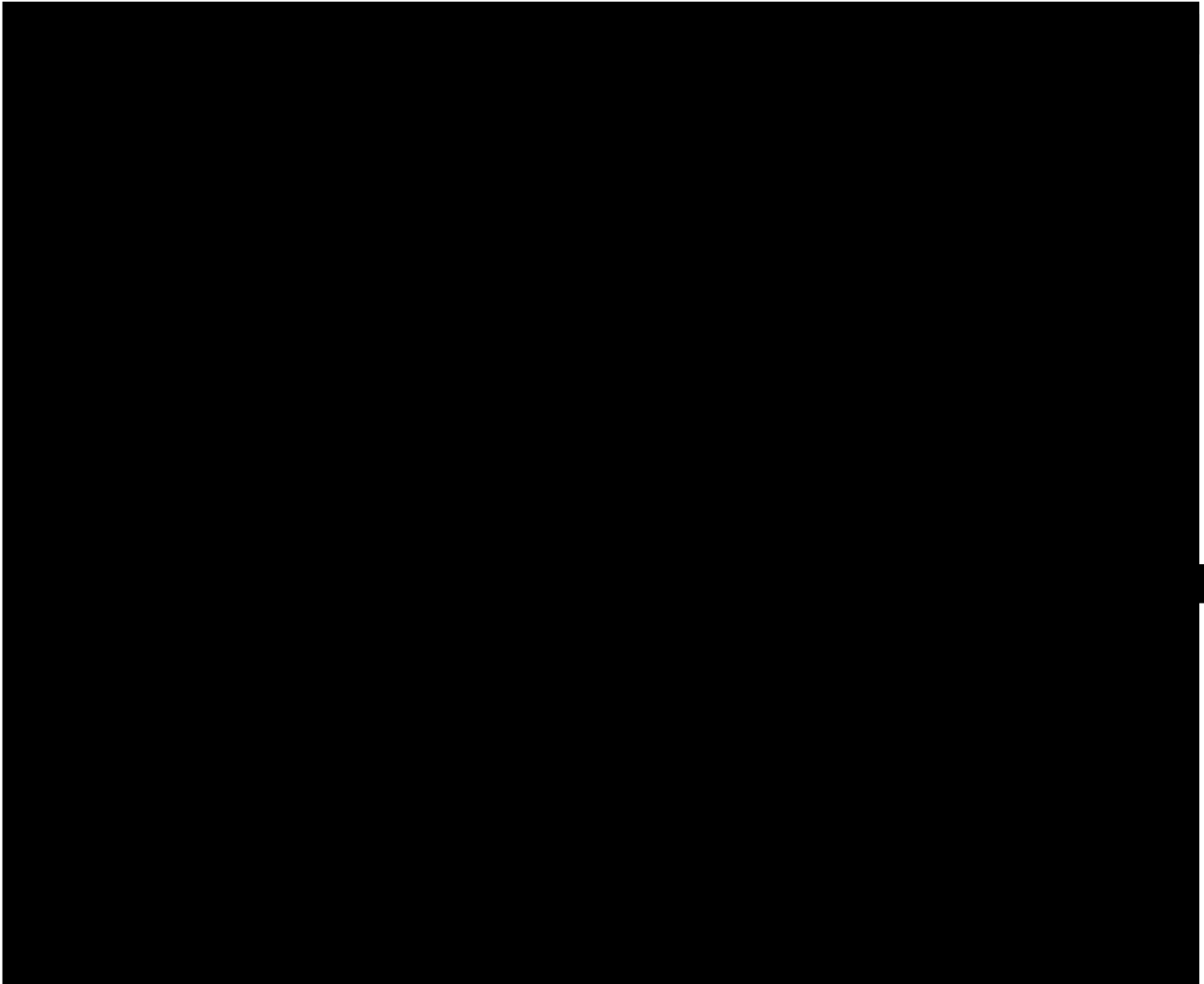
(d) Tenant shall have the privilege during the existence of the Permitting Period of entering the Property with Tenant’s agents, representatives or designees to inspect, examine, survey and undertake all engineering, environmental, or other tests which it may deem necessary or advisable. Landlord shall in no way be liable or responsible for any activities of Tenant within the Property, and Tenant shall do nothing which might create any lien or encumbrance upon the Property. Should anyone attempt to file a lien against the Property by reason of Tenant’s activities, Tenant shall have the same canceled and discharged of record within ten (10) days after Tenant is first notified of the filing thereof. Tenant hereby indemnifies and agrees to hold Landlord harmless from and against any and all liens which may arise as a result of Tenant’s activities within the Property and against any and all claims for death or injury to persons or damage to properties arising out of or as a result of Tenant’s going into the Property pursuant to the provisions of this Section 2(d) or otherwise. This indemnity shall survive any termination of this Lease. Tenant agrees to furnish to Landlord with the results of any testing conducted on the Property by Tenant pursuant to this Section 2(d).

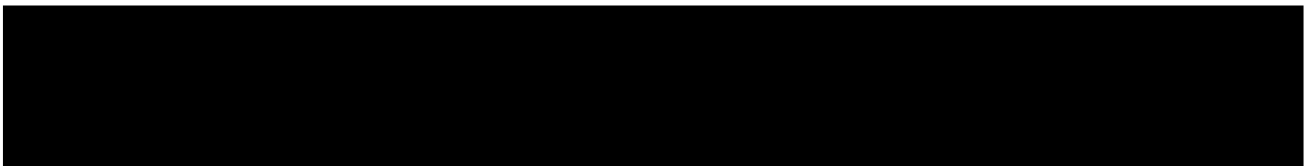
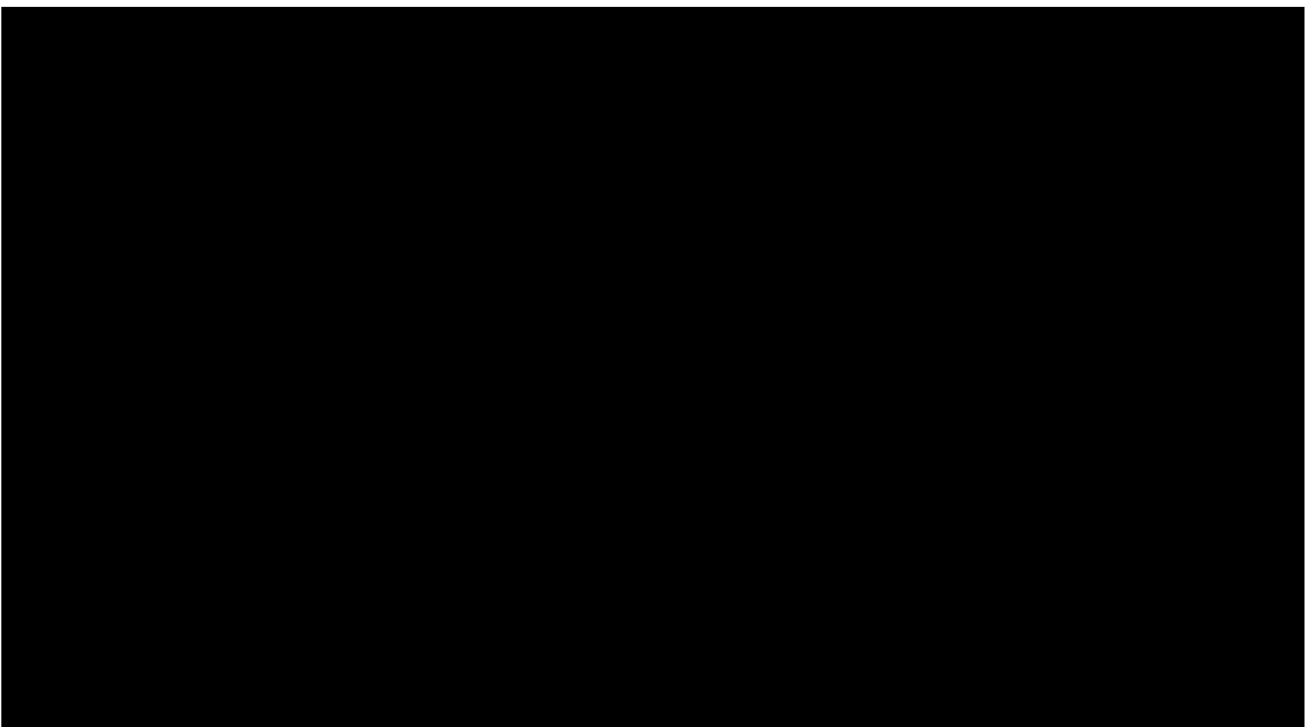
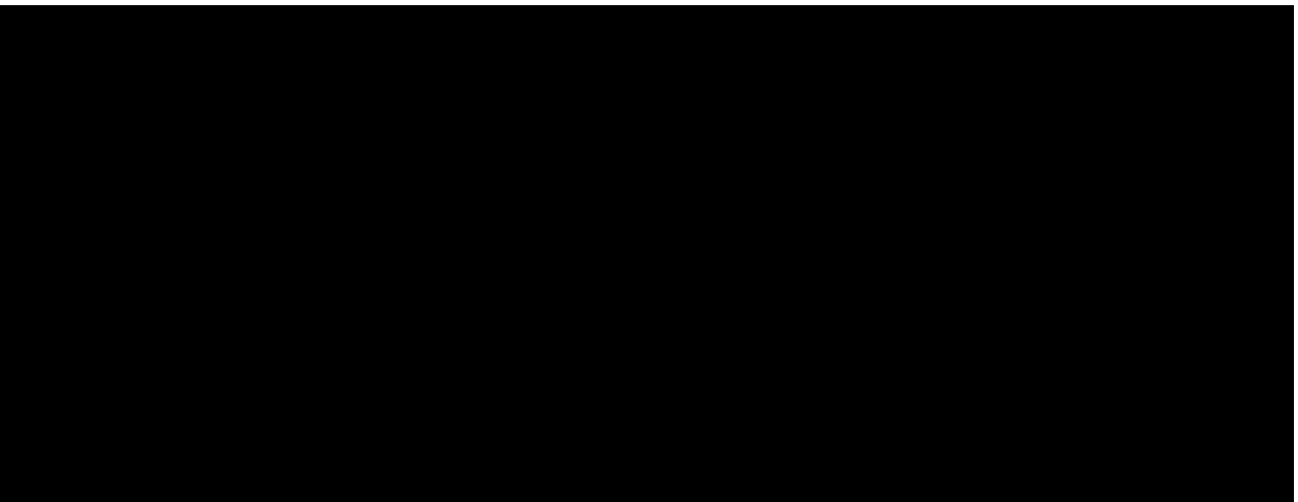


3. **Term.** Provided Tenant has not provided a Termination Notice, the Lease term shall commence on the next calendar day after the last day of the Permitting Period (or such earlier

date as Tenant notify Landlord in writing) (the “**Commencement Date**”) and shall terminate ten (10) years from the Commencement Date (the “**Initial Term**”). Notwithstanding the foregoing, if during the Term, Tenant determines, in the exercise of its reasonable business judgment, that Materials can no longer be economically extracted and removed from the Property, then Tenant may, upon thirty (30) days written notice to Landlord, terminate this Lease. Provided that no Event of Default has occurred and is then continuing, Tenant shall have four (4) option(s) (each, a “**Renewal Option**”) to renew this Lease for additional terms of ten (10) year terms each (each, a “**Renewal Term**”) by giving written notice to Landlord no later than sixty (60) days prior to the expiration of the Initial Term or the Renewal Term, as applicable. Upon Tenant’s exercise of any Renewal Option in accordance with the terms hereof, the Term of the Lease shall be extended on the same terms and conditions as set forth herein, except that upon the exercise of a Renewal Option, the number of Renewal Options remaining shall be reduced accordingly. As used herein, the “**Term**” of this Lease shall mean the Initial Term and any Renewal Term(s) exercised in accordance with this Section 3.

4. **Rent; Other Payments.** Tenant covenants and agrees to pay Landlord the following payments for use of the Property:

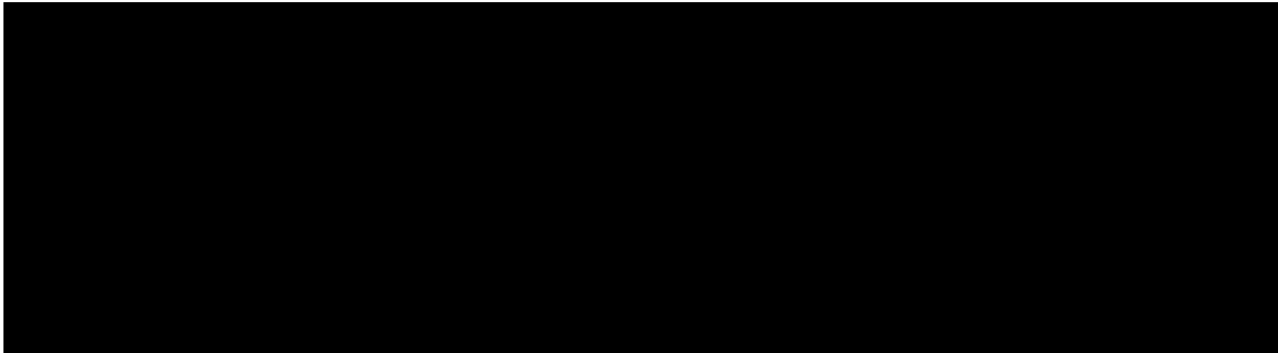




(g) The Monthly Rent or Delayed Royalty, as applicable, shall be payable in arrears on the fifteenth (15th) business day of each calendar month. All rent payable hereunder shall be prorated on a daily basis for any partial month during the Term. Tenant shall keep written records of the amounts of Materials extracted and removed from the Property and such records shall be made available to Landlord upon its reasonable request for the purpose of verifying such amounts. Tenant shall have title to the Materials once they are extracted from the Property.

(h) Any amount due to Landlord hereunder which is not paid on the due date thereof shall bear interest at a per annum rate equal to ten percent (10%) for the period commencing from the due date to, but not including, the date on which such amount is paid.

5. **Taxes.** Landlord hereby agrees to pay all ad valorem or other real estate taxes imposed, levied or assessed against the Property arising during the period before the Term hereof, and Landlord represents and warrants that any and all such taxes due and owing on or prior to the Effective Date have been paid in full. Tenant hereby agrees to pay all ad valorem or other real estate taxes imposed, levied or assessed against the Property (excluding any improvements (other than Tenant Improvements)) arising during the Term hereof. Tenant hereby also agrees to pay, as additional rent, all taxes, assessments and governmental impositions which are imposed, levied or assessed against any personal property, machinery or equipment situated in, on or about the Property which belongs to Tenant or to any subtenant or other party lawfully claiming by through or under Tenant. In addition, Tenant shall pay any taxes or assessments due on the Materials extracted by Tenant. All such taxes, assessments and governmental impositions shall be paid prior to delinquency or the date penalties accrue thereon. If either party fails to pay such amounts timely, the other party may (but shall not be obligated to) pay any such amounts on the defaulting parties behalf, in which event the entire amount so paid shall be due and payable on demand from the defaulting party to the party which paid such amounts, together with interest at a per annum rate equal to twelve percent (12%) until repaid.



7. **Utilities.** Tenant hereby agrees to pay, directly to the utilities company furnishing same, all charges for or attributable to electric, gas and water utilized by Tenant on the Property during the Term. Landlord hereby represents and warrants that all utilities required for the mining of Materials from the Property in the manner currently or most recently mined enter the Property from adjoining public streets or by way of valid and transferrable private easements, and all utility lines and facilities are installed and operating, and all installation and connection charges have been paid in full.

8. **Indemnity.** Tenant hereby agrees to defend, indemnify and hold harmless Landlord from any and all claims, suits, actions, losses, liabilities, expenses and damages (including but not limited to reasonable attorneys' fees) ("**Claims**") for injury to or death of any person, or for damage to any property, to the extent resulting from or arising out of any negligent act or omission of Tenant or Tenant's contractors, employees or invitees occurring during the Term on or about the Property; provided Tenant shall have no obligations under this Section 8 with respect to (a) Claims to the extent arising from the negligence or more culpable conduct of

Landlord or any person or entity acting by, through or under Landlord, (b) Claims to the extent arising from events or circumstances existing or occurring prior to the Commencement Date, or (c) Claims settled by Landlord without the prior written consent of Tenant. The indemnification provisions in this Section 8 shall survive the expiration of this Lease.

9. **Hazardous Materials.**

(a) Tenant shall abide by all Federal, state and local statutes, ordinances, codes and regulations, now existing or hereinafter enacted (collectively, "**Hazardous Materials Laws**") governing the use, handling, depositing or disposal of hazardous or toxic substances (collectively, "**Hazardous Materials**") during the Term. Landlord (i) represents and warrants that the Property is in compliance with all Hazardous Materials Laws as of the Effective Date, and (ii) shall be solely responsible for remediating any Hazardous Materials as may exist on the Property as of the Effective Date hereof.

(b) Tenant shall indemnify, defend and hold harmless Landlord from and against any and all Claims to the extent arising out of the use, handling, depositing or disposal of Hazardous Materials on the Property during the Term, such indemnity to include all costs, expenses and liabilities associated with the remediation thereof or incurred in connection with each Claim with respect thereto, including, without limitation, reasonable attorney's fees and expenses. The indemnity of Tenant contained in this Section 9(b) shall survive the termination of this Lease.

10. **Maintenance.** During the Term, Tenant hereby agrees to maintain the Property and the Tenant Improvements (as hereinafter defined) in accordance with applicable laws and to make all repairs and replacements necessitated from the use and occupancy by Tenant of the Property for purposes of maintaining the Property in compliance with such applicable laws. During the Term, Tenant shall at all times keep and maintain the Property in a clean, orderly and sanitary condition and shall ensure its use of the Property is in compliance with applicable environmental rules and regulations. Safe and proper storage of all mined materials must be provided by Tenant.

11. **Net Lease.** It is intended that the Monthly Rent and other amounts payable hereunder by Tenant will be paid by Tenant and will be received by Landlord without any deduction, abatement, setoff, claim or counterclaim whatsoever by Tenant except as otherwise expressly permitted under this Lease. Tenant shall be responsible for all severance or other taxes related to its mining, production, and sales operations.

12. **Use.**

(a) During the Term, Tenant and any permitted subtenant shall have all rights and privileges incident to ownership of the Property, including without limitation, the right to explore, develop, and mine the Property; to remove, crush, screen, and process Materials from the Property; to store the Materials on the Property; to manufacture, sell and distribute products made from the Materials; to sell or otherwise dispose of Materials from the Property; to place dirt, overburden and other materials upon the Property; and the unrestricted right of ingress and egress at all times to the Property, pursuant to all of the terms of this Lease. In furtherance thereof, Tenant shall have the right to erect or have others erect, operate and maintain on the Property plants, buildings, fixtures and/or attachments necessary or convenient to the operations carried on by

Tenant on the Property; the right to install, operate and maintain on the Property power lines, poles, guy wires, water lines and other similar installations necessary or convenient to the operations carried on by Tenant on the Property and/or on other adjoining property leased or owned by Tenant; and the right to go in and out freely from the Property and/or other adjoining property leased or owned by Tenant, including the right to widen and improve existing roads and construct new roads, through and over the Property, in the manner that is most convenient for the operations of Tenant on the Property and/or on other adjoining property leased or owned by Tenant (collectively, the "**Tenant Improvements**").

[REDACTED]

[REDACTED] The Tenant Improvements shall be constructed in compliance, in all material respects, with all applicable laws, permits and ordinances. The Tenant Improvements (excluding, for clarification purposes, any mobile and movable plants, buildings and equipment) shall become fixtures on the Property and shall remain with the Property at the termination of this Lease, unless Landlord advises Tenant to remove all or part of such Tenant Improvements, in which case, Tenant shall then do so at its expense on or before the expiration of earlier termination of this Lease.

(b) Tenant may install, maintain, replace, and remove during the Term of this Lease any and all machinery, equipment, tools, and facilities which it may desire to use in connection with its activities on the Property and/or on adjoining property owned or leased by Tenant.

[REDACTED]

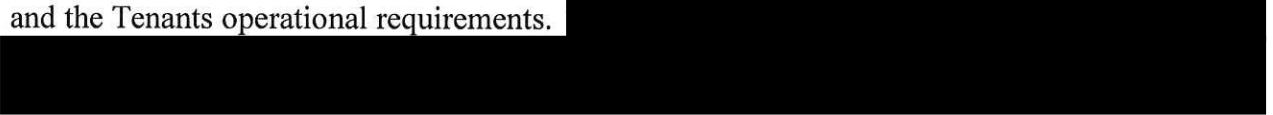
(c) Tenant shall acquire all federal, state and county permits required for its operations on the Property, as well as any required performance, reclamation or other bonds necessary to perform its operations. Landlord agrees, at no cost to Landlord, to reasonably cooperate with Tenant in order for Tenant to obtain such permits. Unless the same are transferred to Tenant, Landlord agrees to take any and all actions as may be necessary to maintain any water and water well rights and permits in full force and effect for the entire Term of this Lease.

[REDACTED]

13. **Activities of Tenant.** Tenant shall comply, in all material respects, with all applicable laws, rules and regulations of the United States and the State of Colorado relating to its use, occupancy and operations on the Property. Tenant shall not use, occupy or permit to be used

or occupied any portion of the Property for any purpose that is illegal. All development and activities of Tenant shall be conducted in such a manner as to prevent the pollution of potable or fresh water and the damage to the portion of the Property where there are no mining operations. Tenant agrees to conduct all operations in such a manner as is consistent with good mining practices.

14. **Reclamation.** Upon the expiration or earlier termination of this Lease, Tenant shall reclaim the portion of the Property disturbed by Tenant pursuant to this Lease in material compliance with all applicable laws and in material compliance with any reclamation plan entered into by Tenant. The mined areas will be reclaimed for future use as water storage vessels, either by use of slurry wall, clay liner, or other acceptable method, as feasible based on site conditions and the Tenants operational requirements.



15. **Assignment and Sublease.** Except as otherwise expressly set forth below, Tenant shall not assign or sublease the Property without the consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding any other provision contained in this Lease to the contrary, Tenant may transfer its interest in this Lease or sublet all or a part of the Property to the following types of entities without the written consent of Landlord; provided, that Tenant shall have provided at least 90 days' prior written notice to Landlord, Tenant shall have obtained any required consents of applicable governmental authorities and any such assignment or sublease must be in compliance with Colorado law, including regulatory approval and the requirements of C.R.S. 34-32.5-119:

(a) any affiliate of Tenant; provided, Tenant shall remain jointly liable with any such entity under this Lease;

(b) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity in which or with which Tenant, or its corporate successors or assigns, is merged or consolidated, in accordance with applicable statutory provisions governing merger and consolidation of business entities; or

(c) any corporation, limited partnership, limited liability partnership, limited liability company or other business entity acquiring all or substantially all of Tenant's assets.

16. **Tenant's Default.**



17. Landlord's Remedies.

18. Landlord's Default. Landlord agrees that Tenant shall have the right in the event of default by Landlord to make payments on an encumbrance on the Property or obligations to pay taxes that directly threaten Tenant's possession of the Property. In the event Tenant makes such payments, Tenant may elect to offset such payments against sums due Landlord under this Lease. Notice of any Landlord default and opportunity to cure of not less than 90 days must be provided by Tenant to Landlord before Tenant may exercise any other rights and remedies as to any such claimed default.

19. Dispute Resolution. Landlord and Tenant agree that if a dispute arises between Landlord and Tenant in respect of this Lease (excluding failure to make payments when due):

(a) Landlord and Tenant shall first attempt to resolve said dispute through discussions among responsible representatives of Landlord and Tenant, each acting reasonably and in good faith;

(b) failing resolution of such dispute pursuant to Section 19(a) within 30 days of the commencement of such discussions, the Parties shall submit such dispute to an experienced mediator reasonably acceptable to Landlord and Tenant. The costs of any such mediation shall be shared equally by Landlord and Tenant; and

(c) failing resolution of such dispute pursuant to Section 19(b) within 120 days of the commencement of such discussions contemplated by Section 19(a), either Landlord or Tenant may proceed with a civil lawsuit in the courts described in Section 24.

20. **Condition of the Property.** TENANT ACKNOWLEDGES AND AGREES, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS LEASE, THAT LANDLORD MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE PROPERTY AND THAT LANDLORD SHALL NOT BE REQUIRED TO MAKE ANY REPAIRS, ALTERATIONS, ADDITIONS OR IMPROVEMENTS IN OR TO THE PROPERTY. TENANT IS LEASING AND ACCEPTS THE PROPERTY "AS IS", WITH ALL FAULTS AND DEFECTS, KNOWN OR UNKNOWN, LATENT OR PATENT, WITHOUT ANY REPRESENTATION OR WARRANTY, ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY, MERCHANTABILITY, SUITABILITY OR QUALITY, AND IN SOLE RELIANCE ON TENANT'S OWN INDEPENDENT INSPECTION, INQUIRY AND/OR INVESTIGATION.

21. **Notices.** All notices required or permitted hereunder shall be in writing and shall be given by depositing the same in the United States mail, certified, return receipt requested, or by recognized overnight delivery service, or by delivering same in person. For purposes of a notice the addresses of Landlord and Tenant are as follows:

Landlord:

HS Land & Cattle, LLC
P.O. Box 366
Gilcrest, Colorado 80623-0366

Tenant:

Monarch Mountain Minerals & Aggregates, LLC
Five Concourse Parkway
Suite 1900
Atlanta, GA 30328-6111
Attn: Legal Department

Notices so mailed shall be effective from and after three business days after being mailed certified mail, return receipt requested, or upon receipt from overnight delivery or hand delivery. Landlord and Tenant may change their respective addresses for notice by giving not less than five (5) days prior written notice thereof in the manner set forth above.

22. **Successors and Assigns.** This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

23. **Miscellaneous.** This Lease constitutes the entire agreement between Landlord and Tenant with respect to the subject matters of this Agreement and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter. This Agreement may be amended only by a written document duly executed by both parties. Fax and electronically transmitted signatures shall have the same force and effect as original signatures. Each party

represents and warrants to the other party that the individual signing this Lease on behalf of such party has the full authority to execute this Lease on behalf of the party on whose behalf he or she so signs, that he or she is acting within the scope of such authority, and that this Lease is binding upon such party.

24. **Governing Law; Venue, Waiver of Jury Trial; and Severability.** This Lease shall be governed by and construed in accordance with the laws of the State of Colorado. Each party hereby expressly consents to personal jurisdiction in the state courts located in Weld County, Colorado and the federal courts located in Denver County, Colorado for any lawsuit arising from or relating to this Agreement. EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES (TO THE EXTENT PERMITTED BY APPLICABLE LAW) ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING UNDER OR RELATING IN ANY WAY TO THIS AGREEMENT AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY. If any provision of this Lease is invalid or unenforceable, the remainder of this Lease shall not be affected thereby but rather shall remain in full force and effect.

25. **Quiet Enjoyment.** Landlord hereby covenants with Tenant (a) that, provided no Event of Default has occurred and is continuing, neither Landlord nor any person or entity acting by, through or under Landlord shall interfere with the Tenant's peaceful and quiet enjoyment, use and occupancy of the Property, and (b) to warrant and forever defend title to the Property and Materials against any and all claims of any and all persons and entities whomsoever claiming all or any part thereof by, through or under Landlord. Landlord represents and warrants to Tenant that, as of the Effective Date of this Lease, Landlord is the sole owner of marketable fee simple title to the Materials and Property. In particular, but not in limitation thereof, Landlord warrants and represents to Tenant that there are no mortgages, deeds to secure debt, deeds of trust, financing statements or other such financing instruments encumbering all or any portion of the Property or the Materials. In the event it is determined, during the Term, Landlord owns an interest in the Materials less than all of the undivided fee simple estate therein, then the Monthly Rent shall be paid to Landlord only in the proportion which Landlord's interest bears to the whole undivided fee. Should a bona fide adverse claim arise to Landlord's title or right to rent, royalty or other sums due hereunder, Tenant may at its option pay such royalty or other sums to Landlord and such adverse claimant jointly, or deposit the same in the registry of a court of proper jurisdiction, and all liability of Tenant for payment thereof shall have been met and extinguished.

26. **Counterparts.** This Lease may be executed in one or more counterparts and by different parties on separate counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

27. **Memorandum of Lease.** Landlord and Tenant shall execute in recordable form and Tenant shall have the right to record a memorandum of this Lease in a form reasonably satisfactory to Tenant and Landlord. Upon the termination of the Lease, at the request of Landlord, Tenant agrees to provide a recordable acknowledgement of such termination to Landlord.

28. **Landlord's Lien/Security Interest.** Tenant shall have the right at any time to encumber all or any portion of its interest in and to any furniture, removable fixtures or equipment located in the Property with a lien securing financing. Tenant shall allow no mechanic's liens or

other liens that may impair Landlord's real or personal property, excluding liens related to amounts not yet due or liens which Tenant is contesting in good faith through appropriate procedures (and for which a bond or other adequate security has been posted by Tenant). Landlord hereby waives any right of distraint or statutory lien for rent against Tenant's property on the Property that would permit Landlord to possess or sell Tenant's property before obtaining a judgment. Landlord does not waive any right to obtain and enforce any judgment lien or any pre-judgment rights and remedies other than those described above.

29. **Non-Disturbance Agreement.** If, as of the Effective Date, the Property is subject to any security deed, mortgage or deed of trust, then concurrently with the execution of this Lease, Landlord shall obtain from the holder of such security deed, mortgage or deed of trust and deliver to Tenant, the written agreement of such holder ("**Subordination Agreement**") in recordable form subordinating such security deed, mortgage or deed of trust to this Lease. Any such Subordination Agreement shall be in form and substance reasonably acceptable to Tenant.

30. **Force Majeure.**



31. **Additional Representations and Warranties of Landlord.** In addition to the other representations and warranties contained in this Lease, Landlord further represents and warrants to Tenant as follows:

(a) **Generally.** Landlord is a limited liability company duly organized and validly existing under the laws of the State of Colorado, and is duly qualified to do business and in good standing in each state in which Landlord conducts its business, including the state in which the Property is located, and Landlord has all requisite power and authority to enter into this Lease and to perform its obligations hereunder. This Lease constitutes legal, valid, and binding obligations of each Landlord, enforceable against each Landlord in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium, or other laws of general applicability affecting the rights of creditors and by general equitable principles.

(b) **No Violation.** Neither the execution or delivery of this Lease nor the performance of Landlord's obligations under this Lease violates, or will violate, any material contract, agreement or instrument to which Landlord is a party or by which Landlord is bound or result in or constitute a violation or breach of any judgment, writ, order, injunction or decree issued against Landlord.

(c) **Litigation.** There are no actions, suits, claims or other proceedings pending, or, to Landlord's knowledge, contemplated or threatened against Landlord or the Property

or the Materials that could materially affect Tenant's rights and obligations under this Lease. There are no actions, suits, claims or other proceedings (including, but not limited to condemnation proceedings) pending or, to Landlord's knowledge, contemplated or threatened against the Materials or the Property.

(d) **Consent.** No consent of any third party or governmental agency or authority is required for the execution of this Lease by Landlord.

(e) **Brokerage.** There are no brokers', finders' or referral fees or any real estate commissions payable by Landlord to any broker, agent or other party in connection with the negotiation or execution of this Lease or Landlord's leasing of the Property. Landlord shall defend, indemnify and hold harmless Tenant from and against any and all liability, loss, cost, damage and expense (including but not limited to attorneys' fees and costs of litigation reasonably and actually incurred) Tenant shall suffer or incur because of any claim by any broker or agent claiming by, through or under Landlord for any fee, commission or other compensation with respect to the transaction described herein. This Section 32(e) shall survive termination of this Lease.

(f) **Unrecorded Agreements.** Landlord is not a party to and neither the Property nor the Materials is subject to any mineral leases, mineral right reservations or conveyances, or to any oral or written unrecorded agreements, excepting those related to oil and gas rights.

(g) **Access.** The Property has legal access thereto via duly dedicated public rights of way or appurtenant easements.

(h) **Boundary Line Disputes, etc.** To Landlord's knowledge, there are no boundary disputes and no encroachments affecting any of the Property or portion thereof, nor is any person adversely possessing or using any of the Property or any portion thereof.

(i) **Taxes.** No taxes or assessments relating to the Property are delinquent and there are no special taxes, assessments or charges proposed, pending or, to Landlord's knowledge, threatened against the Property.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties have executed this Lease as of the Effective Date.

LANDLORD:

HS LAND & CATTLE LLC

By: William E. Scott
Name: William E. Scott
Title: Member/Manager

By: Edward A. Holloway
Name: Edward A. Holloway
Title: MEMBER/MANAGER

TENANT:

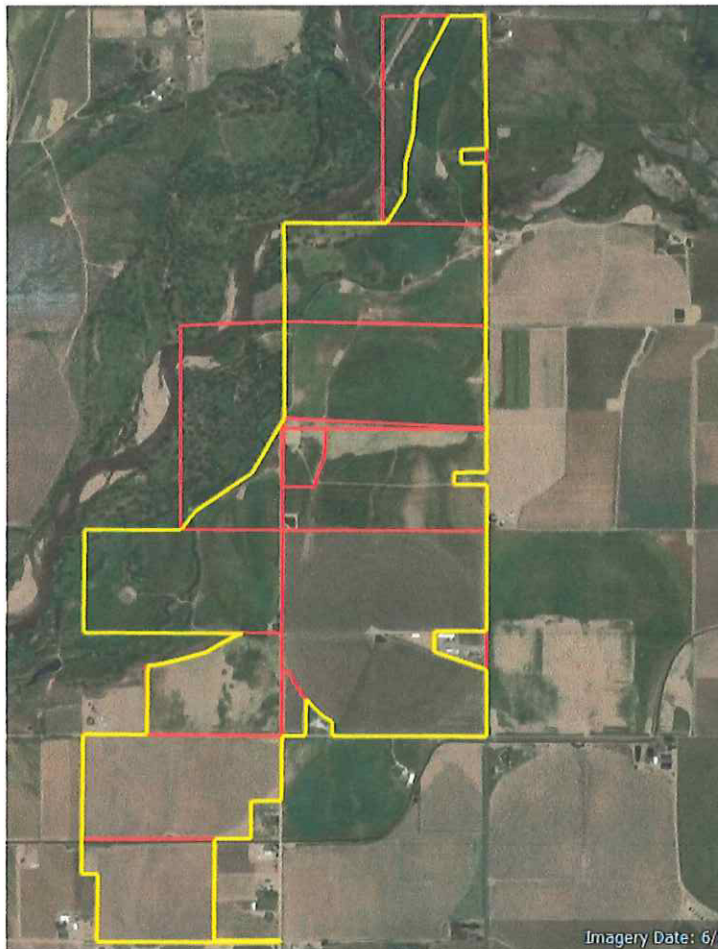
**MONARCH MOUNTAIN MINERALS &
AGGREGATES, LLC**

By: Nick Ivezas
Name: NICK IVEZAS
Title: GENERAL COUNSEL

EXHIBIT "A"

Property Description

Parcel	Account	Property Address	Acres	Tax Area	Reception Number	STR	Latitude	Longitude
105718000026	R4404786	21421 HIGHWAY 60 WELD	83.5	2879	4372051	S18 T4 R66	40.31178	-104.814
105718000036	R4405986	21171 HIGHWAY 60 WELD	79.1	3003	4372051	S18 T4 R66	40.3063	-104.816
105719000006	R4406786	12497 COUNTY ROAD 25 1/2 WELD	78.5	2879	4372051	S19 T4 R66	40.29538	-104.825
105719000018	R4407886		81.9	2879	4372051	S19 T4 R66	40.30088	-104.823
105719100001	R4468706	20609 HIGHWAY 60 WELD	8.8	0121	3476744	S19 T4 R66 NE4	40.2998	-104.82
105719100002	R4468806		69.2	0121	3453065	S19 T4 R66 NE4	40.29886	-104.815
105719100003	R6778847		5.2	2879	3707103	S19 T4 R66 NE4	40.30079	-104.817
105719100004	R6778848		77.9	2879	4372051	S19 T4 R66 NE4	40.30274	-104.816
105719300009	R6777916		45.7	2179	3815166	S19 T4 R66 SW4	40.29153	-104.823
105730200047	R6775878		48.4	2192	3815167	S30 T4 R66 NW4	40.28452	-104.826
105730200052	R6777914		74.7	2179	3815166	S30 T4 R66 NW4	40.28819	-104.825
105719000021	R0116001		4.9	2191	3186914	S19 T4 R66	40.29089	-104.82
105719000023	R0116201	20203 HIGHWAY 60 WELD	154.0	2191	3186914	S19 T4 R66	40.29367	-104.816



** Areas (approximately 712 acres) within yellow boundary constitute the Property for purposes of the Lease.