



STATE OF
COLORADO

Yeldell - DNR, Amy <amy.yeldell@state.co.us>

RMR Aggregates proposed Technical Revision for the Glenwood Springs, Mid-Continent Quarry, Permit Number M1982121 (112c).

1 message

Roger Flynn <Roger@wmaplaw.org>

Wed, Feb 5, 2025 at 12:49 PM

To: "michaelacunningham@state.co.us" <michaelacunningham@state.co.us>, "russ.means@state.co.us" <russ.means@state.co.us>, "amy.yeldell@state.co.us" <amy.yeldell@state.co.us>

Dear Director Cunningham and Colorado DRMS Officials:

The attached letter is submitted by the Glenwood Springs Citizens' Alliance (GSCA), by and through GSCA's undersigned counsel, and regards RMR Aggregates, Inc. (RMR, also known as Rocky Mountain Industrials, RMI) January 29, 2025 submittal of a Technical Revision Application (TR) (attached) to its current MLRB/DRMS permit.

Thank you for your prompt attention to this matter that is of great concern to citizens of Glenwood Springs and Garfield County.

Roger Flynn

Jeffrey C. Parsons

WESTERN MINING ACTION PROJECT

P.O. Box 349; [440 Main St., #2](#)

[Lyons, CO 80540](#)

(303) 823-5738

wmap@igc.org

Attorneys for the Glenwood Springs Citizens' Alliance

6 attachments



WMAP and GSCA letter to DRMS final 2-5-25.pdf
26K



2025-01-29 TR8_New Revision Application.pdf

162K



BLM 2022-2024 RMI Noncompliance Orders combined.pdf

3590K



BLM boundary photo map.pdf

618K



DRMS boundary map 2023.pdf

814K



Interior decision on escrow 1-3-25 filed 1-8-25.pdf

130K

WESTERN MINING ACTION PROJECT

*Roger Flynn, Esq.,
Jeffrey C. Parsons, Esq.*

P.O. Box 349
440 Main St. #2
Lyons, CO 80540
(303) 823-5738
Fax (303) 823-5732
wmap@igc.org

Via Electronic Mail

February 5, 2025

Michael Cunningham, Division Director
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver CO 80203
Michaela.cunningham@state.co.us

Russ Means, Minerals Program Director
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver CO 80203
Russ.means@state.co.us

Amy C. Yeldell
Environmental Protection Specialist
Colorado Division of Reclamation, Mining and Safety
1313 Sherman Street, Room 215
Denver CO 80203
Amy.yeldell@state.co.us

Re: RMR Aggregates proposed Technical Revision for the Glenwood Springs, Mid-Continent Quarry, Permit Number M1982121 (112c).

Dear Director Cunningham and Colorado DRMS Officials:

This letter is submitted by the Glenwood Springs Citizens' Alliance (GSCA), by and through GSCA's undersigned counsel, and regards RMR Aggregates, Inc. (RMR, also known as Rocky Mountain Industrials, RMI) January 29, 2025 submittal of a Technical Revision Application (TR) to its current MLRB/DRMS permit (attached). "This Technical Revision requests the modification of the existing permit boundary, mining plan, and reclamation plan." TR at 4.

GSCA is a non-profit organization that works to protect the human, natural, environmental, and community resources of the Glenwood Springs, Colorado area. GSCA is particularly concerned about the ongoing and proposed activities associated with the Mid-Continent Limestone Mine/Quarry located just above (north) of Glenwood Springs on BLM-managed public lands. Many of GSCA's members live in close proximity to the current operations and haul routes, and

are, and will be, significantly and adversely affected by current operations and by any expansion of the Mine/Quarry and increased use of local streets and community infrastructure by the Mine/Quarry operations. For many years, GSCA has contacted DRMS staff to express its concerns about the ongoing problems at the Glenwood Spring Quarry.

The TR application requests an expansion of the affected lands currently permitted by MLRB/DRMS from 38 acres to 56.10 acres (an 18.1 acre expansion). As the TR acknowledges, all of this expansion will occur on federal public lands administrated by the U.S. Bureau of Land Management (BLM).

Although the TR available online on the DRMS website mentions a map, none has been made publicly available. Also, the TR mentions purported “confidential” information, but no description is provided. However, based on this limited information, it is clear that DRMS cannot approve, nor should it even consider, a TR for this expansion.

First, under the Mined Land Reclamation Act and MLRB/DRMS regulations, a permit Amendment, rather than a technical revision, is required. Under MLRB Construction Material Rules, “‘Amendment’ means a **change in the permit or an application which increases the acreage of the affected land**, or which has a significant effect upon the approved or proposed Mining Plan or Reclamation Plan.” Rule 1.1(6)(emphasis added). Thus, a TR is appropriate only when there is no change in the acreage of the affected lands, and, even then, the “change ... does not have more than a minor effect upon the approved or proposed Reclamation Plan.” Rule 1.1(53).

Here, it is undisputed that RMR proposes to greatly expand “the acreage of the affected land.” As such, a permit Amendment is required, subject to full public review under MLRB Rules.

Second, as it has done in the past, RMR proposes to conduct operations at the site – now proposed to cover 56.1 acres – without the proper approvals from the landowner, the BLM. As you know, BLM’s permitted boundary covers only 15.9 acres. Indeed, DRMS has authorized RMR to conduct operations on 38 acres, the majority of which have no BLM approval.

Any TR or Permit Amendment application must provide evidence that, for all proposed operations and affected lands, the applicant has the authorization and approval of the landowner, in this case BLM.

6.4.14 EXHIBIT N - Source of Legal Right to Enter

Provide documentation of the legal right to enter to conduct mining and reclamation, for Owners of Record described in Rule 1.6.2(1)(e)(i). This may include a copy of a lease, deed, abstract of title, a current tax receipt, or a signed statement by the Landowner and acknowledged by a Notary Public stating that the Operator/Applicant has legal right to enter to conduct mining and reclamation.

Rule 6.4.14 (for 112 operations)(emphasis added).

This new proposed expansion only makes these problems worse. As GSCA has communicated to DRMS on multiple occasions, DRMS’s approvals of current/recent activities at the site have violated this requirement, as all operations above 15.9 acres do not have the necessary BLM

authorization to conduct those operations. The attached two maps/aerial photos show the DRMS current boundary of 38 acres, compared with the BLM-approved 15.9 acres.

Similarly, MLRB rules require that RMR provide the BLM permit authorization for its proposed expansion – which has not occurred.

6.4.13 EXHIBIT M - Other Permits and Licenses

A statement identifying which of the following permits, licenses and approvals the Operator/Applicant holds or will be seeking in order to conduct the proposed mining and reclamation operations: effluent discharge permits, air quality emissions permits, radioactive source material licenses, the State Historic Preservation Office clearance, disposal of dredge and fill material (404) permits, permit to construct a dam, well permits, explosives permits, highway access permits, U.S. Forest Service permits, **Bureau of Land Management permits**, county zoning and land use permits, and city zoning and land use permits.

Rule 6.4.14 (112 operations)(emphasis added). This is also true regarding the required Garfield County permit(s).

RMR has not provided this information – and indeed cannot, since BLM’s current mining plan of operations approval (first issued in 1982) only authorizes 15.9 acres of disturbance. For example, BLM recently issued a Decision and Non Compliance Order to RMR noting that the current approval only covers 15.9 acres. *See* August 30, 2022 Non Compliance Order at 1. The 3 recent Non Compliance Orders/Decisions are attached (two August 30, 2022 Orders and one March 6, 2023 Order). To date, it has not been shown that RMR has complied with these Orders.

Further, the Office of the Secretary of the Department of the Interior issued a Decision on January 3, 2025 which prohibits mining of “common variety” minerals at the mine, which forms a large percentage of minerals that RMR has been removing for many years. (Attached).

GSCA requests that DRMS inform RMR that the January 29, 2025 TR application cannot be approved. Instead, any such application must be submitted as a Permit Amendment, subject to full public notice and hearing opportunities.

GSCA also requests that DRMS inform RMR that current operations exceeding the 15.9 acres allowed by BLM cannot continue until the company has received the necessary authorizations from BLM.

Thank you. We look forward to your prompt attention to these matters, and please direct response communications to the undersigned GSCA attorneys.

Sincerely,

/s/ Roger Flynn

Roger Flynn

Jeffrey C. Parsons

WESTERN MINING ACTION PROJECT

P.O. Box 349; 440 Main St., #2
Lyons, CO 80540
(303) 823-5738
wmap@igc.org

Attorneys for the Glenwood Springs Citizens' Alliance

Cc: Ingrid Wussow, Mayor of Glenwood Springs
Board of County Commissioners, Garfield County
Doug Vilsack, Colorado BLM Director



Permit and Revision

General Information

Permit Number *

M1982121

Permit Type

112c

Revision Application Form Selection *

TR - Technical
Revision

Application Fee

\$ 216.00

Operation Name

Mid-Continent LST

The following pages will show the contact information we have on file for this permit. If any of it is inaccurate, you will have the opportunity to correct it after this form has been submitted.

1. Upon submission of this form you will be presented with a link to the contact information update form.
2. There is a question asking about the accuracy of this information. Indicating that it is inaccurate will send an e-mail to notify your administrator to make the appropriate changes.

Contact Information

Permittee Contact Information

Permittee Name

RMR Aggregates, Inc.

Permittee Contact

Gregory Dangler

Permittee Address 1

6200 S. Syracuse Way, Suite 450

Permittee Address 2**Permittee City**

Greenwood
Village

Permittee State

CO

Permittee Zip Code

80111

Permittee Contact Email Address

gdangler@rockymountainindustrials.com

Permittee Contact Phone Number

Permitting Contact Info

Permitting Name

RMR Aggregates, Inc.

Permitting Contact

Gregory Dangler

Permitting Address 1

6200 S. Syracuse Way, Suite 450

Permitting Address 2**Permitting City**

Greenwood
Village

Permitting State

CO

Permitting Zip Code

80111

Permitting Contact Email Address

gdangler@rockymountainindustrials.com

Permitting Contact Phone Number

7206145213

Inspection Contact Info

Inspection Name

RMR Aggregates, Inc.

Inspection Contact

Gregory Dangler

Inspection Address 1

6200 S. Syracuse Way, Suite 450

Inspection Address 2

Inspection City

Greenwood
Village

Inspection State

CO

Inspection Zip Code

80111

Inspection Contact Email Address

gdangler@rockymountainindustrials.com

Inspection Contact Phone Number

7206145213

Is the contact information listed above correct? If it is not correct your organization's Administrator will receive an email notification. *

☒ Yes ☐ No

Once this form is submitted you will see a link to update contact information, which you may do if you're an admin.

Surface Area Changes

Revision

Revision Title * (?)

Mid-Continent Limestone Quarry Permit Modification
Short description

Narrative Description of Revision * (?)

This Technical Revision requests the modification of the existing permit boundary, mining plan, and reclamation plan.
Detailed description used for notifications

Bond Amount Change? *

☒ Yes ☐ No

Additional Surface Disturbance? *

☒ Yes ☐ No

Proposed Acreage Revisions

Permit Area

Current Value	Proposed Change Value * (?)	Calculated Revised Total
38.00	18.10	56.10
This value must equal the total of all Surface and Mineral Acreage changes		

Affected Area

Current Value	Proposed Change Value * (?)	Calculated Revised Total
38.00	18.10	56.10

Federal Surface

Current Value	Proposed Change Value * (?)	Calculated Revised Total
38.00	18.10	56.10

State Surface

Current Value	Proposed Change Value * (?)	Calculated Revised Total
0.00	0.00	0.00

County Surface

Current Value	Proposed Change Value * (?)	Calculated Revised Total
0.00	0.00	0.00

Private Surface

Current Value	Proposed Change Value * (?)	Calculated Revised Total
---------------	-----------------------------	--------------------------

0.00

0.00

0.00

Municipal Surface

Current Value	Proposed Change Value * (?)	Calculated Revised Total
	0.00	0.00
Surface Area Total		
56.10		
Permit Area Total		
56.10		

Mineral Changes

Mineral Changes

Federal Mineral

Current Value	Proposed Change Value * (?)	Calculated Revised Total
38.00	18.10	56.10

State Mineral

Current Value	Proposed Change Value * (?)	Calculated Revised Total
0.00	0.00	0.00

County Mineral

Current Value	Proposed Change Value * (?)	Calculated Revised Total
0.00	0.00	0.00

Private Mineral

Current Value	Proposed Change Value * (?)	Calculated Revised Total
0.00	0.00	0.00

Municipal Mineral

Current Value	Proposed Change Value * (?)	Calculated Revised Total
	0.00	0.00

Mineral Total

56.10

Permit Area Total

56.10

Attachments & Payment

Do you have attachments? Please DO NOT email or submit hard copies of your attachments to the Division - all attachments should be uploaded electronically only. *

☒ Yes ☐ No

Attachments

Standard Uploads

Document, NOT Confidential

Map, NOT Confidential

Confidential Uploads

CONFIDENTIAL Document

20250129 Mid-Continent Quarry
Technical Revision.pdf

16.52MB

CONFIDENTIAL Map

Payment

- Clicking "**Pay Now**" will take you to the Colorado government payment portal for payment of your application fee.
- Please note that the payment website will not function correctly in the obsolete Internet Explorer browser.
- After you have completed your payment, please copy the confirmation number from the payment portal and paste it in the box below.
- Please note that in addition to your application fee amount, a service fee will be assessed at checkout.

DO NOT CLOSE THE PAYMENT WEBSITE WINDOW UNTIL YOU HAVE COPIED YOUR PAYMENT CONFIRMATION NUMBER TO THIS REVISION APPLICATION FEE FORM.

IMPORTANT - YOU MUST CLICK "SUBMIT" ON THIS APPLICATION FORM AFTER ENTERING YOUR PAYMENT INFORMATION.

Pay Now

Payment Confirmation Number *

243463448

Signature

Date

01/29/25

By checking this box you have thoroughly reviewed this Mineral Revision form and are ready to submit this form to DRMS.

☒ I Agree



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652



August 30, 2022

In Reply Refer To:
3809 (COG020)
COC-074205

CERTIFIED MAIL – 7020 1810 3302 2832
RETURN RECEIPT REQUESTED

DECISION

Rocky Mountain Industrials	:	Surface Management
RMR Aggregates, Inc.	:	
Attention: Mr. Brian Fallin, CEO	:	
6200 S. Syracuse Way, Suite 450	:	
Greenwood Village, CO 80111	:	

NONCOMPLIANCE ORDER

The Rocky Mountain Industrials (RMI) Mid-Continent Quarry mining operation, located north of Glenwood Springs in Garfield County, Colorado, is currently authorized under Plan of Operations COC-074205, which the Bureau of Land Management (BLM) approved in 1982 under the surface management regulations at 43 CFR subpart 3809. BLM approved a modification of the plan in 1989 that included a processing bench and an access road that effectively increased the permitted area from 10.6 to 15.9 acres. The permitted area is shown on the enclosed map.

BLM has documented compliance issues at the Mid-Continent Quarry and informally notified RMI of these matters in a Mineral Inspection Report dated January 30, 2017. As detailed in previous discussions and correspondence, BLM's records indicate that:

- surface disturbances associated with the current mill bench and lower access road are not within the authorized area in the approved Plan of Operations;
- the current highwall configuration does not comply with the approved plan;
- stormwater structures have been constructed outside of the approved plan area without approval; and
- the mill bench topsoil storage pile is inadequate for future site reclamation and not graded to the 4:1 required slope.

In November 2018, RMI submitted an initial proposed Plan of Operations under 43 CFR § 3809.431 that would encompass RMI's strategy to address the issues of noncompliance and the proposed mine expansion. BLM determined that RMI's initial Plan of Operations lacked the

required information and did not meet the requirements at 43 CFR § 3809.401. After RMI reworked the plan, BLM accepted it as complete in August 2019.

BLM initially planned to evaluate RMI's proposal to address the compliance issues and the proposed mine expansion in a single document under the National Environmental Policy Act (NEPA). However, BLM has concluded that a combined NEPA review effort is not feasible due to the time needed for preliminary work that must be completed before BLM can thoroughly analyze the proposed mine expansion. BLM therefore is issuing this order for separate resolution of the noted issues.

Based on our inspections and records, BLM has determined that portions of RMI's operations are outside the scope of its approved plan of operations and causing unnecessary or undue degradation, which are prohibited acts under 43 CFR § 3809.605(a) and 43 CFR § 3809.605(c).

Under the authority of 43 CFR § 3809.601(a), RMI is ordered, within 30 days from receipt of this Noncompliance Order, to either:

- Submit a proposed modification under 43 CFR § 3809.431 to update RMI's approved Plan of Operations to reflect the operation's current conditions and bring the operations in compliance with the applicable regulatory standards, or
- Submit a reclamation plan for all surface disturbance and facilities not authorized under RMI's approved Plan of Operations.

If RMI does not comply with this Noncompliance Order, the BLM may take further action pursuant to 43 CFR § 3809.601(b) by requiring suspension of all or part of the Mid-Continent Quarry operation. BLM may also enforce this Order pursuant to the regulations at 43 CFR § 3809.604 or § 3809.700.

Appeal of the Decision

If you are adversely affected by this decision, you may request that the BLM Colorado State Director review this decision. If you request a State Director Review, the request must be received in the BLM Colorado State Office at 2850 Youngfield Street, Lakewood, CO 80215, no later than 30 calendar days after you receive this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR § 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Colorado State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 2300 River Frontage Road, Silt, Colorado 81652. We will forward your notice of appeal to the IBLA.

If you wish to bypass State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR § 3809.801(a)(1). Your Notice of Appeal must be filed

in this office at 2300 River Frontage Road, Silt, Colorado 81652 within 30 days from receipt of this decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1, which contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case unless a stay is granted by the IBLA.

Request for a Stay

If you wish to file a petition pursuant to the regulations at 43 CFR § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted based on the standards listed below.

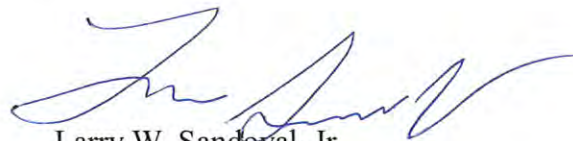
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

If you have any questions concerning this letter, please contact Brittany Cocina, Geologist, at (970) 876-9053 or bcocina@blm.gov.

Sincerely,



Larry W. Sandoval, Jr.
Field Manager

Enclosures:

Map of 1989 Approved Permit Area compared to Current Surface Disturbance
Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals

cc: Benjamin E. Gruber
Colorado State Office, BLM
2850 Youngfield Street
Lakewood, CO 80215

Nicolas Sandoval
Colorado State Office, BLM
2850 Youngfield Street
Lakewood, CO 80215

Danielle DiMauro
Office of the Solicitor, DOI
755 Parfet Street, Suite 151
Lakewood, CO 80215

Clayton Wein
Colorado Division of Reclamation, Mining and Safety
101 South 3rd Street, Suite 301
Grand Junction, CO 81501



- Key**
- 1989 approved boundary
 - Township & Range
 - Sections
 - CO BLM Ground Transportation Linear Features

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

BLM - Colorado River Valley Field Office
RMR Aggregates, Inc.
Mid-Continent Quarry

1:4,000

0 0.0425 0.085 0.17 Miles



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This project was developed through digital means and may be updated without notice.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF
APPEAL.....

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

Bureau of Land Management
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652

NOTICE OF APPEAL.....

WITH COPY TO
SOLICITOR...

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO
SOLICITOR.....

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652

August 30, 2022

In Reply Refer To:
3715 (COG020)
COC-074205

CERTIFIED MAIL – 7020 1810 0000 3302 2849
RETURN RECEIPT REQUESTED

DECISION

Rocky Mountain Industrials	:	
RMR Aggregates, Inc.	:	
Attention: Mr. Brian Fallin, CEO	:	Use and Occupancy
6200 S. Syracuse Way, Suite 450	:	Under the Mining Laws
Greenwood Village, CO 80111	:	

NOTICE OF NONCOMPLIANCE

The Rocky Mountain Industrials (RMI) Mid-Continent Quarry mining operation, located north of Glenwood Springs in Garfield County, Colorado, is currently authorized under Plan of Operations COC-074205, which the Bureau of Land Management (BLM) approved in 1982 under the surface management regulations at 43 CFR subpart 3809. BLM approved a modification of the plan in 1989.

While the mill facility was approved under 43 CFR subpart 3809 on June 15, 2009; it currently does not have 43 CFR subpart 3715 - occupancy concurrence. According to § 3715.3: "Before beginning occupancy, you must consult with BLM about the requirements of this subpart." Additionally, under 43 CFR § 3715.3-6: "If you have not received concurrence from BLM, you must not begin occupancy, even though you have submitted, or plan to submit, an amended occupancy proposal or an appeal."

Pursuant to 43 CFR § 3715.3, BLM hereby orders RMI, within 30 days from receipt of this notice, to comply with the applicable requirements of subpart 3715 and provide the requisite information and documents to BLM for review.

If RMI does not comply with the requirements of this notice, BLM may take further action pursuant to 43 CFR § 3715.7-1(a) or (b), requiring immediate temporary suspension or temporary or permanent cessation of all or part of your use or occupancy of the mill facility site.

Appeal of the Decision

This decision may be appealed directly to the Office of Hearings and Appeals, Interior Board of Land Appeals (IBLA), in accordance with the regulations contained in 43 CFR Part 4, and the information found in the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 2300 River Frontage Road, Silt, Colorado 81652 within 30 days from receipt of this decision. A copy of the Notice of Appeal and any Statement of Reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. The appellant has the burden of showing that the decision appealed from is in error.

Request for a Stay

If you wish to file a petition (request), pursuant to regulation 43 CFR § 4.21, for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision, to the IBLA, and to the appropriate Office of the Solicitor (see 43 CFR § 4.413) at the same time the original documents are filed with this office. This decision will remain in effect while the IBLA reviews the case unless a stay is granted by the IBLA. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted based on the standards listed below.

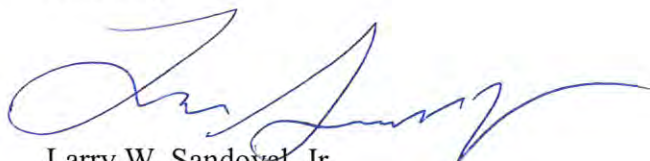
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

If you have any questions concerning this letter, please contact Brittany Cocina, Geologist, at (970) 876-9053 or bcocina@blm.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry W. Sandoval, Jr.", is written over a light blue circular stamp.

Larry W. Sandoval, Jr.
Field Manager

Enclosures:

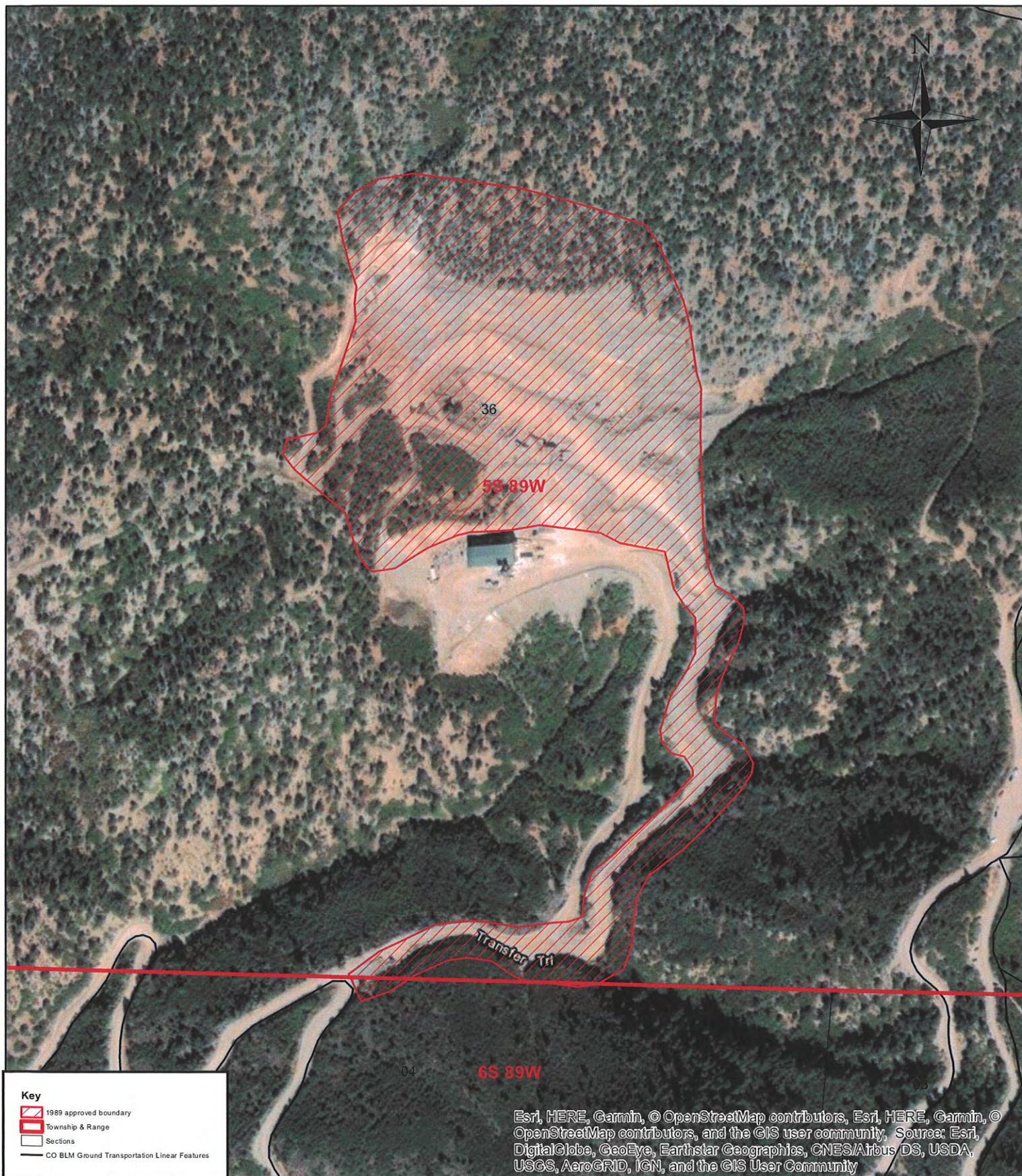
Map of 1989 Approved Permit Area compared to Current Surface Disturbance
Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals.

cc: Benjamin E. Gruber
Colorado State Office, BLM
2850 Youngfield Street
Lakewood, CO 80215

Nicolas Sandoval
Colorado State Office, BLM
2850 Youngfield Street
Lakewood, CO 80215

Danielle DiMauro
Office of the Solicitor, DOI
755 Parfet Street, Suite 151
Lakewood, CO 80215

Clayton Wein
Colorado Division of Reclamation, Mining and Safety
101 South 3rd Street, Suite 301
Grand Junction, CO 81501



Key
1989 approved boundary
Township & Range
Sections
CO BLM Ground Transportation Linear Features

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

BLM - Colorado River Valley Field Office
RMR Aggregates, Inc.
Mid-Continent Quarry

1:4,000

0 0.0425 0.085 0.17 Miles



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This project was developed through digital means and may be updated without notice.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF
APPEAL.....

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

Bureau of Land Management
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652

NOTICE OF APPEAL.....

WITH COPY TO
SOLICITOR...

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO
SOLICITOR.....

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652



March 6, 2023

In Reply Refer To:
3809 (COG020)
COC-074205

CERTIFIED MAIL – 7021 1970 0001 3799 5308
RETURN RECEIPT REQUESTED

DECISION

Rocky Mountain Industrials	:	Surface Management
RMR Aggregates, Inc.	:	
Attention: Mr. Brian Fallin, CEO	:	
6200 S. Syracuse Way, Suite 450	:	
Greenwood Village, CO 80111	:	

AMENDED NONCOMPLIANCE ORDER

On August 30, 2022, the Bureau of Land Management (BLM) issued a noncompliance order to Rocky Mountain Industrials (RMI) related to its existing operations in the Mid-Continent Quarry, T6S, R89W, Section 4, T5S, R89W, Sections 25 and 36, T5S, R88W, Sections 30 and 31, 6th P.M., Garfield County, Colorado (August Order). The August Order required RMI, within 30 days from receipt, to submit a proposed modification of its existing plan of operations (COC 074205) or a reclamation plan for all surface disturbance and facilities not authorized under RMI's approved plan of operations.

In response to the August Order, RMI timely submitted a proposed Plan Modification to the BLM on October 10, 2022. On November 9, 2022, the BLM informed RMI that its submitted Plan Modification was not complete and requested that RMI provide additional information, which RMI provided on January 6, 2023.

On February 3, 2023, the BLM informed RMI that because of changed conditions resulting from a large rockslide incident that occurred on January 18, 2023,¹ it did not have sufficient information to

¹ The BLM is aware that the U.S. Mine Safety and Health Administration (MSHA) has issued a section 103(k) Control Order to RMI, and that RMI has been working with MSHA to resolve that order. The BLM is also aware that the Colorado Division of Reclamation, Mining, and Safety (DRMS) has issued a Notice of Board Hearing for the Reason to Believe a Violation Exists under Rule 3.1.5(3), C.R.S. 34-32.5-116(4)(i), and C.R.S. 34-32.5-124 to RMI. The BLM's regulations at 43 CFR § 3809.415(a) require operators to remain in compliance with all Federal and State laws related to environmental protection and protection of cultural resources. Should MSHA or DRMS issue a notice of violation to RMI, the BLM will address that noncompliance in a separate enforcement order.

review or potentially approve RMI's Plan Modification as submitted.² This Amended Noncompliance Order clarifies that the requirement in the August Order to "[s]ubmit a proposed modification under 43 CFR § 3809.431 to update RMI's approved Plan of Operations to reflect the operation's current conditions" extends up to and including the conditions existing on the date that the BLM determines that the plan of operations is complete under 43 CFR § 3809.411.

Additionally, based on these changes to the operation's current conditions resulting from the January 18, 2023 rockslide incident, the BLM's determination on page 2 of the August Order is amended to add the bolded language below:

Based on our inspections and records, BLM has determined that portions of RMI's operations are outside the scope of its approved plan of operations and causing unnecessary or undue degradation, which are a prohibited act under 43 CFR § 3809.605(a) and 43 CFR 3809.605(c). **Because the operation's current conditions substantially deviate from the approved plan of operations, BLM has determined that this is a significant violation of its surface management regulations.**

Should RMI fail to comply with this Amended Noncompliance Order, the BLM may take further action pursuant to 43 CFR § 3809.601(b) and issue a Suspension Order for all or part of the Mid-Continent Quarry operation. Additionally, action could be taken under 43 CFR § 3809.604 or § 3809.700.

Appeal of the Decision

If you are adversely affected by this decision, you may request that the BLM Colorado State Director review this decision. If you request a State Director Review, the request must be received in the BLM Colorado State Office at P.O. Box 151029, Lakewood, CO 80215 or in the Denver Federal Center, Building 40, Lakewood, CO 80225 no later than 30 calendar days after you receive this decision. The request for State Director Review must be filed in accordance with the provisions in 43 CFR § 3809.805. This decision will remain in effect while the State Director Review is pending, unless a stay is granted by the State Director. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the BLM Colorado State Office to determine when the BLM received the request for State Director Review. You have 30 days from the end of the 21-day period in which to file your Notice of Appeal with this office at 2300 River Frontage Road, Silt, Colorado 81652. We will forward your notice of appeal to the IBLA.

If you wish to bypass State Director Review, this decision may be appealed directly to the IBLA in accordance with the regulations at 43 CFR § 3809.801(a)(1). Your Notice of Appeal must be filed in this office at 2300 River Frontage Road, Silt, Colorado 81652 within 30 days from receipt of this

² The BLM will provide more details regarding the additional information needed for the proposed Plan Modification to be complete under 43 CFR § 3809.401 in a separate notice.

decision. As the appellant, you have the burden of showing that the decision appealed from is in error. Enclosed is BLM Form 1842-1, which contains information on taking appeals to the IBLA.

This decision will remain in effect while the IBLA reviews the case unless a stay is granted by the IBLA.

Request for a Stay

If you wish to file a petition pursuant to the regulations at 43 CFR § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted based on the standards listed below.

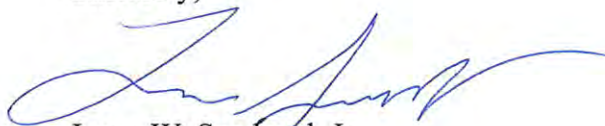
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal must show sufficient justification based on the following standards:

1. The relative harm to parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

If you have any questions concerning this letter, please contact Brittany Cocina, Geologist, at (970) 876-9053 or bcocina@blm.gov.

Sincerely,



Larry W. Sandoval, Jr.
Field Manager

Enclosures:

Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals

cc: Amy Stillings, Colorado State Office, BLM
Nicolas Sandoval, Colorado State Office, BLM
Greg Larson, Upper Colorado River District, BLM
Amy Yeldell, Colorado Division of Reclamation, Mining and Safety
Gary Polson, U.S. Mine Safety and Health Administration



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, CO 81652



3809 (COG02000)
COC-074205

April 19, 2024

CERTIFIED MAIL: 7022 3330 0000 2940 5800
RETURN RECEIPT REQUESTED

Rocky Mountain Industrials
RMR Aggregates, Inc.
Attention: Mr. Brian Fallin, CEO
6200 S. Syracuse Way, Suite 450
Greenwood Village, CO 80111

Dear Mr. Fallin:

As explained further below, the Bureau of Land Management (BLM) requires additional information necessary to continue evaluating Rocky Mountain Industrials' (RMI) April 14, 2023, Plan Modification to conduct mining activities at the Mid-Continent Quarry. In addition, RMI has not provided information regarding how it intends to comply with the regulatory requirements of the Mine Safety and Health Administration (MSHA) and Colorado's Division of Reclamation and Mine Safety (DRMS). BLM requests that RMI revise the April 14, 2023, Plan Modification to address the below deficiencies within 30 days of receipt of this letter.

In August 2022, BLM sent RMI a noncompliance order related to the mining activities in the Mid-Continent Quarry, T6S, R89W, Section 4, T5S, R89W, Sections 25 and 36, T5S, R88W, Sections 30 and 31, 6th P.M., Garfield County, Colorado. BLM requested that RMI submit a proposed modification to its existing plan of operations (COC-074205) to address the noncompliance. RMI submitted a proposed modification to BLM on October 10, 2022 (Plan Modification).

On November 9, 2022, BLM informed RMI that its proposed modification was incomplete and requested that RMI provide additional information. RMI responded and provided additional information on January 6, 2023.

Due to changed conditions resulting from a large rockslide incident on January 18, 2023, the BLM issued, on March 6, 2023, an amended noncompliance order, and, on March 7, 2023, the BLM sent RMI a completeness review of the additional information that RMI had submitted on January 6, 2023, identifying additional items necessary for BLM review, including a new geotechnical report.

On April 14, 2023, RMI submitted an updated Plan of Operations Modification. RMI subsequently submitted the geotechnical report, Part 1 and Part 2, on June 28, 2023, and August 30, 2023, respectively. However, RMI has yet to apply the information in the geotechnical report to the Plan Modification. For example, there are numerous sections within the proposed Plan Modification stating that components of the plan “will be finalized upon final geotechnical information.”

By this letter, BLM requests that RMI incorporate the geotechnical information into the Plan Modification and submit a revised Plan Modification. As you incorporate key information from the geotechnical report, please also describe the specific actions that RMI is proposing to take (i.e., application of stability measures, intent to anchor, and final designs) to address the slope stabilization work that needs to occur to meet the regulatory requirements of MSHA and DRMS. RMI should explicitly identify any changes to the Plan Modification since the version last submitted to BLM on April 14, 2023. As applicable, RMI should also note which changes have been requested by which agency (e.g., MSHA or DRMS) and provide copies of any new authorizations or requirements received from MSHA or DRMS. BLM’s regulations at 43 CFR § 3809.415(a) require operators to remain in compliance with all Federal and State laws related to environmental protection and protection of cultural resources. RMI must provide detailed information regarding the location and extent of new ground disturbance proposed to meet MSHA’s and DRMS’ requirements. Absent this information, the BLM cannot process the Plan Modification, which will require the preparation of an analysis under the National Environmental Policy Act.

Please revise the Plan of Operations Modification, submitted on April 14, 2023, to address the deficiencies noted in this letter within 30 days from receipt of this letter.

If you have any questions about the information requests, please contact Valerie Baxter, Assistant Field Manager, at (970) 319-5495 or vbaxter@blm.gov.





Sincerely,

A handwritten signature in blue ink, appearing to read "Larry W. Sandoval, Jr.", with a long horizontal flourish extending to the right.

Larry W. Sandoval, Jr.
Field Manager



Key

-  1989 approved boundary
-  Township & Range
-  Sections
-  CO BLM Ground Transportation Linear Features

Esri, HERE, Garmin, © OpenStreetMap contributors, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

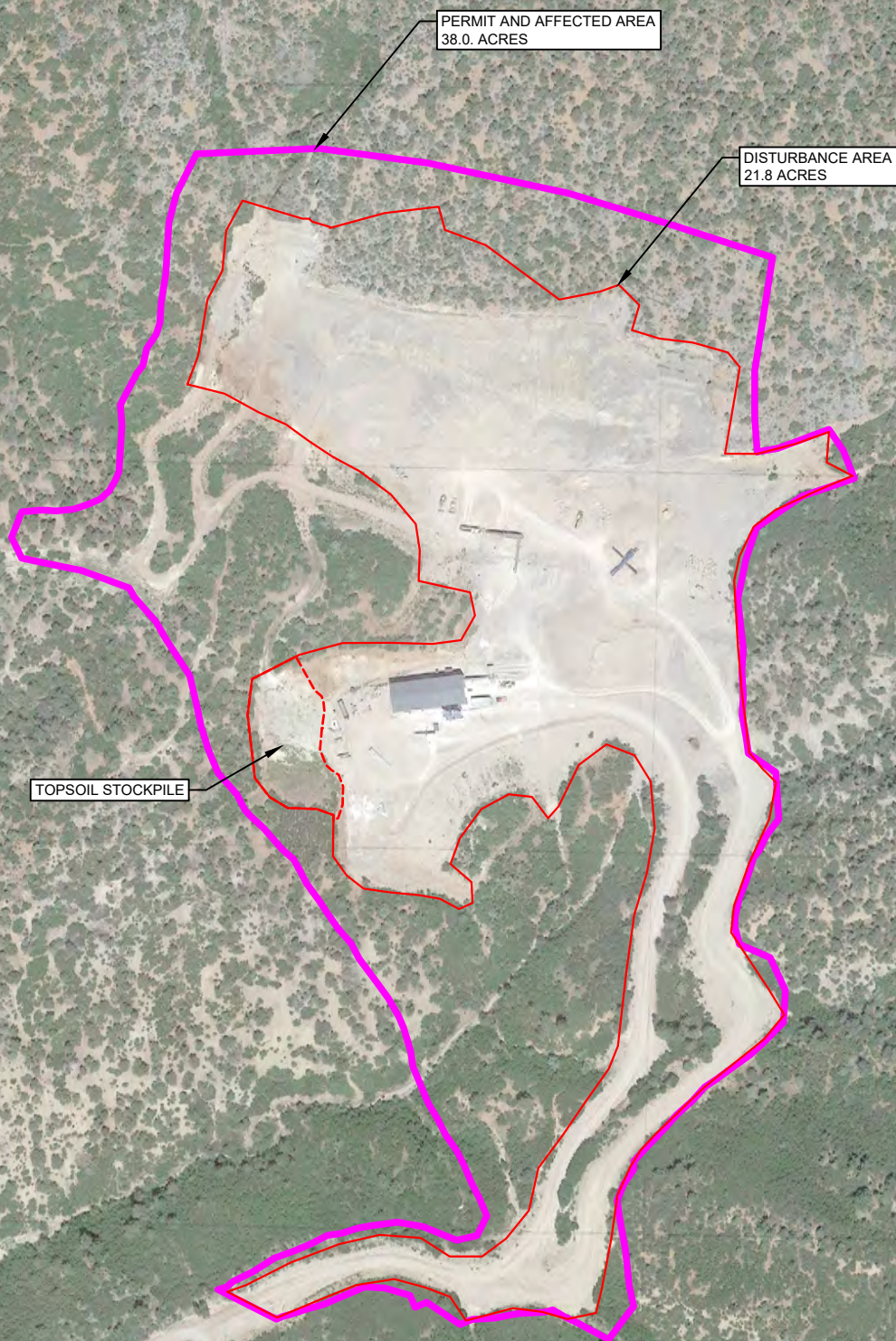
BLM - Colorado River Valley Field Office
RMR Aggregates, Inc.
Mid-Continent Quarry

0 0.0425 0.085 0.17 Miles



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This project was developed through digital means and may be updated without notice.

1:4,000





United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

January 3, 2025

CERTIFIED MAIL: 7008 1830 0002 7513 4449
RETURN RECEIPT REQUESTED

DECISION

Robert Wagner	:	Determination of Common Variety
RMI Aggregates, Inc.	:	Escrow Agreement
6200 S. Syracuse Way, Ste. 450	:	COC-074205
Greenwood Village, CO 80111	:	

Determination of Common Variety Report Escrow Agreement Account Distribution

Dear Mr. Wagner:

On January 12, 2024, the Colorado River Valley Field Manager issued a Field Office Memorandum concerning the Bureau of Land Management (BLM) Determination of Common Variety (DCV) Report for the Mid-Continent Quarry, T6S, R89W, Section 4, T5S, R89W, Sections 25 and 36, T5S, R88W, Sections 30 and 31, 6th P.M, Garfield County, Colorado. The DCV Report and Field Office Memorandum inform whether and to what extent the BLM may authorize use of the surface of public lands for mining operations under 43 CFR Subpart 3809 and whether any portion of the minerals produced are mineral materials for which payment to the United States is required.

The DCV Report and Memorandum explain that where the minerals in the Mid-Continent Quarry claims meet the standard in 43 CFR 3830.12(b), the minerals are authorized for disposal under the General Mining Act of 1872 (General Mining Law). As explained in the DCV Report, that standard is met here where the limestone satisfies all American Standards for Testing and Measurement (ASTM) for Federal Aviation Administration (FAA) runways.

Conversely, use of the minerals for asphalt shingles, rock dust, aggregate, and other specialty aggregate do not meet the requirements for disposal under the General Mining Law. Consequently, minerals used for these purposes are instead subject to disposal under the Materials Act of 1947 (Materials Act) and the Department's regulations at 43 CFR Part 3600.

The BLM's March 21, 2019, letter from the Colorado River Valley Field Manager to RMR Aggregates, Inc., addressed the possibility that the DCV Report might establish that some or all of the minerals on the 44 mining claims are subject to disposal under the Materials Act. With

that in mind, as described in the BLM's 2019 letter, the BLM and RMR Aggregates (now RMI) entered into an Escrow Agreement dated September 25, 2019, to ensure that adequate funds would be available to compensate the United States, if appropriate. As a result, RMI made regular payments to the escrow account for the appraised value of possible common variety minerals, to be paid to the BLM for RMI's purchase of any materials determined to be subject to disposal under the Materials Act.

On September 3, 2024, BLM sent RMI a letter requesting confirmation by October 4, 2024, that the amount of escrowed funds attributable to the end use and sale of product meeting all ASTM standards for the construction of FAA runways is \$10,851.00, plus associated interest. The letter also requested information from RMI about any other sales from the mine since September 25, 2019, that RMI believes meet the requirements for disposal under the General Mining Law. BLM and RMI met on October 1, 2024, to discuss this request and to address questions posed by RMI concerning the DCV Report and Field Office Memorandum. During that meeting, RMI confirmed that BLM correctly identified in its September 3, 2024, letter all escrowed funds attributable to the end use and sale of product meeting all ASTM standards for the construction of FAA runways. RMI has provided no additional documentation in response to the September 3, 2024, letter regarding other sales from the mine that RMI believes meet the requirements for disposal under the General Mining Law.

As required under Paragraph 7 of the Escrow Agreement (Agreement), within 30 business days of the receipt of this decision, the Department of the Interior (DOI) hereby orders RMI to direct the escrow holder to disburse the escrowed funds, accrued through November 30, 2024, as follows: 1) all escrowed funds attributable to the end use and sale of product meeting all ASTM standards for the construction of FAA runways, plus interest associated with those funds, to RMI; and 2) the remaining funds, plus interest associated with those funds, to DOI, BLM. As noted above, based on the scale tickets BLM received through November 2024, the amount of escrowed funds attributable to the end use for FAA runways is \$10,851.00, plus associated interest. The amount due to DOI, BLM is all of the remaining funds in the escrow account, including interest associated with those funds.

As required under Paragraph 9 of the Agreement, if the Operator fails to direct the escrow holder to make the payments in accordance with Paragraph 7 of the Agreement, BLM will treat the Operator's removal of the minerals as unauthorized use under 43 CFR Part 3600 and the Operator may be subject to liability for damages to the United States and prosecution under applicable law, as specified in 43 CFR Subpart 9239.

This decision applies the findings in the DCV report to the materials sold during the period covered by the Agreement and ending on November 30, 2024, as well as all future sales and operations at Mid-Continent Quarry after your receipt of this decision. Future disposal of materials for non-locatable end uses will require a mineral materials contract consistent with 43 CFR 3600 regulations.

To facilitate prospective applications of the inquiry required by 43 CF.R. § 3830.12(b), RMI must provide evidence of market entry for any future proposed disposal of minerals from the Mid-Continent Quarry under the General Mining Law for alleged locatable end uses. While

RMI has provided BLM with a market study, dated May 5, 2021, the proposed markets in that report are predominantly for cement, a product that is not currently manufactured from limestone extracted at the mine. As indicated in the market study and in conversations with RMI, production of cement would likely require shipment of limestone extracted from the mine over 100 miles to reach a facility capable of manufacturing and selling cement in significant quantities in the Denver-Front Range area. To date, BLM has not received significant evidence from RMI that it has taken steps to establish market entry for cement, including securing city and county permits that may be required to access rail loadout facilities from the mine. *See* C.R.S. 24-65.1-101; *Rocky Mountain v Garfield County*, Colo. Ct. of Appeals, 21CA1208 (Feb. 2023).

DOI also has a duty to consult with relevant Tribes regarding existing and future operations at the mine. DOI takes its responsibility to consult on a government-to-government basis with Tribal Nations seriously. DOI is committed to listening to Tribal leaders as decisions are considered that affect Tribal members and interests. In this instance, consultation has presented an opportunity for the agency to carefully consider the views of the Ute Mountain Ute Tribe, the Southern Ute Indian Tribe, and the Ute Indian Tribe of the Uintah & Ouray Reservation (Tribes) concerning the existing operations of the mine. Although consultation is ongoing, the Tribes have preliminarily expressed significant concerns with the operation of the mine and its impact on Tribal cultural resources and the cultural landscape.

If you have any questions or concerns regarding this decision, please contact Doug Vilsack, BLM Colorado State Director, at (303) 239-3700, or via email at dvilsack@blm.gov.

Sincerely,

**STEVEN
FELDGUS** Digitally signed by
STEVEN FELDGUS
Date: 2025.01.03
15:36:02 -05'00'

Steven H. Feldgus
Principal Deputy Assistant Secretary
Land and Minerals Management

cc: Tracy Stone-Manning, BLM Director
Robert Anderson, Solicitor, Department of the Interior
Doug Vilsack, BLM Colorado State Director