



STATE OF  
COLORADO

Girardi - DNR, Chris <chris.girardi@state.co.us>

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## Tierra Piedra Gravel Pit- AM-1 Decision Date Extension Approval

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**Nathan Barton** <NABarton@wastelineinc.net>  
To: "Girardi - DNR, Chris" <chris.girardi@state.co.us>

Wed, Aug 20, 2025 at 5:38 PM

Dear Chris:

Please find attached the response letter. We have only one attachment to finish up and send: the contour map of reclamation that you requested. We will get that to you as soon as possible.

Please let me know what else we need to provide.

Thank you,

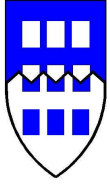
Nathan

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**2025-0820 M2009081 TPGP Response to DRMS.pdf**  
970K



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19 AUG 2025

Mr. Chris Girardi, Environmental Protection Specialist  
Division of Reclamation Mining and Safety  
VIA E-mail

SUBJECT: M-2009-018 Tierra Piedra Gravel Pit Response to Adequacy Review and Request for Extension

Dear Mr. Girardi:

Thank you for your review. As we discussed, this is based on the approved decision date extension, for reasons explained below. This letter also addresses the findings of the inspection conducted on 17 June 2025, for which we received a copy of the report on 13 August 2025.

**Response to inspection report:**

1. General Compliance... (ceased production, no Notice of TC). I do not believe that material has been processed (crushed and screened) since 2019 or before, but the pit has operated since then. I assume that the information that the pit ceased operation on 28 June 2019 came from the annual report. If not, can you let me know? I personally know that a contractor purchased and hauled construction material from the pit in April, 2023, including 13 April 2023 (photos). The ranch foreman and owners have frequently taken processed materials from the stockpiles to use in maintaining roads on the ranch and Fossett Gulch Road, both on and off the property. In addition, work was done, taking material from the stockpiles, to use in maintenance of the riverbanks and pond both inside and outside the general permit area. I myself have removed very small quantities of material from the pit with the owner's permission for various purposes and for services rendered i.e., sale. We believe this meets the requirements of Rule 1.13.2(5): there has been sale of material and movement of stockpiled material. Although there may have been periods of longer than 180 days when absolutely no work was done at the pit other than inspections, intermittent operations have continued in the last six years. The annual reports reported wrongly on the last date of activity. Assuming that the AM-1 is approved, it is planned/intended to resume excavation and processing operations (beyond continuing to haul/sell material) well before 13 Oct 2025. Given the nature of the deposit, size of the operation, and demand, we do not believe this was truly in temporary cessation. (Please see Issue 6 of the response to review, below, for more discussion of this matter.)
2. Signs and markers. A number of markers have fallen and sometimes have been replaced in the wrong location, especially following periods of high water on the river. As described in the AM-1, new markers will be placed correctly: generally using T-posts or 3- or 4-inch diameter PVC pipes. We are unsure if we can correct that before the due date of 12 SEP 2025, and request an extension to that, based on approval of the AM-1 request and posting of increased financial warranty (if needed).

3. Mr. Brian Abeln was not present for the inspection by Chris on 17 June 2025. As far as I know (though I've not spoken directly with him), the ranch foreman, Dusty Nystrum, was present for Chris' inspection.
4. We acknowledge there is a weed problem on the site, and the owner has directed measures to be taken to use chemical and mechanical means of control. Attachment A is a weed control plan. This is based on the 2022 Division-approved plan for the South Hinsdale Gravel Pit.
5. Please note that the Fossett Gulch Road is a private road and part of the Tierra Piedra Ranch. Mr. Clark maintains the road (and bridge over the Piedra) and allowed residents, the SUIT, and USFS to use the road. There is a CDOT access permit for the private road for the various uses.

Response to adequacy issues (expanded/corrected from previous email):

1. Every page of the application exhibit, as submitted on 1 July 2025 online. Including every page with a map/exhibit, has the date of preparation printed in the lower right corner (21 JUN 2025). I have just reviewed every page. Rule 6.2.1(2)(c) does not appear to require that the date be literally on the image of the map. Please provide me with the guidelines that specify that. Most of the maps also have the date near Nathan's signature, in the form of "2005-0501" – year, month, day of month.
2. As explained at several points in the exhibits, including Exhibit A.9. (the 2<sup>nd</sup> paragraph of page 17, Tierra Piedra Ranch LLC is the *only* immediate adjacent surface owners of record. The information was shown as basically "marginal data" and again, not literally on the image of the map.
3. That information (lat-long to 5 decimal places *and* UTM coordinates) is provided in item 11 on page 3 of the application form. The location of the mine access road is clearly shown on the map in red, and identified in the legend immediately below the map. It is shown as accurately as the scale of the USGS map allows. Nowhere in Rule 6.3.1 can I find that it requires that the same information (5-decimal places) already provided be restated, as 6.3.1.(1) states that "A metes and bounds survey description is acceptable..." as provided both on pages 11-12 and on page 13 (Attachment 1 to Exhibit A). Finally, we understand (perhaps incorrectly) that we are not required to resubmit information provided in the original application (the 2009 application): DRMS Imaged Documents 2010-01-07\_PERMIT FILE-M20009081 (Page 6-7 of 15). Again, if guidance has changed, please provide that.
4. We understand the information you provided, as stated. Thank you. Apparently, though we thought this had been addressed by CPW (then CDOW, as we recall) in comments in 2009, we could not find anything in the DRMS Imaged Documents. We also note that you did not request any action on our part in this item. Was that overlooked? Please let us know. Please refer to our response to issue 15 below for more details: the proposed expansion would not significantly impact habitats or species.
5. It is not possible to estimate the anticipated date mining will end. It may be only a matter of months or require several years. This is dependent on demand and actual material available. Sufficient demand may quickly justify a conversion to a 112c reclamation permit to allow more expansion.
6. Our intent was to include in this amendment (in accordance with Rule 1.13.7) the information otherwise required when filing a Notice of Temporary Cessation. There is a potential for periods of inactivity exceeding 180 days and operations may be less than a total of 180 days per year. We expect to normally resume operating within one year but this may not be feasible due to circumstances. We specified in Exhibit C.1. that pit operations would be both intermittent and seasonal. In Exhibit C.15. we again stated that operations would be intermittent. We cannot commit to resuming temporarily suspended operations within one year, due to markets, weather, and other commitments. We expect to operate less than 180 days (total) per year, but we cannot commit to conducting operations for less than 180 days per year for the same reasons. We commit to notify the Division in accordance with Rule 6.3.3(a) if we exceed a total of 180 days/year operating, or if inactivity is longer than one year.

7. The two statements are not contrasting: stockpiles do not have exterior slopes. We do not consider berms to be stockpiles, which are located entirely within the area as shown on Exhibit E Attachment 1. Therefore, “exterior slopes” does not apply to soil, overburden, pit-run, or “incidental” stockpiles. The only planned berms are those shown on that map along the riverbank on the north edge of the proposed permit area. We are uncertain what is meant by “incidental” in this comment.
8. In past applications, the original or amendment applications have been assumed to be a request for importation, and no special request or Technical Revision has been required for this purpose either for processing/recycling or for beneficial backfill for reclamation. This is the first time we have been aware of a special form. At present, we cannot specify even an approximate location(s) for using off-site material or the approximate volume, but standard procedures always include requiring a statement that the material is clean and inert in accordance with *all* local, State, tribal, and federal requirements. This is because the availability of such material varies (based on customer and project needs) and cannot be predicted, including during what part of mining/reclamation the material will be available. The use of the term “affidavit” implies that such a statement needs to be notarized: is that now required of those who may bring materials? We understand that interpretation of the rules and regulations does change, but we are unaware of any change in this requirement in the last several years (since last obtaining a permit). The requirement to file and pay for a technical revision is, to the best of our knowledge and belief, new and requires information that has not been required in the past. Has guidance been published on this new requirement?
9. The sizing and design of the inlet and outlet is based on recorded and estimated volumes of flow in the Piedra River, particularly over the last 15-20 years WASTELINE has been involved in mining operations on the Piedra River, and approximately 40 years of data on the past and current channels of the Piedra River from satellite photography and topographic mapping. These volumes were used in determining what elements to use from both the DRMS guidelines and the MHFD Technical Guideline (Criteria Manual). The braided nature of much of the river at this point has been taken into account.
10. The design is based on a 25-year, 24-hour storm event. Therefore it is sufficient for a 10-year, 24-hour storm event. This is using data from FEMA, USGS, NWS, and the Colorado Climate Center (CSU), and is based on daily mean values from 1962 through 2025. Peak flows of 1,380 cfs are reached in May on average. As mentioned above, the braided nature of the river at this point (and the armoring of the bank along the north edge of the proposed permit area) impact the design. A 25-year, 24-hour flood event is unlikely to cause surface water flow into the pond which might outflow from the pond.
11. As much as possible the excess overburden (other than soil material suitable for use as rooting material above the ordinary highwater mark) will go directly into the final locations needed for reclamation, particularly continuing to reinforce the interior of the exterior berms for riverbank protection, as stated in Exhibit C.7. (page 20). It may also be used to finalize the slope above and below the pond water surface. It will not be placed on the face of the exterior berm or on the riverbank at or below the ordinary highwater mark. We do not expect to have any leftover overburden to stockpile: the object is to minimize handling of all materials.
12. Attachment A is the weed control plan as requested. Normally, this would not be filed for public review with the County Clerk and Recorder, nor require a Technical Revision. Therefore we will not do so unless specifically instructed to do so.
13. As described in Exhibit C.24. & 25., the surface water management plan (in accordance with requirements of the US EPA General Storm Water Permit for Discharges Associated with Industrial Activities) is to prevent surface discharge of storm water, in part by providing secondary containment (in conformance with the requirements of the US Oil Pollution Act and other applicable statutes and regulations, including the Minerals Program Policy Memo of 08 April 2005, subject: Oil and Fuel Spill Containment Structures, as well as the storm water permit), and by immediately cleaning up any spills. Best management practices for storm water and other discharges include visual observation for film

on water (oil, lubricants, etc.) Although DEF has a higher specific gravity than water and therefore does not float, the standard blue color used is highly visible and can be identified during visual observation before entering the water. Therefore, the regulations and permit conditions do not require water sampling and testing under normal conditions. We note that federal law requires enhanced measures to identify, quantify, and mitigate spills of greater than 25 gallons, and any time a sheen (oil film) is observed on water that can be traced to a source under our control. We will do all required sampling in accordance with established EPA procedures.

14. Unless the owner/operator desires otherwise, the location of the stockpile of construction materials (of approximately 10,000 tons (which may be less)) is near the operations area shown on Exhibit E Attachment 1 in the northeast corner of the proposed permit area (but not in the pond). If the landowner desires to change the location, we will submit a Technical Revision.
15. We contacted CPW's local field office (in Durango) by phone and were referred to their website and data and maps therein, and to the Colorado Natural Heritage Program CODEX website. We also reviewed the US Fish and Wildlife Service data. We also understand that CPW (or CDOW as it was at the time) did not provide comments in 2009 for the original application. The size and nature of the affected land, and significant and easily used bypass routes, demonstrate little potential for any negative impact on wildlife. We believe that shorelines are sufficiently irregularly shaped to comply with Rule 6.3.4(d). Thank you for consulting further with CPW. We believe this complies with the intent of Rule 3.1.8.: the proposed expansion would not significantly impact habitats or species.
16. For a diagram of the inlet and outlet channels, please see Attachment B. Please note that the cross-section A-B (Exhibit E-3, page 29) shows a cross-section or profile of the outlet channel.
17. Please see Attachment B. The cross-section of the berm is shown together with the Inlet Channel profile: initially ten feet wide (or more) with a minimum height of 2 feet (3H:1V) slopes. The width and height of the berm will be expanded during mining using overburden and imported materials. It rests on the existing natural and reinforced cobbly riverbank, approximately a yard above the OHWM.
18. Because all of the equipment to be used at this location is portable, and some is mobile, any depiction of these areas would be a guestimate and is at best micromanagement. Stockpiles of all materials will change quickly as intermittent work progresses. Due to the small size of the permit area, we believe that the scale is appropriate and within the range requested by the Division.
19. Contours are not shown because of the confusion caused by them, as it would require a very small contour interval (1 foot?). Spot elevations have been added on Attachment C.
20. The external boundaries of the Southern Ute Indian Nation and its Reservation are a matter of public record and are shown on virtually every printed and online map published by the State of Colorado and the United States government. We do not see a need to demonstrate a well-known fact. The exterior boundaries of the SUIR are well outside the maps in the exhibits, miles from here.
21. You already have the data regarding the pit well permit (69124-F) by CDWR (the State Engineer) in the Division's files. (DRMS Imaged Documents: 2010-05-27\_HYDROLOGY-M2009081.) We fail to see the need to restate this, as we were following Rule 1.10.1(1) states in part, "the Applicant will not be required to submit any information which duplicates applicable previous submittals."
22. As shown in Exhibit E, Attachments 1 and 2, the structures owned by Petrox Resources, including the pipeline, are NOT within 200 feet of the affected lands. The map has a black line 200 feet from the proposed permit boundary (and therefore, assumed the edge of affected lands) and the nearest structure owned by Petrox is shown in magenta and labeled. It is clearly more than 200 feet away.
23. As discussed in both the review letter and by phone, the Division considers the twenty-some items to be matters of clarification and not to be amendments to the application. Therefore, we do not believe that Rule 1.6.2(1)(c) is applicable or appropriate in this situation.
24. Proof of publication has already been provided.

25. As stated above, Tierra Piedra Ranch LLC is the owner of record of all land (surface and mineral rights) within 200 feet of the proposed permit boundary (affected land). The signature of a manager of the LLC (Mr. Mike Clark) and the letter of authority granted by him to Mr. Nathan Barton demonstrates a personal service of the notices (and the entire application package) has been made.

I appreciate your assistance in this and your patience with all these complications. Please let me know if there is anything else we can do right now.

If you have any questions, please contact the undersigned at (605) 939-0650, (970) 564-1380, or by email at [NABarton@WastelineInc.net](mailto:NABarton@WastelineInc.net).

Thank you for your time and consideration.

Respectfully,



Nathan A. Barton, CE, PE, DEE  
Comptroller and Engineering Manager, WASTELINE, Inc.  
Environmental and Permitting Compliance Engineer  
For Tierra Piedra Ranch LLC

[NBarton@WASTELINEINC.NET](mailto:NBarton@WASTELINEINC.NET)

CF: Mike Clark, Ryan Clark, Brian Abeln, Mary Buck

Attachments:

- A. Weed control plan
- B. Drawings of inlet and outlet channels
- C. Map/plan of site showing general post-reclamation contours.

### **Attachment A. Weed Control Plan**

**TASK:** Maintain and restore natural vegetative communities on the Tierra Piedra Gravel Pit

**CONDITIONS:** Given disturbance of land for mining, including stockpiles of soils and construction materials, work areas, ponds, detention basins, surface water management practices (structures), proximity to ranch operations and potential tracking of weeds and seeds

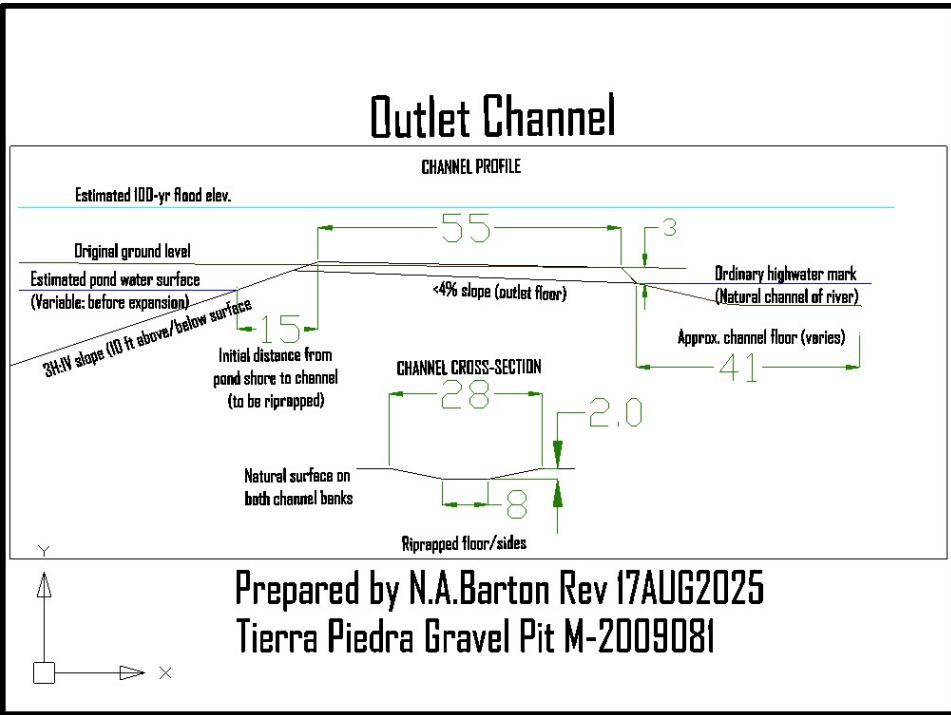
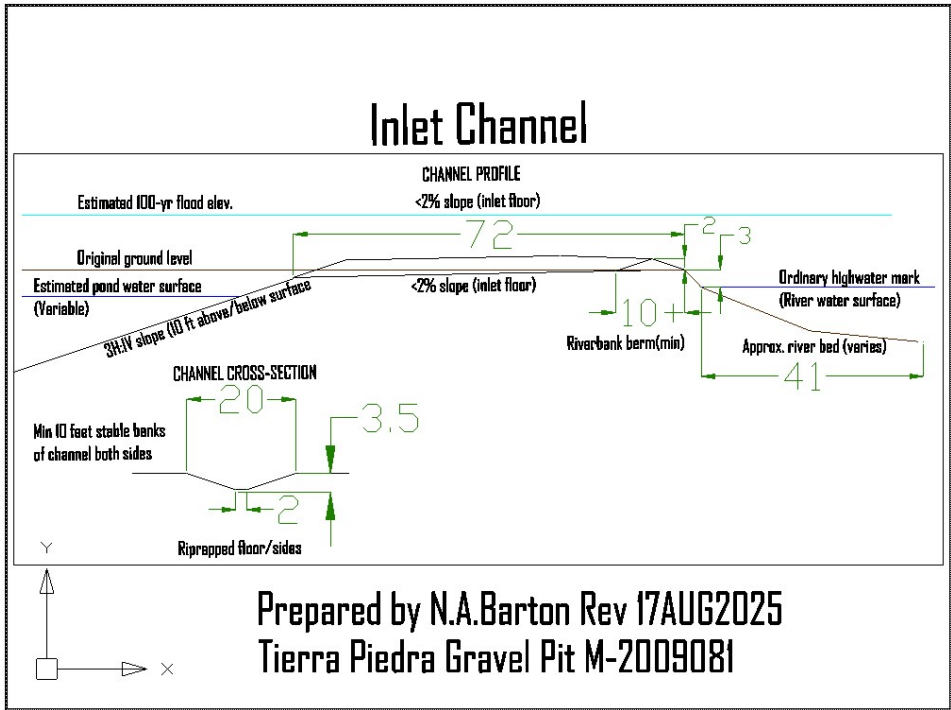
**STANDARDS:** Prevent and control noxious weeds and foreign vegetation in compliance with good engineering and agricultural practices, Colorado and Archuleta County requirements (statutes, policies, and permit conditions), in a safe, healthy and effective manner to preserve and restore the natural environment in accordance with mining and reclamation plans.

**PERFORMANCE MEASURES:**

1. Coordinate frequently with Archuleta County Weed and Pest Control (ACWPC) (Mr. Eathan Proud, email [eproud@archuletacounty.org](mailto:eproud@archuletacounty.org) and phone or via web page [Weed & Pest | Archuleta County, CO - Official Website](#)).
2. Inspect all portions of the pit and adjacent lands (TPRLLC, Tribal, USFS, and CDOT, including roadways) on a regular basis, including early Spring, June, Beginning and end of crushing season, and late August. If weed infestations were previously found, increase inspection frequency to include above and May 1, June 15, July 15, and September 15. Document inspections (photos).
3. As necessary, identify and record weeds and location and quantity.
4. As much as possible, rapidly reseed berms, soil stockpiles, areas being reclaimed and disturbed areas not to be disturbed within three months (during growing season).
5. Immediately upon identification of weed infestation, control weeds by mechanical means (primary method of control): mowing and weed-eating: as much as possible, remove seedheads and flowers and dispose of with solid waste (trash or high-temperature composting).
6. If weed infestation cannot be dealt with mechanically due to terrain or other considerations, use secondary methods of control including:
  - a. Chemical: in coordination with ACWPC, use point application of approved pesticides on weeds (as limited as possible)
  - b. Hand-weeding: again as limited as possible but concentrating on areas where vehicles and persons might incidentally collect seeds or plants and carry off
  - c. Burning: in coordination with ACWPC, use propane torches to burn off weed patches to destroy seeds and plants above ground.
7. Refer to Archuleta County and Southern Ute Indian Tribe weed control lists for detailed information. Review lists, including pictures at least at the beginning of Spring and late Summer, to better identify plants. The weeds that are most problematic (per ACWPC) in the lower Piedra Valley and around Navajo Lake/Arboles are Canada thistle, musk thistle, Russian and spotted knapweed, salt cedar (Tamarisk), Russian olive and perennial pepperweed. Non-noxious weeds that are a concern are mainly kochia and Russian thistle. Russian knapweed is definitely the most prevalent of these weeds.
8. Reference the following documents for additional guidance:
  - a. 2025 Archuleta County Integrated Pest Management Plan
  - b. CSU Extension Service Fact Sheet 3105 Range, pasture and natural area weed mgt
  - c. CSU Extension Service Fact Sheet 3016 Small rural area weed management

Prepared by Nathan A. Barton, WASTELINE, Inc. 2025-0814 for Tierra Piedra Ranch, LLC

Attachment B. Drawings of Inlet and Outlet Channels





**Attachment C. Map/plan of site showing general post-reclamation contours**

**TO BE PROVIDED SEPARATELY.**