



RECEIVED  
DEC 24 2012  
GRAND JUNCTION FIELD OFFICE  
DIVISION OF  
RECLAMATION MINING & SAFETY

December 18, 2012

Attn: Mr. Travis Marshall  
Colorado Division of Reclamation,  
Mining, and Safety  
101 S. 3<sup>rd</sup> Street, Room 301  
Grand Junction, CO 81501

NWCC Project Number: 10-8718

RE: Preliminary Adequacy Review Response,  
Western Gravel E&P Waste Disposal Facility

Dear Mr. Marshall:

On behalf of Western Gravel, LLC (WG), NWCC, Inc. (NWCC) is pleased to provide clarification in accordance with the November 28, 2012 Division of Reclamation, Mining, And Safety (DRMS) correspondence (*112 Construction Materials Reclamation Permit Amendment Application, WRC Gravel Pit, Permit No. M-2008-070, AM – 1, Preliminary Adequacy Review*). The following discussion is intended to provide clarification and is for our mutual understanding and includes the DRMS adequacy item followed by a response.

1. *"The amendment application addresses the entire 191.83 acres of the permit. On November 14, 2012 the Division received a document from DMSL, a firm that represents Sam F. Love and Virginia L. Love who own the land in Phase II. The document stated that the Gravel Lease Agreement for Phase II of the gravel operation is no longer valid and therefore the operator does not have a right to extract any material from the property owned by Mr. and Mrs. Love. The operator must either renew the lease agreement. If a new agreement cannot be reached, the operator must file a Technical Revision to the amendment application and supply a revised legal description that does not include the land in Phase II along with all appropriate maps that are associated with the required Exhibits of the amendment application. Simultaneously with the application Technical Revision Western Gravel shall apply for an Acreage Reduction in accordance with the requirements of Rule 4.17 for the area to be removed from the permit area. If the operator plans to remove the acreage owned by Mr. and Mrs. Love the remaining permit acreage will be 29.0 acres."*

Based upon a copy of the December 7, 2012 Darling Milligan Smith & Lesch, PC (DMSL) correspondence submitted to DRMS and provided to NWCC, the Loves are in negotiation with Western Gravel, LLC regarding a property purchase. DMSL requested that the Love's objection and any action regarding the application be held in abeyance pending a formal sale contract between the parties and that the Loves do not object to the Western Gravel extension request associated with the application.

Based upon our December 11, 2012 conversation, the December 7, 2012 DMSL correspondence in effect, removes public comment from the amendment process. However, in order for the application to be considered complete, DRMS must be provided right-of-entry and lease

(970) 879-7888 • Fax (970) 879-7891  
2580 Copper Ridge Drive • Steamboat Springs, CO 80487

agreement documentation associated with Phase II. Requirements surrounding this issue are currently being discussed and are pending.

2. *"In Exhibit C the Site Plan labeled Figure 3, Future Cells E and D along with Pond 1 and some future run off control channels are located out of the approved permit boundary for Phase I. Please explain the time frame in which the cells are to be constructed and the intention of the use of material that is required to be excavated to construct the cells that are located outside of the approved permit area."*

For purposes of the following discussion, construction sequencing is shown on Figure 3A that is located in Exhibit C. In accordance with the facility Design and Operations (D&O) Plan, cells located inside the Phase I gravel permit boundary will be constructed first. The cells will be constructed as the pit is mined out, progressing from Cell A first to Cell B including the stormwater retention pond located at the east side of the cell then finishing with Cell C.

In order to manage stormwater, retentions ponds and control channels must be constructed. Run-on control channels and retention Pond 1 will be constructed outside the gravel permit boundary and run-off control channels and the future retention pond will be constructed within the boundary. These controls will be constructed as required beginning with Pond 1 and control channels adjacent to Cell A. Based upon oil and gas industry disposal needs, Cells D and E that are located outside the gravel permit boundary may or may not be constructed in the future.

All cut materials within and outside the gravel permitted boundary will be used for landfill development and operations purposes. It should be noted that cut and fill operations associated with stormwater control channels, retentions ponds, and any cells are considered landfill operations and not mining activities. In accordance with Colorado Department of Public Health and Environment (CDPHE) regulations, excess soils will remain on-site to be used for landfill operations purposes (e.g. daily soil cover, final closure). This is required and standard practice at landfills located throughout the State of Colorado.

3. *"Exhibit D states that a COD and SUP are requested for a 57.4 acre area including Phase I, the current acreage for Phase I is 20.95 acres. The Division understands that this is a phased operation, however, please to commit to not disturbing land outside of the approved mining area until all necessary permits are in place. The operator may be required to file a permit amendment with the DRMS to add the additional acreage required to construct all proposed cells if the material is intended to be used or sold as a construction material."*

Except for DRMS reclamation amendment approval, all required permits have been obtained that will allow landfill construction to proceed. However, prior to acceptance and disposal of E&P wastes, a heavy industrial stormwater permit specific to landfills and an air emissions permit must be obtained. In addition, each landfill cell must be certified by CDPHE and financial assurance payment must be made to CDPHE prior to waste disposal in the cell. Landfill development activities are not likely to begin until spring 2013.

As discussed above, all landfill operations consist of cut and fill activities. Soil obtained from cuts must be stored at the facility for use as daily cover and final closure purposes. Cut and fill materials associated with landfill development will not be sold as a construction material but reserved for landfill operations. It is likely that materials existing within the permitted gravel pit will be used to construct Cells A through C and the future pond.

4. *"The Exhibit E Cell A Grading Plan, Figure 4 shows Pond 1 outside of the approved current permit boundary. What is intended use of approximately 4,000 cubic yards required to be excavated to construct the pond? If the material is intended to be used and/or sold as a construction material the area must be incorporated into the approved permit area through*

*amendment of the permit. This amendment (AM-1) does not account for any additional acreage to be added to the permit. A separate amendment will need to be filed or an amendment to this amendment must be submitted."*

In accordance with the D&O Plan, Pond 1 excavation will result in approximately 5,000 cubic yards of soil material that was intended to be used for development of Cell A. However, in the event that using soil from outside the gravel permit boundary for use inside the boundary is problematic, soil from the existing gravel pit can be used for Cell A and soil from the pond will be reserved for other landfill operations.

5. *"Exhibit E, the reclamation of the site will be considered complete by the DRMS once the E&P Waste Disposal Facility is constructed. The operator must commit to removing the completed cell, through and Acreage Reduction in accordance with Rule 4.17, from the reclamation permit prior to placing any E&P waste into the cell."*

Western Gravel believes that following CDPHE certification of a landfill cell, the cell acreage should be released from DRMS jurisdiction including performance and financial warranties. Assuming all required permits have been obtained and based upon CDPHE regulations, E&P waste may be placed in a cell following CDPHE certification and financial assurance submittal. The cell will fall under CDPHE jurisdiction when certified.

Western Gravel understands the unique circumstances regarding the transition from a gravel mine to a solid waste landfill. However, Western Gravel does not believe it appropriate to withhold the cell from use during the interim while the Acreage Reduction process is being conducted. Western Gravel believes the cell can be placed into operations following CDPHE certification and acceptance of jurisdictional responsibility. For clarification and project coordination, NWCC recommends a telephone conference with Robert Peterson (CDPHE regulator) and NWCC.

6. *"Exhibit L, Please provide all information necessary to calculate the proposed reclamation cost for the site as required by Rule 6.4.12(I)."*

DRMS was provided proposed reclamation costs in the original approved permit regarding the gravel mine reclamation. Based upon our understanding, as landfill cells are developed, reclamation of the remaining gravel pit area will be managed in accordance with the existing gravel pit reclamation permit.

Following CDPHE certification, a cell will be managed under CDPHE regulations and jurisdiction. In accordance with CDPHE regulations, Western Gravel must establish financial assurance sufficient to ensure payment of hiring a third party to close the largest area of the facility that may require closure during the active life of the landfill. The financial assurance must be based upon cost of closure when the extent and manner of operation would make closure the most expensive. Financial assurance cost estimates must be adjusted annually based various economic factors (e.g. inflation/deflation).

A specific design for only Cell A, Pond 1, and run-on/run-off control channels has been developed. Only a conceptual design has been developed for remaining Cells B and C and a retention pond located within the gravel permit boundary. Because specific subsurface conditions are unknown, a site specific design cannot be developed until mining is completed in these areas within the permitted gravel pit boundary. In order to estimate financial assurance costs, a specific design must be developed first. In the landfill industry, financial assurance is generally estimated and submitted to CDPHE in a phased approach as cells are constructed and as-built details are known.

At the moment of certification; cell operations, closure, and reclamation will be regulated through CDPHE and DRMS will be relieved of jurisdiction. DRMS acreage reduction and bonding

release could begin at this time. Therefore, reclamation cost estimates appear to be more of a CDPHE concern. For clarification and project coordination, DRMS may wish to contact Robert Peterson, (CDPHE regulator) and NWCC to discuss.

7. *"Exhibit N, Please provide a current legal right of entry."*

A copy of the facility Right-Of-Way Access Permit to the property granted by Rio Blanco County on January 7, 2008 is attached and also included in Appendix A of the D&O Plan. The permit continues to be in force. Western Gravel owns and has access to Phase I of the gravel mine. However, in accordance with above Item 1 Phase II is not currently accessible and is being negotiated by the property owner and Western Gravel.

8. *"Exhibits Q and R, please provide current proof of notification to both Rio Blanco County Commissioners and the Rio Blanco County Clerk and Recorder. The proof submitted is from August 2011 which is considered to be outdated."*

Recent proof of notification to Rio Blanco County Commissioners and Rio Blanco County Clerk and Recorder was omitted in error. These proofs of notification are attached.

9. *"Per Rule 6.2.1(2)(b), all maps must be signed by a qualified map maker. Please follow all requirements of Rule 6.2.1 prior to submitting the required revised maps for the amendment."*

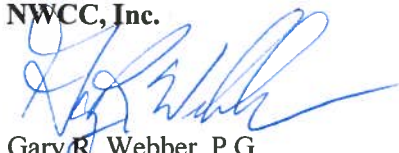
Considered part of the application package, the facility D&O Plan stamped and signed by a Colorado registered professional engineer was provided. By inclusion in the stamped and signed D&O Plan, all maps and figures provided in the application meet Rule 6.2.1 requirements.

10. *"The layout of the application cites components from the Design and Operations (D&O) Plan for the proposed E&P Waste Disposal Facility. Only certain exhibits approved in the original application will be modified and specifically the final configuration of the reclamation proposed at the site. Therefore, the Division will consider the reclamation at the site to be the completion of the E&P Waste Disposal Facility. No component of the active solid waste facility will fall under the jurisdiction of the DRMS."*

Based upon our understanding, reclamation requirements under DRMS jurisdiction should be considered complete following CDPHE certification of the last (third) landfill cell to be constructed within the permitted gravel pit boundary and following acreage reduction from the DRMS reclamation permit.

Following your review, please contact me in order to discuss any additional DRMS needs and/or clarifications. We look forward to continue to work with you.

Sincerely,  
NWCC, Inc.



Gary R. Webber, P.G.  
Senior Environmental Consultant

cc. Donald Valentine, Western Gravel

# RIO BLANCO COUNTY ROAD AND BRIDGE DEPT. RIGHT-OF-WAY ACCESS PERMIT

THE PERMITTEE: Western Gravel, LLC

PERMIT NUMBER: \_\_\_\_\_

ROAD NUMBER: \_\_\_\_\_

DISTRICT NO: \_\_\_\_\_

SUPERVISOR: \_\_\_\_\_

Address: P.O. Box 808 Meeker, CO 81641

DATE ISSUED: \_\_\_\_\_

Telephone 970-878-5564

is hereby requesting permission to construct and use an access to a county right-of-way at the location noted below. The access shall be constructed, maintained and used in accordance with the terms and conditions of this permit including listed attachments. Sketch shall include frontage of lot along road, distance from centerline of road to property line, number of driveways requested, width of proposed driveway(s) and angles, distance from building(s) and/or other facilities.

The applicant binds and obligates himself to construct and maintain the right-of-way access(es) in accordance with the provisions, specifications, and conditions enumerated in this document.

The issuing authority may revoke this permit if at any time the permitted access and its use violate any of the terms and conditions of this permit.

LOCATION (Please indicate county road and nearest mile post or address if one exists):

RBC Rd 5 Nearest Mile post is 42

PURPOSE OF THIS ACCESS (summer or full-time residence, utility location, etc):

To provide access to proposed WRC Gravel Pit

SKETCH: This permit shall be made available at the site where and when work is being done. A work sketch or drawing of the proposed driveway(s) must accompany application. Proposed location must be marked or flagged before submitting this form.

See Attached

## GENERAL PROVISIONS: (See reverse for Specifications)

1. The Applicant represents all parties in interest, and affirms that the driveway approach(es) is to be constructed by him for the bona fide purpose of securing access to his property and not for the purpose of doing business or servicing vehicles on the right-of-way.
2. The Applicant shall furnish all labor and materials, perform all work, and pay all costs in connection with the construction of the driveway(s) and its appurtenances on the right-of-way. All work shall be completed in an expeditious and safe manner and shall be finished within 30 days of the Permit date.
3. The type of construction shall be as designated and/or approved by the Road Department and all materials used shall be of satisfactory quality and subject to inspection and approval of the Department.
4. The travelling public shall be protected during the installation with proper warning signs and signals and the Department and its duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the Permit.
5. No revisions or additions shall be made to the driveway(s) or its appurtenances on the right-of-way without the written permission of the Department.
6. Provisions and specifications outlined herein shall apply on all roads under the jurisdiction of the Department.
7. Staking or flagging access boundaries is required prior to approval.
8. This permit does not allow any damage to occur on the existing county right-of-way. If Permittee causes damage to the county road, Permittee shall repair road to the county's satisfaction.
9. All driveways permitted must have 6" of  $\frac{3}{4}$ " road base on the surface from the point it intersects the county road to the edge of the county road right-of-way.

OTHER TERMS AND CONDITIONS: \_\_\_\_\_

**FEE \$65.00**

Upon signing this permit the Permittee agrees to the terms and conditions and referenced attachments contained herein. The permitted access shall be completed in accordance with the terms of the permit prior to being used. The Permittee shall notify the District Supervisor with the Rio Blanco County Road and Bridge Dept. immediately upon completion of the installation. At that time, a representative will inspect driveway access for compliance. If construction is not to the specification herein required, the County shall notify the Permittee and corrections shall be made immediately. If corrections are not made to the satisfaction of the County, the access shall be removed.

The person signing as the Permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and all its terms and conditions.

Permittee: Benton Jensen Date: 1-7-08

APPROVAL TO CONSTRUCT ACCESS ACCORDING TO THE SPECIFICATIONS NOTED ABOVE:

By: \_\_\_\_\_ Date: \_\_\_\_\_ Title: \_\_\_\_\_

Authorized County Representative

This permit is not valid until signed by a duly authorized representative of the Department.

RIO BLANCO COUNTY ROAD AND BRIDGE DEPARTMENT

Meeker District: 570 - 2nd Street Meeker, Colorado 81641 (970) 878-5564 Fax (970) 878-3396

Rangely District: 17497 Hwy. 64 Rangely, Colorado 81648 (970) 676-8644 Fax (970) 875-8648

878-9595

## SPECIFICATIONS DEFINITIONS

A driveway approach or access is understood to be that portion of the highway right-of-way between the pavement edge and the property line which is designed and used for the interchange of traffic between the roadway and the abutting property.

### INTERSECTION CLEARANCE

At any intersection, a driveway shall be restricted for a sufficient distance from the intersection to preserve the normal and safe movement of traffic. (It is recommended for rural residence entrances that a minimum intersection clearance of 50 feet be provided and for rural commercial entrances a minimum of 100 feet be provided.)

### SIGHT DISTANCE

All entrances and exits shall be so located and constructed that vehicles approaching or using them will be able to obtain adequate sight distance in both directions along the highway in order to maneuver safely and without interfering with highway traffic.

Stopping sight distance is that distance required for a vehicle traveling on a horizontal curve to stop before reaching an object in its path. Stopping distance is measured from driver's eyes, which are 3.5 feet above road surface of the inside lane and the object is 6 inches high. The line of sight is assumed to intercept the obstruction at the midpoint of the light line and 2.0 feet above road surface. The following chart may be used for reference:

|                       |     |     |      |      |      |      |
|-----------------------|-----|-----|------|------|------|------|
| Design Speed MPH      | 30  | 35  | 40   | 45   | 50   | 55   |
| Minimum Stopping      | 300 | 300 | 300* | 375* | 450* | 575* |
| Sight Distance (feet) |     |     |      |      |      |      |

The stopping sight distance of any roadway design should never be less than the minimum for the design speed.

\*Based on road conditions and traffic count, stopping sight distance requirements may vary from the above given distances.

### CONTROL DEVICES

The Applicant shall not be permitted to erect any sign or display material, either fixed or movable, on or extending over any portion of the highway right-of-way.

### NUMBER OF DRIVEWAYS

Generally no more than one approach shall be allowed any parcel of property the frontage of which is less than one hundred (100) feet. Additional entrances or exits for parcels of property having a frontage in excess of one hundred (100) feet shall be permitted only after showing of actual convenience and necessity.

### PROPERTY LINE OFFSET

All driveways shall be so located that the flared portion adjacent to the traveled way will not encroach upon adjoining property.

### DRIVEWAY WIDTH

No commercial driveway shall have a width greater than thirty (30) feet measured at right angles to the centerline of the driveway, except as increased by permissible radii. No non-commercial driveway shall have a width greater than twenty (20) feet measured at right angles to the centerline of the driveway, except as increased by permissible radii.

### DOOR ANGLE

The axis of an approach to the road may be at a right angle to the centerline of the highway and of any angle between ninety (90) degrees and sixty (60) degrees but shall not be less than sixty (60) degrees. Adjustment will be made according to the type of traffic to be served and other physical conditions.

### PARKING

The construction of parking or servicing areas on the highway right-of-way is specifically prohibited. Off-the-road parking facilities should be provided by commercial establishments for customers' vehicles.

### SLOPE OF DRIVE

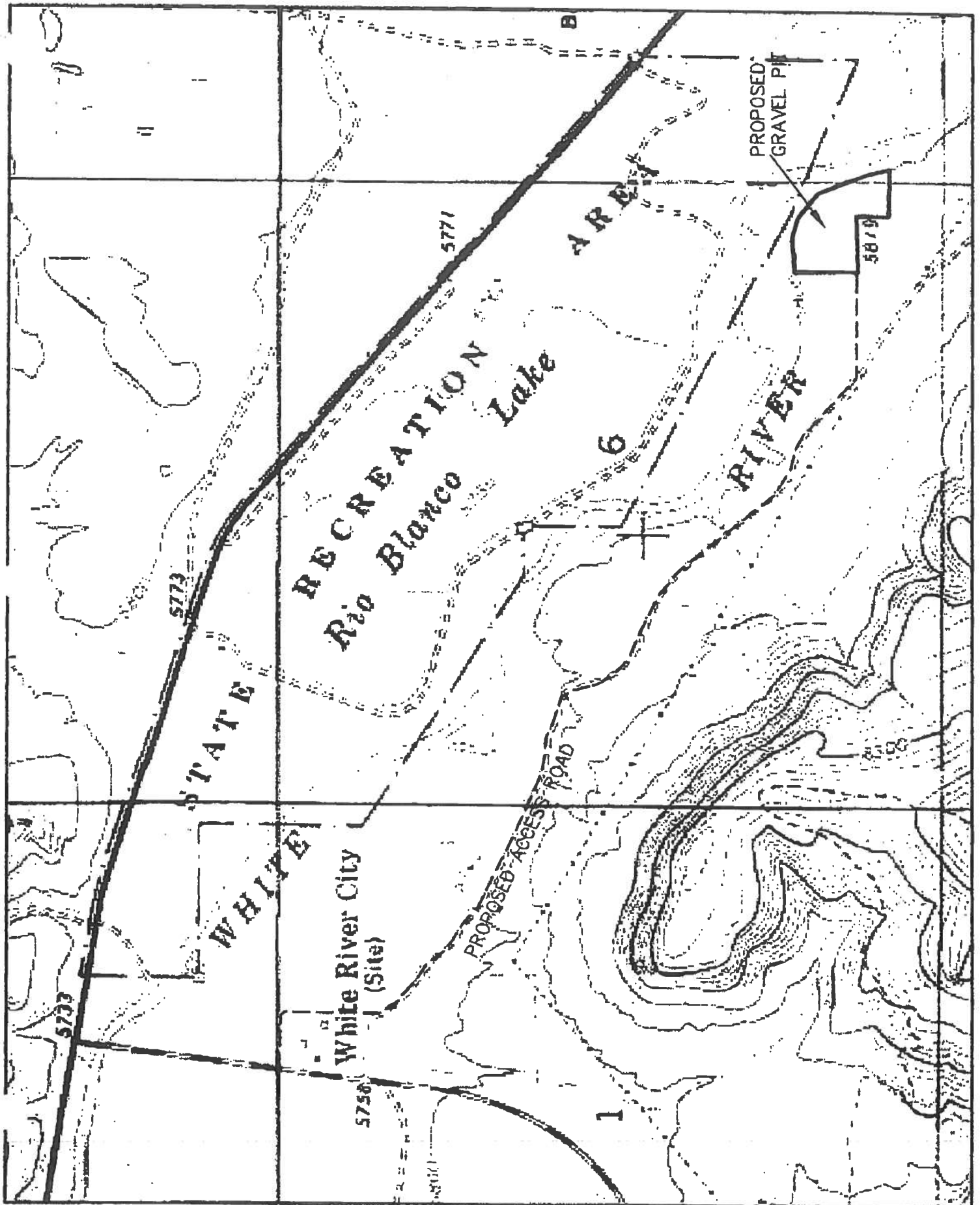
The grade of entrance and exit shall slope downward and away from the road surface at the same rate as normal shoulder slope and for a distance equal to the width of the shoulder but in no case less than ten (10) feet from the pavement edge. Approach grades are restricted to not more than 2% with a crown of 3% for fifty feet.

### DRAINAGE

All driveways and approaches shall be so constructed that they shall not interfere with the drainage system of the street or highway. The Applicant will be required to provide, at his own expense, drainage structures at entrances and exits which will become an integral part of the existing drainage system. The dimensions of all drainage structures will generally be based on Talbot's Formula and must be approved by the Department representative prior to installation. The minimum size on culverts is 18 inches by 20 feet unless special permission is granted.

| DIAMETER IN INCHES | SQ.FT. AREA OF WATER WAY<br>OPENING | ACRES OF MOUNTAINOUS<br>COUNTRY | ACRES OF ROLLING<br>COUNTRY | ACRES OF LEVEL COUNTRY |
|--------------------|-------------------------------------|---------------------------------|-----------------------------|------------------------|
| 18"                | 1.8                                 | 2                               | 9                           | 18                     |
| 24"                | 3.1                                 | 5                               | 20                          | 39                     |
| 30"                | 4.9                                 | 8                               | 38                          | 71                     |
| 36"                | 7.1                                 | 14                              | 59                          | 115                    |
| 42"                | 9.6                                 | 20                              | 89                          | 175                    |
| 48"                | 12.6                                | 29                              | 125                         | 250                    |
| 54"                | 15.9                                | 40                              | 175                         | 345                    |
| 60"                | 19.6                                | 55                              | 230                         | 455                    |
| 66"                | 23.8                                | 70                              | 295                         | 585                    |
| 72"                | 28.3                                | 85                              | 375                         | 735                    |
| 78"                | 33.2                                | 105                             | 460                         | 910                    |
| 84"                | 38.5                                | 130                             | 580                         | 1110                   |

THIS CHART IS BASED ON TALBOT'S FORMULA FOR DETERMINING CULVERT SIZES FOR THE AREA TO BE DRAINED.



# NOTIFICATION OF ROAD MAINTENANCE CLASSIFICATION

## RIO BLANCO COUNTY ROAD & BRIDGE DEPARTMENT

This form must be approved and attached to the Rio Blanco County Right-of-Way Access Permit Application prior to consideration of approval of access construction.

APPLICANT NAME: Western Gravel, LLC

LOCATION OF ACCESS: Off of RBC Rd 5 by Mile post 42

CHECK APPROPRIATE BOX AND SIGN:

☒ This access location is located on a year-round maintained county road. This does not guarantee that the county road accessing the access location is maintained on a regular basis or that snow is plowed on the same day it occurs.

X Patricia Gamme Date: Jan 7 08  
Land Owner or Legal Representative Signature

☐ I understand this access location is on a "NO WINTER MAINTENANCE" section of county road. Rio Blanco County will not maintain or plow this section of road from approximately November 1<sup>st</sup> through June 1<sup>st</sup> or later depending upon conditions. The county does not allow private individuals to plow or maintain county roads without a permit. I understand and agree that no winter maintenance of this road may affect my use of my property during winter months.

\_\_\_\_\_  
Land Owner or Legal Representative Signature Date: \_\_\_\_\_

☐ Before construction begins, applicant must receive a Right-of-Way Access Permit from the Rio Blanco County Road and Bridge Department. Permits are not always granted due to conditions of specific locations (i.e. blind curves, steep grades, etc.). You must contact the Road and Bridge Department and obtain your access permit before beginning construction. Applicant understands that no final inspection of the construction site will occur or certificate of occupancy issued until the terms and conditions of the Right-of-Way Access Permit have been completed.

\_\_\_\_\_  
Land Owner or Legal Representative Signature Date: \_\_\_\_\_

X Signature: Patricia Gamme Date: Jan 7 08

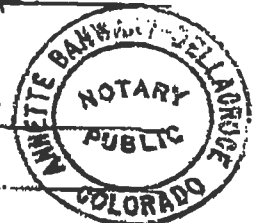
Witness: Patricia Gamme Date: Jan 7, 2008

If witness is not a Rio Blanco County Representative, a Notary is required:

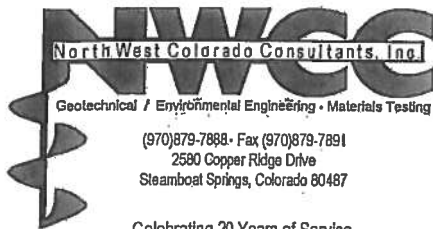
Annette Benward Della Cose

exp. 8/28/2009

Mountain Valley Bank  
2201 Curve Plaza Ste. 101A  
P.O. Box 774786  
Steamboat Springs, CO 80477







September 21, 2012

Rio Blanco County  
Planning Department  
Attn: Ms. Anna Smith  
200 Main Street  
Rifle, CO 81641

NWCC Project No. 11-8718

RE: Western Gravel E&P Waste Disposal Facility,  
Regular 112 Operation Reclamation Permit  
Amendment Application

Dear Ms. Smith:

In accordance with our recent discussion and on behalf of Western Gravel, LLC (WG), NWCC, Inc. (NWCC) is submitting an amendment application package associated with the Division of Reclamation, Mining, and Safety (DRMS) reclamation permit that WG currently holds. Specifically, WG is applying to amend the reclamation portion of the gravel mining permit to a solid waste facility. In accordance with DRMS regulations, copies of the Construction Materials Regular (112) Operation Reclamation Permit Application Package must be submitted to the Board of County Commissioners and the County Clerk and Recorder in the county where reclamation activities are proposed.

By signature of authorized Rio Blanco County personnel, the Rio Blanco County Clerk and Recorder and Board of County Commissioners have received the amendment application package referenced above.

ANNA SMITH  
Printed Name

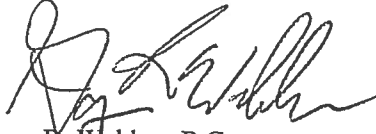
COUNTY PLANNER  
Title

9/21/2012  
Date

[Signature]  
Signature

Should you have any questions or concerns, please do not hesitate to contact the undersigned.  
We look forward to continue working with you.

Sincerely,  
**NWCC, Inc.**

A handwritten signature in black ink, appearing to read 'Gary R. Webber', written over the printed name.

Gary R. Webber, P.G.  
Senior Environmental Consultant