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KELLY R. McCABE
HAZEN D. BROWN

January 28, 2013

Colorado Department of Natural Resources
Division of Reclamation, Mining and Safety
1313 Sherman St., Room 215
Denver, CO 80203

RECEIVED
JAN 28 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

Re: Haycamp Gravel Permit/Four Corners Materials/Permit No. M-1990-025
Section 13, Township 37 North, Range 15 West, N.M.P.M., Montezuma County

Dear Sirs:

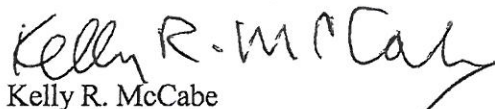
This office represents the owners of the real property referenced above (the Haycamp Gravel Pit) operated by Four States Aggregates (now a wholly owned subsidiary of McStone Aggregates, LLC). As owner of the real property and all attendant rights associated with access to the property, we would like to place the Department on notice that the Permittee shall lose all leasehold rights, including rights to mine and reclaim gravel from the Haycamp Gravel Pit, including legal rights to ingress, egress, and any and all access to the Permit area to conduct mining or reclamation activities effective September 30, 2013. I have enclosed a copy of the Fourth Addendum to the Agreement to Develop and Purchase Road Aggregates for your review and would draw your attention to paragraph 1 of that document.

On behalf of LMN Properties we would respectfully request that this Department direct the investigation of the progress of reclamation with regard to the Permit in contemplation of the lease expiration.

It is our understanding that McStone has requested through Montezuma County a Permit on an adjacent property and that McStone intends to utilize roadways across the LMN properties now accessing the Haycamp Pit. My clients are strongly opposed to the use of any of the Haycamp property to provide the Permittee access for any purpose.

Respectfully,

KELLY R. McCABE, P.C.


Kelly R. McCabe

KRM:sm

Enc.

cc: Wally Erickson, Durango Field Rep., DRMS (via email w/enc.)
Montezuma County Board of County Commissioners
LMN Properties

FOURTH ADDENDUM TO AGREEMENT TO DEVELOP AND PURCHASE ROAD AGGREGATES

This Fourth Addendum to Agreement to Develop and Purchase Road Aggregates ("Addendum") is made by and between Lavena E. Saunders, 22195 Road P, Cortez, Colorado 81321, Harry R. Rogers, 20767 Road S, Cortez, Colorado 81321 and Michelle Welsh, 2537 Pearl Street, Boulder, Colorado 80302, hereinafter referred to as "Owners", Four States Aggregates, LLC, hereinafter referred to as "Four States", P.O. Box 1524, Dolores, Colorado 81323 and McStone Aggregates, LLC, P.O. Box 1524, Dolores, Colorado 81323, hereinafter referred to as "McStone".

For and in consideration of the covenants and conditions contained herein, together with the continuing rights, duties and obligations contained and included within the original Agreement to Develop and Purchase Road Aggregates dated July 20, 2000 ("Agreement"), the First Addendum to said Agreement which is dated June 11, 2002, the Second Addendum to said Agreement which is dated July 1, 2006 and the Third Addendum to said Agreement which is dated January 19, 2007, the parties agree as follows:

WHEREAS, the parties recognize that McStone is providing various operations for Four States in connection with the Agreement; and

WHEREAS, various disputes have arisen with respect to the parties' performance under the Agreement as amended; and

WHEREAS, it is the mutual desire of the parties to set forth their understanding and agreement in writing relative to the settlement of the dispute.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. The term of the Agreement shall expire on September 30, 2013.
2. In the event any payment required under the terms of the Agreement is made with dishonored or insufficient funds, Owners may terminate the Agreement as provided in paragraph 11 of the Agreement. Four States and McStone shall be permitted a period of one year from the date of said termination to remove and market any gravel stockpiled on the property, but no later than September 30, 2013.
3. McStone shall remove all stockpiled materials by September 30, 2013 and any remaining gravel or materials left on the property shall become the property of Owners on October 1, 2013.



4. In the event trash, spoilage or other refuse materials, including rebar, are dumped by McStone, or at McStone's direction, Owners may terminate the Agreement as provided in paragraph 11 of the Agreement. McStone shall be permitted a period of one year from the date of said termination to remove and market any gravel stockpiled on the property, but no later than September 30, 2013.

5. McStone shall abide by all reclamation requirements set forth in the Agreement or established by law or regulation.

6. The terms as stated in the Agreement, First Addendum, Second Addendum and Third Addendum, shall continue in full force and effect unless otherwise modified herein.

7. McStone hereby guarantees the performance of Four States' obligations under the Agreement.

DATED this 2nd day of November, 2011.

OWNERS:

McStone Aggregates, LLC

Lavena E. Saunders
Lavena E. Saunders

Casey N. McClellan
By: Casey N. McClellan, Member

Harry R. Rogers
Harry R. Rogers

Four States Aggregates, LLC

Lavena E. Saunders
Michelle Welsh
FOA

Casey N. McClellan
By: Casey N. McClellan, Member



State
of
Colorado

Erickson - DNR, Wally <wally.erickson@state.co.us>

Haycamp Gravel Pit/Four Corners Materials/Permit No. M-1990-025

1 message

Stacy <SMerrifield@mccabelawcortez.com>

Mon, Jan 28, 2013 at 11:54 AM

To: "wally.erickson@state.co.us" <wally.erickson@state.co.us>

Mr. Erickson:

Mr. McCabe has asked that I forward to you the attached letter and enclosure regarding the Haycamp Gravel Pit/Four Corners Materials for your information.

Stacy Merrifield

Paralegal

Kelly R. McCabe, P.C.

22 E. Main St. Cortez, CO 81321

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2 attachments

1-28-13 Letter to Colo. Dept. of Natural Res.-DRMS.pdf

1/28/13

State.co.us Executive Branch Mail - Haycamp Gravel Pit/Four Corners Materials/Permit No. M-1990-025



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Fourth Addendum to Agmt. to Dev. & Purchase Road Aggregates.pdf

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