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April 9, 2013

Wally Erickson
Division of Reclamation, Mining and Safety
691 CR 233 Suite A-2
Durango, CO 81301

RECEIVED
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Durango Field Office
Division of Reclamation,
Mining and Safety

RE: Response items to protest letters for Rocky Mtn Aggregate and Construction
Uncompahgre Pit

Wally:

We have received from you protest letters from the following people:

- 1) Janice Wheeler, on Feb 25
- 2) Susan Hansen, March 27
- 3) Dr Joseph and Mary Scuderi, on March 28
- 4) Gene and Carolyn Kliethermes on March 30

First of all, it is important to state that the operator Rocky Mountain Aggregate and Construction, LLC takes any protest very seriously. Most of the concerns expressed in these letters concern items that are covered by the Special Use process in Montrose County and are not subject to DRMS jurisdiction. However, it must be stated that these concerns have been taken seriously, such as the truck traffic and dust on T Road, as well as the access onto Highway 550, and the plans are being modified to address these concerns with Montrose County.

The items raised that are subject to DRMS jurisdiction are discussed below:

1- Janice Wheeler – issue of diesel tanks on site, one is 3000 gallons in the pit area and another is 10,000 gallons in the office shop area. These tanks are under the very strict requirements of the Spill Prevention Control and Countermeasure Plan, which is required for these tanks and is regulated by the CDPHE Water Quality Control Division. The tanks must be evaluated for integrity and are required to have secondary containment in another tank of 110% of the full tank volume. Records of inspections must be kept, spill kits must be present near the tanks and training must take place for all employees that will use the tanks. The plans must be available onsite for inspection. Fines are very steep for any violations.

2 – Janice Wheeler – “Occupied Sage Grouse Habitat”. No one has a verified sighting of a sage grouse on the property for decades, to our knowledge. Apparently, there was a sighting years ago but somewhere on the BLM property. The site has been consistently used for cattle grazing, as evidenced by the number of small stock ponds on the terrace. It has also been used as a shooting range, which is not exactly helpful for sage grouse habitat. I spoke at length with Matt Ortega of the Colorado Division of Parks and Wildlife as well as Charles Sharp of the USFW Service. Charles sent an e-mail to me stating their position on the sage grouse, which is attached to this letter. This e-mail states that they do not have jurisdiction over this area and they appreciated that we were willing to work with them.

3 – Janice Wheeler – Sign Placement and typo error. She was correct. Two signs have now been made and the typo has been corrected. The signs have been placed in the proper locations.

4 – Susan Hansen – all issues raised are County special use issues.

5 – Joseph and Mary Scuderi – Sage Grouse and Wildlife issue (See 2 above)

6 – Joseph and Mary Scuderi – “Storm water runoff and the water used by the facility can lead to water quality impairment of our drinking water by polluting the aquifer because the sandy soil drains quickly. Sediment Ponds leak into the aquifer, which will have a lime silo and fly ash from the site”. The runoff from the entire mesa will be completely contained in the collection ditch and sediment pond system for the 10 year event. This system, as shown on Map C-2A, will be installed prior to any disturbance; even topsoil removal. Once the site mines into the terrace, the natural berm left around the perimeter will contain an event over 1000 years in frequency. The gravel is very porous, and immediately below the gravel is a shale zone that is impermeable, and there is no aquifer anywhere in this sequence. There is simply not enough recharge area in this isolated terrace to produce any water at the contact between the gravel and the shale. To substantiate this, there are no springs or seeps along the eastern slope of the terrace, where this contact daylights at its low points. Unlike other areas much further north, there is no irrigation on the terrace and there never has been any irrigation there historically. There simply is no aquifer on the terrace and the operation must contain all runoff in the sediment ponds. Once the water has been deemed in compliance with the strict NPDES requirements of the discharge permit with the CDPHE Water Quality Control Division, the water can be released downstream. One item of note: The requirements for suspended solids in the discharge must be hundreds of times lower than the natural arroyos in the area have during a storm. No chemicals are used in the mining, crushing or screening operation. There may be a lime silo associated with the asphalt plant and a fly ash silo associated with the concrete plant. These silos are under strict dust control regulations of the air emissions permit for each individual plant and fines are extremely large for violations of these permits. As described previously, the diesel tanks are under strict regulations of the SPCC Plan. Magnesium chloride may be used for dust control but the operator has now committed to paving the entire length of the access road from the pit to its intersection with the frontage road to Highway 550. This will limit the use of magnesium chloride to minor roads within the pit itself.

7 – Joseph and Mary Scuderi – The irrigation ditch in the field could get contaminated with chemicals from the operation. See responses 1 and 6 above.

8 – Joseph and Mary Scuderi – There is documentation which shows a great deal of radioactive materials in the soil area, which is covered with cobbles, stone, boulders and un-weathered bedrock. We believe that this documentation should be provided. It is extremely unlikely that any radioactive material could be present in any quantity that could have any detrimental effects to anyone in or outside of the permit area. The existing tailings at the Whirlwind uranium mine of Energy Fuels in Mesa County were tested for this very concern and it was found that if a person camped on the tailings in a tent, there was more radiation from the sun in a year than that radiating from the pile.

9 – Joseph and Mary Scuderi - How will topsoil be secured without blowing dust pollution. The topsoil pile will be constructed at the start of the operation and will be seeded immediately with the rangeland mix described in the permit within 60 days after construction. If no rains occurs, the pile will be watered to encourage immediate plant growth.

10 - Gene and Carolyn Kliethermes – Dust and fumes are handled by the air emissions permit with the Air Quality Control Division of the CDPHE. The asphalt plant, the cement plant and the site itself will each have separate air emissions permits. These permits are very strict and control the amount of dust produced per year, as well as the opacity allowed from the site. The plants are required to have strict and detailed Operating and Maintenance Plans which are also approved by the Air Quality Control Division. As stated earlier, fines are extremely expensive if violations are found with these permits. The quality of life and other nuisances will be controlled better than almost all other sites in the state due to the berm being present around the operation for 95% of its life, which will make the operation virtually invisible to anyone in the valley below.

Wally, you can let any of the protesters know that I am available by phone if any of them would like to talk about these issues further. My number is 303-346-5196. Zane Luttrell, the operator, can also be reached at 970-249-8780.

Sincerely,

A handwritten signature in cursive script that reads "Greg Lewicki".

Greg Lewicki, P.E.
Greg Lewicki and Associates

Cc: Zane Luttrell