

MV R Resources, Inc.

May 28, 2013

Dustin Czapla
Division of Reclamation, Mining and Safety
Grand Junction Field Office
101 South Third Street, Room 301
Grand Junction, CO 81501

RECEIVED

MAY 29 2013
GRAND JUNCTION FIELD OFFICE
DIVISION OF
RECLAMATION MINING & SAFETY

RE: Delta County, Cook Pit Application, File No. M-2013-013.

Dear Mr. Czapla:

The following documents relating to the Cook Pit application are enclosed. Proof of publication, proof of mailing of the notice to appropriate parties, resolution of the Delta County Commissioners approving the Specific Development Permit for this operation and the development agreement, the remaining waivers for permanent man-made structures within 200 feet of the operation, and a letter from Colorado Parks and Wildlife with recommendations about the nearby Heron nesting site. The proposed haul road for this operation will keep all mine traffic more than 1000 feet from the Herons at all times.

Please let me know if there is any additional information needed for this application..
Thank you for your assistance in this matter.

Sincerely,



Michael Ripp
Consultant

DELTA COUNTY

INDEPENDENT

401 Meeker St.
P.O. Box 809
Delta, CO 81416

AFFIDAVIT OF PUBLICATION

STATE OF COLORADO }
COUNTY OF DELTA } ss.

I, Randal Sunderland, do solemnly swear that I am publisher of the *Delta County Independent*; that the same is a weekly newspaper printed, in whole or in part, and published in the County of Delta, State of Colorado, continuously and uninterruptedly in said County of Delta for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, and all amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado; that the annexed legal notice or advertisement was published in the regular and entire issue four consecutive insertions; that the first publication of said notice was in the issue of said newspaper dated March 20th, A.D., 2013, and that the last publication of said notice was in the issue of said newspaper dated April 10th, A.D., 2013.

In witness whereof I have hereunto set my hand this 10th day of April, A.D., 2013.

Randal Sunderland
General manager of said *Delta County Independent*

Subscribed and sworn before me, a Notary Public in and for the County of Delta, State of Colorado, this 10th day of April, A.D., 2013.

Patricia Sunderland
Notary Public

My commission expires 12/24/2013
900 Cypress Wood Lane
Delta, CO 81416



PUBLIC NOTICE

Delta County, 501 Palmer Street, Delta, CO 81416, (970) 874-2035 has filed an application for a Reclamation Permit with the Colorado Mined Land Reclamation Board under provisions of the Colorado Land Reclamation Act for the Extraction of Construction Materials. The proposed mine is known as the Cook Pit and is located at or near SW 1/4 SW 1/4, Section 33, Township 15 South, Range 96 West, 6th Prime Meridian, Delta County, Colorado.

The proposed date of commencement is June 17, 2013, and the proposed date of completion is October 30, 2013. The proposed future use of the land is Rangeland.

Additional information and the tentative decision date may be obtained from the Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, Colorado, 80203, (303) 866-3567, or at the Delta County Clerk and Recorder's office; 501 Palmer Street, Delta, Colorado, 81416, or the above named applicant. A complete copy of the application is available at the above named County Clerk and Recorder's office and at the Division's office.

Comments Concerning the application and exhibits must be in writing and must be received by the Division of Minerals and Geology by 4:00 p.m. on April 30, 2013.

Please note that under the provisions of C.R.S. 34-32.5-101, et. seq., comments related to noise, truck traffic, hours of operation, visual impacts, effects on property values and other social or economic concerns are issues not subject to this Office's jurisdiction. These subjects are typically addressed by your local government, rather than the Division of Reclamation, Mining and Safety or the Mined Land Reclamation Board.

Published in the *Delta County Independent* March 20, 27, April 3 and 10, 2013.

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

In County water
P.O. Box 347
Montrose, CO 81402

- A. Signature ☐ Agent ☐ Addressee
- B. Received by (Printed Name) ☐ C. Date of Delivery ☐
- D. Is delivery address different from item 1? ☐ If YES, enter delivery address below: ☐

Signature
Received by (Printed Name)
Montrose, CO
MAR 21 2004

- 3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.
- 4. Restricted Delivery? (Extra Fee) ☐

2. Article Number (Transfer from service label) 7012 0470 0002 0391 8033

PS Form 3811, February 2004 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Century Link
Right of Way Manager
2524 Blighman Ave.
Grand Junction, CO 81505

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) ☐ C. Date of Delivery ☐
- D. Is delivery address different from item 1? ☐ If YES, enter delivery address below: ☐

Signature
Received by (Printed Name)
Grand Junction, CO

- 3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.
- 4. Restricted Delivery? (Extra Fee) ☐

2. Article Number (Transfer from service label) 7012 0470 0002 0391 8019

PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-1540

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Delta County
Road + Bridge Department
501 Palmer St.
Delta, CO 81416

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) ☐ C. Date of Delivery ☐
- D. Is delivery address different from item 1? ☐ If YES, enter delivery address below: ☐

Signature
Received by (Printed Name)
Delta, CO

- 3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.
- 4. Restricted Delivery? (Extra Fee) ☐

2. Article Number (Transfer from service label) 7012 0470 0002 0391 8057

PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Cola Division of Parks + Wildlife
Montrose Service Center
2300 S. Townsend
Montrose, CO 81401

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) ☐ C. Date of Delivery ☐
- D. Is delivery address different from item 1? ☐ If YES, enter delivery address below: ☐

Signature
Received by (Printed Name)
Montrose, CO

- 3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.
- 4. Restricted Delivery? (Extra Fee) ☐

2. Article Number (Transfer from service label) 7012 0470 0002 0391 8002

PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

J C 44
 The Estate of Joseph W. Cook
 c/o Carl Cook
 3618 Ridge Drive
 Grand Junction, CO 81506

2. Article Number

(Transfer from service label)

7012 0470 0002 0391 7999

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-A

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Carl Cook* ☐ Agent ☒ Addressee

B. Received by (Printed Name)

C. Date of Delivery

CARL COOK 3-21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LAZY HX, LLC
 10922 25 Mesa Rd
 Delta, CO 81416-7816

2. Article Number

(Transfer from service label)

7012 0470 0002 0391 8040

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-A

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Edith Davis* ☒ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Edith Davis 3-21

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Campbell Cattle Co.
 12093 25 Mesa Rd.
 Delta, CO 81416

2. Article Number

(Transfer from service label)

7012 0470 0002 0391 8026

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-A

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Jody Campbell* ☒ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Jody Campbell 3-26

D. Is delivery address different from item 1? ☒ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

RECEIVED

March 4, 2013

APR 02 2013

Colorado Division of Parks and Wildlife
Montrose Service Center
2300 South Townsend
Montrose, CO 81401

Dear Sirs:

As a part of the application for a Colorado Mined Land Reclamation Permit to extract gravel materials from the Cook Pit (W1/2 of the SW1/4 of Section 33 and E1/2 of the SE1/4 of Section 32, T.15S., R.96W., 6th P.M., Delta County, Colorado), the Mined Land Reclamation Board requires the applicant to obtain an agreement to reimburse owners of permanent man-made structures within 200 feet of the operation for any damage done to their property or structures as a result of the permitted mining operation.

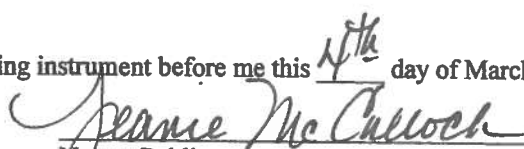
Since your barbed wire fence along the Escalante State Wildlife Area is within 200 feet of the affected area, Delta County agrees to reimburse you for any damage done to your property or structures as a result of the permitted mining operation.

Your acknowledging signature in the space provided should satisfy the M.L.R.B. law requirement. A pre-addressed, stamped envelope is enclosed for your use. Thank you for your cooperation.

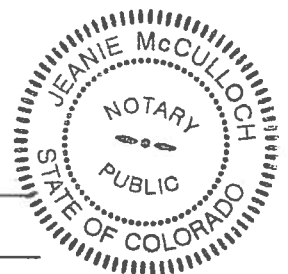
Sincerely,


Bob Kalenak
Delta County Engineer

Bob Kalenak acknowledged the foregoing instrument before me this 4th day of March, 2013.


Notary Public

My Commission Expires: 5/18/2014



ACKNOWLEDGED BY:

Colorado Division of Parks and Wildlife


Signature/Title

The foregoing instrument was acknowledged before me this 29th day of March, 2013 by _____
for Colorado Division of Parks and Wildlife.


Notary Public

My Commission Expires: March 22, 2014

RECEIVED

Received
Tri-County Water

March 4, 2013

MAR 11 2013

MAR - 5 2013

Tri-County Water
P.O. Box 347
Montrose, CO 81402

Dear Sirs:

As a part of the application for a Colorado Mined Land Reclamation Permit to extract gravel materials from the Cook Pit (W1/2 of the SW1/4 of Section 33 and E1/2 of the SE1/4 of Section 32, T.15S., R.96W., 6th P.M., Delta County, Colorado), the Mined Land Reclamation Board requires the applicant to obtain an agreement to reimburse owners of permanent man-made structures within 200 feet of the operation for any damage done to their property or structures as a result of the permitted mining operation.

Since your water line along 25 Mesa Road is within 200 feet of the affected area, Delta County agrees to reimburse you for any damage done to your property or structures as a result of the permitted mining operation.

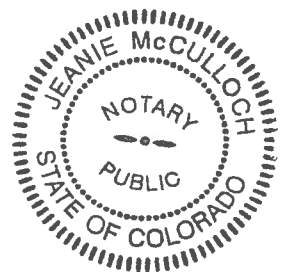
Your acknowledging signature in the space provided should satisfy the M.L.R.B. law requirement. A pre-addressed, stamped envelope is enclosed for your use. Thank you for your cooperation.

Sincerely,



Bob Kalenak
Delta County Engineer

Bob Kalenak acknowledged the foregoing instrument before me this 4th day of March, 2013.


Notary Public
My Commission Expires: 5/8/2014



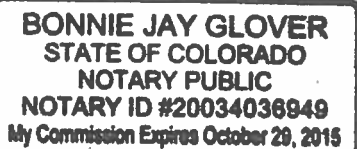
ACKNOWLEDGED BY:
Tri-County Water


Signature/Title

The foregoing instrument was acknowledged before me this 8 day of MAR, 2013 by Kathleen Ladean Margetts for Tri-County Water.


Notary Public

My Commission Expires: 29 OCT 2015



March 4, 2013

Century Link
Right of Way Manager
2524 Blichmann Ave.
Grand Junction, CO 81505

Dear Sirs:

As a part of the application for a Colorado Mined Land Reclamation Permit to extract gravel materials from the Cook Pit (W1/2 of the SW1/4 of Section 33 and E1/2 of the SE1/4 of Section 32, T.15S., R.96W., 6th P.M., Delta County, Colorado), the Mined Land Reclamation Board requires the applicant to obtain an agreement to reimburse owners of permanent man-made structures within 200 feet of the operation for any damage done to their property or structures as a result of the permitted mining operation.

Since your telephone line along 25 Mesa Road is within 200 feet of the affected area, Delta County agrees to reimburse you for any damage done to your property or structures as a result of the permitted mining operation.

Your acknowledging signature in the space provided should satisfy the M.L.R.B. law requirement. A pre-addressed, stamped envelope is enclosed for your use. Thank you for your cooperation.

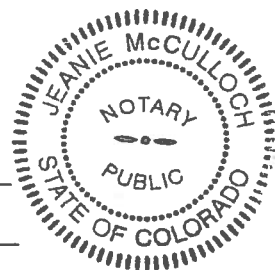
Sincerely,


Bob Kalenak
Delta County Engineer

Bob Kalenak acknowledged the foregoing instrument before me this 4th day of March, 2013.


Notary Public

My Commission Expires: 5/18/2014



ACKNOWLEDGED BY:

Century Link



Signature/Title

The foregoing instrument was acknowledged before me this 21 day of March, 2013 by Robert Conley for Century Link.




Notary Public

My Commission Expires: Jan 22, 2015

March 4, 2013

RECEIVED

MAR 14 2013

Lazy HX, LLC
10922 25 Mesa Road
Delta, CO 81416-7816

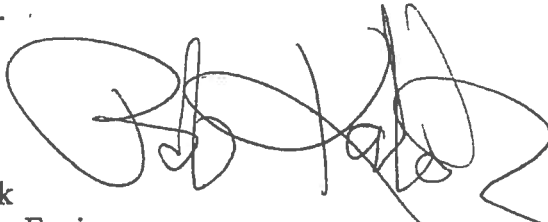
Dear Sirs:

As a part of the application for a Colorado Mined Land Reclamation Permit to extract gravel materials from the Cook Pit (W1/2 of the SW1/4 of Section 33 and E1/2 of the SE1/4 of Section 32, T.15S., R.96W., 6th P.M., Delta County, Colorado), the Mined Land Reclamation Board requires the applicant to obtain an agreement to reimburse owners of permanent man-made structures within 200 feet of the operation for any damage done to their property or structures as a result of the permitted mining operation.

Since your barbed wire fence is within 200 feet of the affected area, Delta County agrees to reimburse you for any damage done to your property or structures as a result of the permitted mining operation.

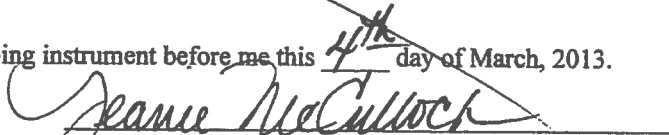
Your acknowledging signature in the space provided should satisfy the M.L.R.B. law requirement. A pre-addressed, stamped envelope is enclosed for your use. Thank you for your cooperation.

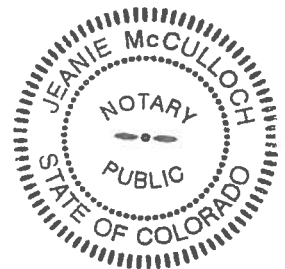
Sincerely,



Bob Kalenak
Delta County Engineer

Bob Kalenak acknowledged the foregoing instrument before me this 4th day of March, 2013.


Notary Public
My Commission Expires: 5/18/2014




ACKNOWLEDGED BY:
Lazy HX, LLC

Edith A Davis Member
Signature/Title

State of Colorado, County of Delta
The foregoing instrument was acknowledged before me this 12th day of March, 2013 by Edith A Davis as member
for Lazy HX, LLC




Notary Public
My Commission Expires: 9/29/2013

March 4, 2013

Delta County Road and Bridge Department
501 Palmer St.
Delta, CO 81416

Dear Supervisor:

As a part of the application for a Colorado Mined Land Reclamation Permit to extract gravel materials from the Cook Pit (W1/2 of the SW1/4 of Section 33 and E1/2 of the SE1/4 of Section 32, T.15S., R.96W., 6th P.M., Delta County, Colorado), the Mined Land Reclamation Board requires the applicant to obtain an agreement to reimburse owners of permanent man-made structures within 200 feet of the operation for any damage done to their property or structures as a result of the permitted mining operation.

Since 25 Mesa Road is within 200 feet of the affected area, Delta County agrees to reimburse you for any damage done to your property or structures as a result of the permitted mining operation.

Your acknowledging signature in the space provided should satisfy the M.L.R.B. law requirement. A pre-addressed, stamped envelope is enclosed for your use. Thank you for your cooperation.

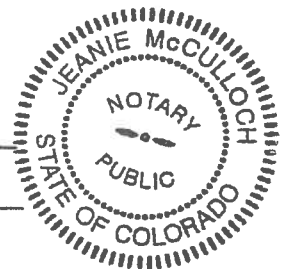
Sincerely,


Bob Kalenak
Delta County Engineer

Bob Kalenak acknowledged the foregoing instrument before me this 4th day of March, 2013.


Notary Public

My Commission Expires: 5/18/2014



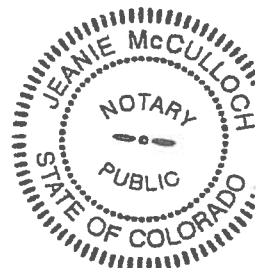
ACKNOWLEDGED BY: Larry R Record
Delta County Road and Bridge Department


Signature Title

The foregoing instrument was acknowledged before me this 4th day of March 2013 by Larry R Record
for Delta County Road and Bridge Department.


Notary Public

My Commission Expires: 5/18/2014



March 4, 2013

Campbell Cattle Company
12093 25 Mesa Road
Delta, CO 81416

Dear Sirs:

As a part of the application for a Colorado Mined Land Reclamation Permit to extract gravel materials from the Cook Pit (W1/2 of the SW1/4 of Section 33 and E1/2 of the SE1/4 of Section 32, T.15S., R.96W., 6th P.M., Delta County, Colorado), the Mined Land Reclamation Board requires the applicant to obtain an agreement to reimburse owners of permanent man-made structures within 200 feet of the operation for any damage done to their property or structures as a result of the permitted mining operation.

Since your roads, fences, irrigation ditches, water line and phone line are within 200 feet of the affected area, Delta County agrees to reimburse you for any damage done to your property or structures as a result of the permitted mining operation.

Your acknowledging signature in the space provided should satisfy the M.L.R.B. law requirement. A pre-addressed, stamped envelope is enclosed for your use. Thank you for your cooperation.

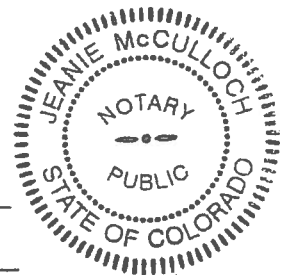
Sincerely,


Bob Kalenak
Delta County Engineer

Bob Kalenak acknowledged the foregoing instrument before me this 4th day of March, 2013.


Notary Public

My Commission Expires: 5/18/2014



ACKNOWLEDGED BY:
Campbell Cattle Company

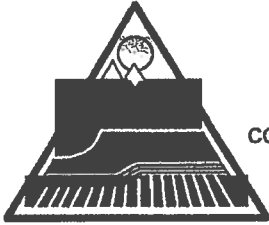

Signature/Title

The foregoing instrument was acknowledged before me this 10 day of April, 2013 by David L. Campbell for Campbell Cattle Company.


Notary Public

My Commission Expires: 10-20-13





DELTA COUNTY, COLORADO

PLANNING AND COMMUNITY DEVELOPMENT

COUNTY COURTHOUSE • 501 PALMER STREET • SUITE 227 • DELTA • COLORADO • 81416-1764

www.deltacounty.com

planning@deltacounty.com

PHONE: (970) 874-2110 fax (970) 874-2500

THIS AGREEMENT is issued pursuant to Delta County Regulation for Specific Development, effective July 1, 2009, adopted by Resolution 2009-R-055, and as amended effective January 1, 2012, pursuant to Resolution 2011-R-054.

Applicant: Delta County
Development: Cook Gravel Pit
Application No.: SD 13-001

Matters and Evidence Considered by the Board:

This application for a Specific Development Agreement to operate a Gravel Pit located in Delta County in the E1/2 of the SE1/4 of Section 32, and the W1/2 of the SW1/4 of Section 33, Township 15 South, Range 96 West, of the 6th Principal Meridian with a physical location near the intersection of 1200 Road and 25 Mesa Road approximately 3 miles SW of Delta, CO., was presented to the Board of County Commissioners on May 6, 2013, at which time the Board received comments from Delta County Staff, and the County's representative.

Legal Matters:

The Board reviewed this application at a regular meeting on May 6, 2013, after due notice, at which time the Applicant testified concerning their position. The Board took the application and testimony under advisement.

Findings:

The Board adopts the findings of the Planning Staff, as set forth on Exhibit A, attached hereto and by this reference made a part hereof.

The Board further finds that the proposed development is not incompatible with the neighborhood, assuming that the recommendations of the Planning Staff and Planning Commission, adopted as conditions for approval of the application, are complied with by the Applicant.

The Board further finds that although the proposed development results in significant potential impact to the neighborhood, including such negative impacts as dust, noise and traffic, etc., those impacts can be substantially mitigated by compliance with the conditions set forth below.

Decision:

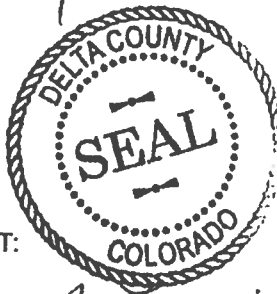
For the foregoing reasons, the application SD 13-001 shall be and hereby is conditionally approved, so long as the Applicant agrees to comply and actually complies with the conditions below.

Conditions:

The approval of this Board is contingent upon the Applicant agreeing to comply and actually complying with those conditions set forth in Exhibit B, attached hereto, and incorporated herein by this reference.

Any violation of the conditions set forth above may be grounds for the revocation of this Development Agreement. Any complaints alleging violations shall be submitted to and reviewed by the Delta County Planning Department and, if determined valid, the owner/operator shall be provided a reasonable time to mitigate the violation, unless the public health, safety or welfare is immediately jeopardized, in which case this Development Agreement may be summarily suspended by the Board of County Commissioners. If the violation is not eliminated in the time provided, the Board may suspend or revoke this Development Agreement, after providing the owner/operator with notice and an opportunity to be heard by this Board.

Approved by the Board of County Commissioners of Delta County on this 20th day of May, 2013.



BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY

By: C. Doug Atchley
C. Doug Atchley, Chairman

ATTEST:

Ann B. Eddins

Ann B. Eddins
Delta County Clerk and Recorder

AGREEMENT OF APPLICANT:

I, Bob Kalenak, Delta County Engineer, representative for Delta County, state that I have read and understand the foregoing Development Agreement. Applicant agrees to comply with the conditions set forth on Exhibit B within the time provided for in the conditions, or if no time is provided, within a reasonable time. Delta County will not commence operations until such conditions are fully complied with, except with the permission of the Delta County Board of County Commissioners or its designee.

Signed in Delta, Colorado, this 21st day of May, 2013.

By: [Signature]
Bob Kalenak, Delta County Engineer

Exhibit A
Delta County Development Agreement
Cook Gravel Pit
SD13 - 001

Findings of the Planning Staff:

The Planning Staff has reviewed the Specific Development application and based on that review the application appears to meet the intent of Delta County Specific Development Regulations. The Planning Staff finds that:

1. The proposed gravel pit is located north of 25 Mesa Road near the intersection of 1200 Road and is in an area of farmland and pastures for grazing.
2. The site does not have any irrigation water or streams crossing it.
3. The Delta Correctional Facility is to the north of this property.
4. The proposed development does not abut any scenic byway.
5. The proposed area to be mined is on top of a small mesa.
6. Impact to wildlife will be minimal.
7. There is minimal risk of wildfire at this site.
8. Concerns from this development are noise, dust, and traffic.

Exhibit B

Delta County Development Agreement

Cook Gravel Pit

SD13 - 001

Conditions of Approval:

General Mitigation Conditions

1. All outside lighting shall be hooded.
2. A detailed site plan approved by the Applicant and County Planner shall be attached to the Development Agreement and recorded in the office of the Delta County Clerk and Recorder. Applicant shall apply for and receive an address for the site from Delta County before commencing operations.
3. A weed mitigation plan shall be submitted and approved by the Delta County Weed Coordinator prior to commencement of operations, a copy of the plan shall be submitted to the Planning Department after approval by the Weed Coordinator.
4. Portable self-contained toilets meeting the Delta County Individual Sewage Disposal System regulations shall be maintained on site for employees during times of operation.
5. Retail sales will not be allowed at the mine location at any time.
6. Copies of all permits issued by the Division of Water Resources, the Division of Minerals and Geology, the Colorado Department of Health and Environment, and the Mine Safety and Health Administration shall be provided to Delta County prior to commencing, or during the course of, operations. Applicant shall comply with the conditions of all of the permits issued by the State, including but not limited to the reclamation plan approved by the State Division of Minerals and Geology.
7. Hours of operation of the gravel pit (including mining, crushing, concrete and asphalt operations) shall be from 7:00 a.m. through 6:00 p.m., Monday through Thursday and no work on County holidays. Applicant shall be authorized to perform regular maintenance during reasonable hours on evenings and Fridays, so long as no mining or crushing operations take place.
8. Applicant shall comply with an aggressive plan of rapid land reclamation to reduce the actual mined area and to limit the area to be disturbed for mining.
9. Upon the Colorado Division of Minerals and Geology approval, the Applicant shall reclaim slopes at 3:1 on the slopes that will be left at the end of the life of the gravel pit.
10. Portable asphalt and concrete batch plants will not be allowed on-site.
11. All odor emission standards as set forth by Regulation No.2 (5CCR 1001-4) Part A I.A. of the Air Quality Control Commission pursuant to Section 25-7-109 (2)(d) C.R.S. shall be adhered to as well. Any violation which is verified by state or federal enforcement officials shall be cause to suspend all operations until the violation is corrected. Evidence of compliance shall be provided to the County in the form of approved Air Pollution Emission Notifications issued by the Colorado Department of Public Health and Environment.

**RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF DELTA, STATE OF COLORADO**

RESOLUTION NO. 2013-R-023

**RESOLUTION TO CONDITIONALLY APPROVE SD13-001 COOK GRAVEL PIT
DELTA COUNTY, APPLICANT**

WHEREAS, pursuant to Resolution 2011-R-054 (Specific Development Regulations), Delta County, applicant, filed a Specific Development application for operation of a Gravel Pit located in the E1/2 of the SE1/4 of Section 32, and the W1/2 of the SW1/4 of Section 33, Township 15 South, Range 96 West, of the 6th Principal Meridian with a physical location near the intersection of 1200 Road and 25 Mesa Road approximately 3 miles SW of Delta, CO.; and

WHEREAS, the Planning Department notified all surrounding property owners within one thousand feet of the subject property and appropriate review agencies by mail; and

WHEREAS, this Board conducted a hearing on May 6, 2013, at which time the Board received staff recommendations from the Planning Department, and heard testimony from County Staff and the representative for Delta County. The Board has considered all of these matters in reaching its conclusions; and

WHEREAS, Planning Staff has reviewed the Specific Development application for completeness. Based on that review, the application appears to meet the intent of the Delta County Specific Development Regulations and Staff finds that:

1. The proposed gravel pit is located north of 25 Mesa Road near the intersection of 1200 Road and is in an area of farmland and pastures for grazing.
2. The site does not have any irrigation water or streams crossing it.
3. The Delta Correctional Facility is to the north of this property.
4. The proposed development does not abut any scenic byway.
5. The proposed area to be mined is on top of a small mesa.
6. Impact to wildlife will be minimal.
7. There is minimal risk of wildfire at this site.
8. Concerns from this development are noise, dust, and traffic.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Delta County as follows:

- A. The findings of Planning Staff, as set forth above, are adopted as the findings of the Board.
- B. The Board further finds:

1. That the development proposed by the Applicant is a reasonable use of its property and upon compliance with the conditions listed below will be compatible with the use and occupancy of the neighborhood.
 2. That the anticipated impacts of the development can be mitigated by compliance with the performance standards of the regulations and the conditions set forth below.
- C. SD13-001 Cook Gravel Pit shall be and hereby is conditionally approved subject to compliance with the following conditions:

Conditions of Approval:

General Mitigation Conditions

1. All outside lighting shall be hooded.
2. A detailed site plan approved by the Applicant and County Planner shall be attached to the Development Agreement and recorded in the office of the Delta County Clerk and Recorder. Applicant shall apply for and receive an address for the site from Delta County before commencing operations.
3. A weed mitigation plan shall be submitted and approved by the Delta County Weed Coordinator prior to commencement of operations, a copy of the plan shall be submitted to the Planning Department after approval by the Weed Coordinator.
4. Portable self-contained toilets meeting the Delta County Individual Sewage Disposal System regulations shall be maintained on site for employees during times of operation.
5. Retail sales will not be allowed at the mine location at any time.
6. Copies of all permits issued by the Division of Water Resources, the Division of Minerals and Geology, the Colorado Department of Health and Environment, and the Mine Safety and Health Administration shall be provided to Delta County prior to commencing, or during the course of, operations. Applicant shall comply with the conditions of all of the permits issued by the State, including but not limited to the reclamation plan approved by the State Division of Minerals and Geology.
7. Hours of operation of the gravel pit (including mining, crushing, concrete and asphalt operations) shall be from 7:00 a.m. through 6:00 p.m., Monday through Thursday and no work on County holidays. Applicant shall be authorized to perform regular maintenance during reasonable hours on evenings and Fridays, so long as no mining or crushing operations take place.
8. Applicant shall comply with an aggressive plan of rapid land reclamation to reduce the actual mined area and to limit the area to be disturbed for mining.
9. Upon the Colorado Division of Minerals and Geology approval, the Applicant shall reclaim slopes at 3:1 on the slopes that will be left at the end of the life of the gravel pit.
10. Portable asphalt and concrete batch plants will not be allowed on-site.

11. All odor emission standards as set forth by Regulation No.2 (5CCR 1001-4) Part A I.A. of the Air Quality Control Commission pursuant to Section 25-7-109 (2)(d) C.R.S. shall be adhered to as well. Any violation which is verified by state or federal enforcement officials shall be cause to suspend all operations until the violation is corrected. Evidence of compliance shall be provided to the County in the form of approved Air Pollution Emission Notifications issued by the Colorado Department of Public Health and Environment.

Noise Mitigation

12. Noise levels shall not exceed 55 decibels as measured at the property line. If this standard cannot be met, then the development will not be authorized to proceed.
13. Noise reducing measures may include the following:
 - (a) If a generator is used to provide power to the crusher, it may be housed in an insulated modular or mobile structure, may incorporate the use of a residential or a large industrial muffler, for purposes of sound mitigation, and may be placed in such a direction to minimize noise emanating from the gravel operation site.
 - (b) All other equipment powered by internal combustion engines operating on the site may be equipped with functional industrial mufflers.
 - (c) Applicant may use existing barriers, may construct a berm along the full length of the western property line at a height of eight (8) feet and provide adequate vegetation to minimize erosion of the berm, and may create and maintain stockpiles to the extent necessary to preclude to the greatest extent possible the movement of sound towards residences in the area.
 - (d) Rubberized material may be used to line dump points on the crusher.
14. Distance-activated backup alarms shall be installed on applicable equipment used in this mining operation.

Roads

15. Access to the site will be from 25 Mesa Road, this access will be constructed to Delta County specifications prior to commencement of operations.
16. 25 Mesa Road from the access road to Highway 348 shall be the designated haul route for the Cook Gravel Pit operation.

Traffic Safety

17. The access intersection shall meet the Delta County access regulations.

Dust Suppression

18. Dust suppression shall be maintained on all internal haul roads, and in the mining, stockpile, crushing and process areas at all times. If as a result of the Applicant's failure to control fugitive dust, said dust is determined to have an adverse impact upon the surrounding property owners, residences, livestock or crops, Applicant could be determined to have created a public nuisance.
19. The Applicant and any successor gravel mining and processing operator shall maintain all roads within the mining property in conformance with the Colorado Air Quality Control Commission Regulation No. 1, as it applies to the regulation of fugitive particulate emissions and the measurement of opacity and off-property transport of fugitive particulate emissions.

20. The Applicant or successor gravel mining operator shall operate screening, crushing, digging equipment, asphalt plant, concrete plant, or similar equipment in conformance with the Colorado Air Quality Control Commission Regulation No. 1, as it applies to the regulation of fugitive particulate emissions and the measurement of opacity and off-property transport of fugitive particulate emissions.
21. Dust control shall be in conformance with the control plan approved by the State of Colorado (Air Quality Control Commission), a copy of which shall be sent to the County. In addition, the Applicant shall:
 - (a) Limit the volume of material moved.
 - (b) Use misters on the crusher.
 - (c) Use sprayed water (and such other substances as are feasible and effective) in areas of operation.
 - (d) Use dust control application, especially on the gravel roads within the operation and on the floor of the mine.
 - (e) Either construct a berm or create and maintain a stockpile to serve as a barrier to the movement of dust.
22. With respect to the gravel roads within the operation, if the dust cannot be controlled by the use of water or other substances (e.g., magnesium chloride), the roads shall be chip sealed or paved, and all costs thereof shall be the responsibility of the applicant or any successor gravel mining operator.
23. Crushing and/or mining operations shall be stopped on windy days when dust is blowing from the permitted area.

Monitoring and Enforcement

24. Applicant and any successor gravel mining operator shall, within ten (10) days of its receipt, provide to Delta County copies of all results of tests or inspections performed by the State Air Quality Control Commission, the Environmental Protection Agency, or any other state or federal agency concerning the potential adverse impacts intended to be mitigated by the foregoing conditions.
25. The operator shall cooperate with reasonable requests of Delta County, its employees, agents and representatives, to enter the property upon which the development is to occur, including the access road, for purposes of observing and monitoring the operations and determining compliance with the foregoing conditions. Delta County shall be authorized to use and install monitoring devices, including recording devices (e.g. decibel noise meters, docimeters, opacity measuring devices) on or off the property. Such devices, once placed, shall not be disturbed except by Delta County.
- D. The Development Agreement is approved herein for the items requested in the original application. No expansion of the operation beyond this will be permitted at this location without a new application and a full review process.
- E. Any violation of the foregoing conditions may be grounds for the revocation of this approval and the Development Agreement approved by the County. Complaints alleging violations shall be reviewed by the Delta County Planning Department and if determined valid, the owner and/or operator shall be given a reasonable time to mitigate the violation, unless the public health or safety is immediately jeopardized, in which case the Development Agreement may be suspended by the Board of County Commissioners. The Development Agreement may not be revoked without notice to the Applicant and an opportunity to be heard by this Board.

Adopted this 20th day of May, 2013.



BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: C. Douglas Atchley
C. Douglas Atchley, Chair

ATTEST:

Ann B. Eddins
Ann B. Eddins
Delta County Clerk and Recorder

C. Bruce Hovde
C. Bruce Hovde, Vice Chair

J. Mark Roeber
J. Mark Roeber, Commissioner



COLORADO PARKS & WILDLIFE

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RECEIVED

APR 11 2013

April 9, 2013

Robert Kalenek, Delta County Engineer
Delta County
501 Palmer St
Delta, Colorado 81416

Re: Cook Gravel Pit

Dear Mr. Kalenek,

Thank you for the opportunity to comment on the proposed construction of a new sand and gravel operation: **The Cook Pit**. One of the ways we achieve our mission to protect, preserve, enhance, and manage wildlife and their habitat for the use, benefit and enjoyment of the people of Colorado and its visitors, is to assist local governments with land use planning and regulations under the authority of the Areas and Activities of State Interest Act, H.B. 1041.

The permit for The Cook Pit would authorize construction of an 83 acre sand and gravel surface extraction operation at Section 33, Township 15S, Range 96W in Delta County. On March 26th, 2013, District Wildlife Manager Mark Richman conducted a site visit with you, Mr. Kalenek and Colorado Parks and Wildlife (CPW) has reviewed the permit request and offers the following comments for your consideration.

The site is located on an upland mesa adjacent to Roubideau Creek, an important riparian corridor and tributary of the Gunnison River. Riparian areas are used by over 75% of Colorado's species at some point in their life cycle but are especially important to songbirds, waterfowl and fish. While conducting the site visit, Mark Richman noticed a previously-mapped great blue heron heronry whose nests were currently occupied by several herons. The nests are located approximately 820 feet west of the main access road to the proposed mine site and approximately 1,500 feet north of 25 Mesa Road. The proposed site is on the edge of a bald eagle winter foraging area, and is within 2.5 miles of the nearest known active nest.

Great blue herons are common wading birds in Colorado. However, they are colonial nesters, making heronries more uncommon and important habitat. The nesting and chick rearing season is from Mid March to August, but herons are particularly sensitive to disturbance from Mid March to April. CPW recommends a 1,000 foot radius Primary Zone of great blue heronries where postponing disturbances related to construction

STATE OF COLORADO

John W. Hickenlooper, Governor • Mike King, Executive Director, Department of Natural Resources

Rick D. Cables, Director, Colorado Parks and Wildlife

Parks and Wildlife Commission: Robert W. Bray • Chris Castellan • Jeanne Home

Bill Kane, Vice-Chair • Gaspar Perricone • James Pribyl • John Singletary, Chair

Mark Smith, Secretary • James Vigil • Dean Wingfield • Michelle Zimmerman

Ex Officio Members: Mike King and John Salazar

activity between Mid March and Mid August may reduce the likelihood of nest abandonment. Entry into the Primary Zone should only occur during the least sensitive portion of the breeding season (May to August). Please see information for additional recommendations regarding great blue heron disturbances.

We understand that mining is expected to begin on the southeast end of the mesa and continue in a northwesterly direction over the next 40 years. The mining access operations would occur within 1000 feet of the heronry if the present western access road is utilized. CPW suggests postponing usage of the existing road during the nesting season or preferably constructing an alternate, more direct road along the southeast end of the proposed mine site to route the mine traffic out of the 1000 foot Primary Zone of the great blue heronry and Roubideau Creek. An alternate road outside of the Primary Zone would eliminate our concerns regarding seasonal road usage near the heronry. Routing traffic out of sight of Roubideau Creek would have the added benefit of minimizing disturbance to the bald eagles that forage on fish and small mammals in the riparian area.

If you have other comments or questions, please contact Mark Richman at 970.209.2370 or myself.

Sincerely,

A handwritten signature in black ink, appearing to read "Renzo DelPiccolo". The signature is fluid and cursive, with the first name "Renzo" being more prominent and the last name "DelPiccolo" following in a similar style.

Renzo DelPiccolo
Area Wildlife Manager – Montrose
970.252.6010

cc: Mark Richman-DWM, Patt Dorsey, SW Region Manager