

STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

FAX: (303) 832-8106



July 8, 2013

Zane Luttrell

Rocky Mountain Aggregate and Construction

23625 Uncompahgre Road

Montrose, CO 81401

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

Greg Lewicki

Greg Lewicki and Associates

11541 Warrington Court

Parker, CO 80138

RE: Comments to a 112c Application, Uncompahgre Pit, File No. M-2013-007

Dear Mr. Luttrell and Mr. Lewicki:

On or about June 26, 2013, the public comment period closed for the Uncompahgre Pit application. During the comment period the Division received timely comments from the following parties and/or interested persons:

Letters of Objection:

1. Janice Wheeler, dated February 25, 2013, received March 6, 2013
2. Susan J. Hansen, dated March 27, 2013, received March 29, 2013
3. Dr. Joseph J. and Mary A. Scuderi, dated March 28, 2013, received March 29, 2013
4. Gene and Carolyn Kliethermes, dated March 30, 2013, received April 1, 2013
5. Robert G. & Joan D. Hooper, dated April 8, 2013, received April 9, 2013
6. Dennis Schultz, dated April 7, 2013, received April 10, 2013
7. Barbara Bernhardt, dated April 7, 2013, received April 10, 2013
8. Lester & Kathleen Stigall, dated April 8, 2013, received April 11, 2013
9. Carter & Stacy Trask, dated April 12, 2013, received April 15, 2013
10. Stan & Kathy Borinski, dated April 12, 2013, received April 17, 2013
11. Keith & Sharon Rasmussen, not dated, received April 17, 2013
12. Roger & Gail Noble, dated April 12, 2013, received April 17, 2013
13. Stan & Kathy Borinski, dated April 12, 2013, received April 17, 2013
14. Margaret T. Zanin, dated April 24, 2013, received April 17, 2013
15. Susan Berg, dated April 15, 2013, received April 18, 2013
16. Jim & Paula Wyrick, dated April 16, 2013, received April 18, 2013
17. Craig B. Schaff, dated April 19, 2013, received April 22, 2013
18. Amanda Winston, dated April 15, 2013, received April 22, 2013
19. Leigh Robertson, dated April 18, 2013, received April 22, 2013
20. Pam East, dated April 23, 2013, received April 23, 2013

21. Karen Michaelis, dated April 20, 2013, received April 24, 2013
22. Karen Michaelis, dated April 20, 2013, received April 24, 2013
23. Richard Schulz, dated April 20, 2013, received April 24, 2013
24. Richard Schulz, dated April 20, 2013, received April 24, 2013
25. Barbara Bernhardt, dated April 21, 2013, received April 24, 2013
26. Dr. Joseph & Mary Scuderi, dated April 4, 2013, received April 26, 2013
27. Zoe D. Larkin, dated May 15, 2013, received May 17, 2013
28. Rodger & Gail Noble, dated June 14, 2013, received June 17, 2013
29. Buckhorn Geotech, dated June 20, 2013, received June 24, 2013
30. Barbara Bernhardt, dated May 23, 2013, received June 26, 2013
31. INFORM, dated June 26, 2013, received June 26, 2013
32. Lee R. Bartlett, dated June 23, 2013, received June 26, 2013
33. Janice Wheeler, dated June 23, 2013, received June 26, 2013

Letter of Support:

34. Al & Vicki Becker, dated April 2, 2013

Commenting Agency:

35. History Colorado, SHPO, dated March 8, 2013, received March 12, 2013
36. Colorado Parks & Wildlife, dated April 9, 2013, received April 15, 2013

Please find enclosed copies of the written comments identified above as items 29 through 33. Copies of all other written comments have been previously forwarded. Please inform the Division how the Applicant intends to address the jurisdictional issues raised by the timely comments.

Please contact me at the Division's office in Durango at 691 County Road 233, Suite A-2, Durango, CO 81301, phone (970) 247-5469, if you have any questions.

Sincerely,



Wallace H. Erickson
Environmental Protection Specialist

Enclosure: Comment letters 29, 30, 31, 32 and 33, as listed above

cc w/enclosure: Greg Lewicki, Greg Lewicki and Associates
Russ Means, DRMS GJFO

June 20, 2013

Colorado Division of Reclamation, Mining & Safety
1313 Sherman Street, Room 215
Denver, CO 80203**RECEIVED**

JUN 24 2013

WHE

DIVISION OF RECLAMATION
MINING AND SAFETY**RE: Proposed Uncompahgre Pit, 67057 T Road, Montrose County
Permit #m2013007**

To Whom It May Concern:

This letter is not written in favor of or in opposition to the proposed gravel pit, but is intended to offer pertinent information the DRMS, Montrose County staff and the public. When it came to our attention that work by Buckhorn Geotech was being quoted in public meetings, we invited a dialog with the proponent of the proposed Uncompahgre Pit in Montrose County, Zane Luttrell. He indicated to us that he is relying on a limited geologic report we prepared in 2006 for a proposed subdivision as the basis for their geologist's analysis of gravel potential at the subject property at 67057 T Road, west of Highway 550 South. For the record, we had prepared the 2006 report for a different client, the Lone Eagle Land Brokerage, Inc. on the 552 acre ranch as a preliminary assessment of the general suitability of the entire property for development of a major subdivision. Our study was not only for a different client but also was intended to preliminarily assess the suitability of the site for home sites and associated shallow infrastructure improvements such as roads, septic systems and foundations. Buckhorn Geotech, Inc. in no way studied nor was asked to study the mineral or gravel potential of this property. Our 2006 report was not intended for use in evaluating mineral or gravel potential and, therefore, is not applicable for such use.

The proponent of the pit continues to quote the gravel content found in the four boreholes from our 2006 study as the basis of their gravel assessment at public meetings, such as the recent meeting held in Montrose on Monday, June 17. We would like to state for the record that we have concerns about the true gravel potential of this site based on the four boreholes that we drilled for the purposes of evaluating the site for a residential subdivision. Our concerns are based on the following factors:

1. We drilled only four boreholes on the top of the mesa in question. These were not evenly spaced nor were they positioned to assess gravel potential. Two of the boreholes were at the northern end of the mesa and two were at the southern end. The main part of the mesa was not drilled (i.e. two boreholes are 1/2 mile apart where the mesa is at its widest). The purpose of our four boreholes was for determining depth to the underlying shale for foundation and slope stability concerns, so we recorded little information about any gravels encountered.
2. We performed no laboratory testing of samples collected in our boreholes below a depth of 12 feet. This indicates that their assessment is based on no quantitative data verifying our geotechnical drilling interpretations.

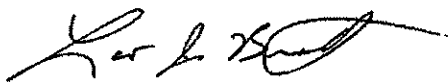
RECEIVED

JUN 24 2013

3. Two of the four boreholes did not encounter dense sand and gravel deposits at depth. Those boreholes encountered shale and fine grained soils with little gravel. It appears that the mesa has been scoured to shale as an undulating surface and varying amounts of fines (silt and clay), sand and gravel were subsequently deposited.
4. According to the NRCS Web Soil Survey mapping, the soil type proposed to be mined is "Mesa clay loam, 0-2% slopes" (map unit #760). This soil is a clay, clay loam and gravelly clay to 44 inches underlain by cobbly loamy coarse sand to 80 inches, which is the vertical extent of their mapping. It is identified to have "poor" potential as a gravel or sand resource. I asked our local NRCS soil scientist, Dave Dearstyne, how they comment on a gravel resource when they map to less than 7 feet. He said it is based on their view of the landform upon which the soil develops. In other words, if the mapper does not observe sufficient (i.e. less than 10 to 15 feet of) gravel on the mesa to warrant a resource, they label it as a "poor" resource.

Although there does appear to be gravels on the mesa proposed to be mined, it is our opinion that the gravel deposit is highly variable in thickness and quality and our number of boreholes was insufficient for a resource-level assessment. To base an entire mine development plan on two positive geotechnical boreholes and no laboratory testing is optimistic and likely unrealistic. Therefore, we would like to see a more thorough and substantiated analysis of a resource like this before consideration is given to development of this deposit. Given the controversy that this proposed gravel pit has caused due to potential impacts to wildlife, traffic, dust, noise, water, property values, and quality of life for the local inhabitants, we suggest a comprehensive exploratory examination of the quality of the deposit before more is invested by individuals, the community and Montrose County.

Sincerely,



Laurie J. Brandt, P.G.
Professional Geologist

Cc: Steve White, Montrose County Planning & Development Director
Montrose County Board of County Commissioners

Wally Erickson
Division of Reclamation, Mining, and Safety
691 CR 233 Suite A - 2
Durango, CO 81301
Re: M2013007

RECEIVED
JUN 26 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

May 23, 2013

Dear Mr. Erickson,

There has been a concerted effort on the part of the applicant for the Uncompahgre Special Use permit to maintain that there are no Gunnison Sage Grouse in the vicinity, and that the permit area can therefore not be considered as critical habitat for a bird that is likely to be listed as endangered by the U.S. Fish & Wildlife Service. However, having personally seen two Gunnison Sage Grouse hens on Sims Mesa in 2012 (much to my surprise), I can state with confidence that Gunnison Sage Grouse are indeed in the vicinity and that the area of the proposed gravel operation, with its sagebrush dominant vegetation, is indeed critical to their survival.

It has come to my attention that my sightings have been publicly discredited by the applicant, at a meeting with the Montrose Chamber of Commerce on 5/13/13. What the applicant does not know (understandably, since we do not know each other), and I would like for the DRMS to know, is that I have hunted Gunnison Sage Grouse prior to 2000, at which point hunting for them was no longer permitted due to concern about their declining numbers, so I definitely know what they look like. There is no other bird that looks like a Sage Grouse that can be expected to be observed in the Sage Brush plant community of our region.

I would hazard a guess that the use of ATV's and high-caliber firearms atop the mesa of the proposed gravel pit are the likely reasons that the former owners and managers of the property have stated that they have not seen Gunnison Sage Grouse on the property. Living across the small valley to the west of the mesa, I have often heard the large caliber rifles being shot on the mesa and found them to be unbelievably loud, so much so that I thought someone was shooting mortars.

Sincerely,



Barbara Bernhardt
20409 Solitude Road
Montrose, CO 81403

RECEIVED
JUN 26 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

INFORM

INFORMATION NETWORK FOR
RESPONSIBLE MINING

PO Box 27
NORWOOD, CO 81423

(970) 497-4482
JENNIFER@INFORMCOLORADO.ORG
WWW.INFORMCOLORADO.ORG



June 26, 2013

Mr. Wally Erickson
Environmental Protection Specialist
Colorado Division of Reclamation, Mining & Safety
Durango Field Office
691 County Road 233, Suite A-2
Durango, Colo. 81301

Via email to wally.erickson@state.co.us

Re: Comments on Uncompahgre Pit amendment application, Permit No. M-2013-007

Dear Mr. Erickson,

Thank you for the opportunity to comment on the proposed Uncompahgre Pit gravel operation, located in Montrose County. The Information Network for Responsible Mining is a Colorado-based citizens organization that advocates for the protection of communities and the environment and actively participates in mining reviews. INFORM appreciates your consideration of the following comments and concerns related to the amendment application.

As you are aware, the Uncompahgre Pit application has been controversial locally and has received numerous objections from nearby residents, with the vast majority of them expressing opposition for the future operations of the pit and associated cement and asphalt plants. Although the quality-of-life issues that are expressed in many of the residents' letters are not clearly the jurisdiction of the Division, INFORM also raises general concerns about siting a large gravel, cement and asphalt operation in close proximity to a subdivision and the likelihood that such a facility will create significant nuisances to residents, including those caused by haul traffic, dust, odor, noise, lights and the other impacts associated with an industrial operation. The proposed

mine site is currently grazing land and retains a rural character and a gravel, cement and asphalt operation appears to be a prima facie conflict over land use.

Of primary concern is the likely presence of Gunnison Sage-Grouse and the pending federal designation of critical habitat areas, including critical habitat that is included inside the proposed permit area. It is premature to approve a reclamation permit while this designation is still pending, especially when the final decision date of Sept. 30, 2013, is so close. Already, Montrose County has agreed to delay its issuance of a special use permit for the Uncompahgre Pit pending this decision from the U.S. Fish & Wildlife Service. In close proximity to the permit boundary is an existing grouse lek, the most critical habitat area to preserve if the species is to be both conserved and restored, as required by the Endangered Species Act. Research in support of the endangered species listing for grouse has documented the significant impacts to the species when leks are disturbed by nearby traffic, roads and habitat fragmentation. Noise, in particular, has an oversized impact on the health of lekking areas and their ability to attract birds and support mating rituals. Because the severe decimation of sage habitat throughout Southwestern Colorado has severely impacted the Gunnison Sage-Grouse, preserving critical habitat areas, especially lekking grounds, are imperative for grouse recovery. If the Division is to approve the Uncompahgre Pit's operations, the strongest measures possible should be required to protect the bird; and all critical habitat areas and areas that support critical habitat should be removed from the permitted area. Efforts to conserve the Gunnison Sage-Grouse, including the protection of connecting corridors between habitat areas, which may be particularly pertinent in the vicinity of the Uncompahgre Pit and to recovering the Sims Mesa sub-population, should be strongly supported.

The proposed operations also create significant wildlife impacts to deer and elk, due to the increased traffic leaving the site and entering U.S. Highway 550. This section of the highway is already designated as a wildlife corridor, with restricted speeds and extensive fencing necessary to reduce wildlife-vehicle collisions. The Colorado Department of Parks & Wildlife has raised concerns that operations at the Uncompahgre Pit will increase wildlife collisions and associated car accidents. This type of increase, which could cause fatalities to both people and wildlife, is unnecessary and indicates a general unsuitability of this project with the location. There are also discrepancies in how the traffic and haul trips are being counted, with 1.7 truck trips per hour indicated in the application to the Division, but far higher numbers indicated in the proceedings for the Montrose County special use permit. In addition, the Montrose County Planning Commission authorized an increase in the number of days that asphalt and concrete production would be allowed at the site; any changes to haul traffic that would result from this change have not been updated in the state permit application.

The permit application proposes an operation removing between 100,000 and 200,000 tons of gravel per year for the next 105 years. This is an extremely unrealistic scenario. Within a few miles of the Uncompahgre Pit are two existing, permitted gravel operations, and both have been idled in recent years. Clearly, there is no demand for an increase in local gravel supplies and the market is not viable. These realities indicate that the Uncompahgre Pit is not economically viable

and is speculative in nature. An operation of this magnitude with such wide latitude to operate and convert an agricultural area into an industrial site for over a century should not be allowed. In addition, it appears that the applicant's proposal to use agricultural water appears to be in conflict with a recent executive order from the Governor's Office on May 14, 2013, authorizing the development of a state water plan. This executive order specifically calls out for review the "buy-and-dry" practice of converting agricultural water for non-agricultural uses. The impact of this executive order on the proposed gravel pit should be understood and taken into consideration by the Division. (The executive order may be accessed online at: <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheadname1=Content-Disposition&blobheadname2=Content-Type&blobheadvalue1=inline%3B+filename%3D%22D+2013-005.pdf%22&blobheadvalue2=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251855355625&ssbinary=true>) It is clear, however, that the conversion of such water rights in the same manner as proposed for the Uncompahgre Pit is a practice that is being targeted by state water managers.

The Division has provided a lengthy and thorough adequacy review of the application and recently notified the applicant of a number of serious deficiencies on June 19, 2013. These deficiencies included substantial shortcomings with the application, including the lack of engineering designs for an access bridge, the lack of detail related to proposed stormwater management and erosion control, the manner in which Horsefly Creek will be protected from spills and hazardous materials, and the requirement of additional information regarding slope stability and the geohazards of the site, among numerous other concerns. The Division directed the applicant to provide response to these concerns prior to July 12. We agree that all of these items, without exception, must be addressed and the application should be denied if the deadline requirement is not strictly met.

Considering the problematic nature of the proposed Uncompahgre Pit, its undue impacts to residents and wildlife, and the significant deficiencies still evident in the application itself, we encourage the Division to deny the application.

Thank you again for the opportunity to comment.

Sincerely,



Jennifer Thurston
Director
INFORM

Mr. Wallace Erickson
Environmental Protection Specialist
Colorado Department of Reclamation, Mining and Safety
1313 Sherman St., Rm 215
Denver, CO 80203

June 23, 2013

Dear Mr. Erickson,

This letter is written in regards to the Special Use permit under consideration for the Uncompahgre Pit (m2013007). As you are aware, the Special Use Application located just south of Montrose is both complicated and convoluted.

Specifically, this Heavy Industrial Strip Mining Proposal is **bad** for our community for the following reasons:

Incompatibility with current and historical rural agricultural and residential land usage and zoning: According to the Montrose County Zoning Resolution, in the issuing of special use permits, the Montrose County Zoning Resolution (MCZR) lists "prohibited uses" for special use permits, which include aggregate processing, asphalt and concrete plants, and fuel storage tanks. The proposed strip mine site is currently zoned agricultural. The MCZR states that Agriculture is considered to be a highly valued resource in Montrose County. Numerous farms, ranches, small businesses and residents exist in close proximity to the site. All these people have chosen to live/work in this area because of its agricultural history and current status as a rural community. Under criteria to be considered for Special Use Permitting, one criteria states that the "use promotes the best interest of the general public's health, safety and welfare as set by either federal, state or county regulation."

Creation of long term health hazards: This strip mine will produce crystalline silica dust from pit and quarry activities that will blow off site, onto Montrose area residents' ranches and homes, crops and livestock, and numerous public and private facilities. Silica dust is a known carcinogenic and can kill you. The mitigation measures offered by RMA are inadequate. How far can the crystalline silica dust particles travel? Studies have demonstrated that "larger particles can stay in the air for minutes or hours"

RECEIVED

JUN 26 2013

DIVISION OF RECLAMATION
MINING AND SAFETY

and “travel as little as a hundred yards or as much as 30 miles.” The smaller “particles can stay in the air for days or weeks” and travel “many hundreds of miles. The location of the proposed strip mine, open to the winds (sometimes extreme) is optimal for the dispersal of these harmful particles.

Steep decrease in Property Values: A strip-mining operation of this magnitude undermines the value of the surrounding land and suppresses residential and agricultural growth and opportunity in the region. Residential and agricultural properties in the surrounding community can expect a steep decrease (up to 50% within a 6 mile radius) in the value of their property. It will be evident to tourists and prospective investors that southern Montrose County is dominated by industrial activity and is unlikely to attract families, retirees, or agriculturalists.

Significant Traffic/Noise Impacts and Road Degradation: The proposed strip mine’s heavy industrial machinery, trucks, rock crushing equipment, loading and earth moving equipment will create constant noise, traffic, and road degradation. Acceleration and de-acceleration lanes will have to be built on Hwy 550 to accommodate heavy trucks. RMA has not offered an explanation of how or who will pay for all the road degradation over the decades the strip mine will be in operation.

Major Water Consumption/Pollution Issues: There is no water present on the Mesa where the proposed Strip Mine will be located. RMA will have to truck all the water into the site. RMA estimates they will need to buy from Tri-County Water 80,000 gallons per day up to 120 days/year. That means **9.6 million gallons** of drinking water a year to make concrete. In addition, RMA will be utilizing agricultural water resources (116+ shares) and another 4+ acre-feet for dust control. RMA has not explained how the transfer of water resources away from intended agricultural and residential uses will affect the current and future regional water availability or what cost increases will occur for all water users in the county. In addition, a separate pit will be dug on the mesa to hold contaminated water on a permanent basis.

Significant Loss of Natural Habitat and Disruption of Wildlife Movement: Nearly all of the proposed site is occupied Gunnison Sage Grouse territory according to National Fish and Wildlife Service. This species is being considered for the Endangered Species list, a decision to be made in September of this year. Significant numbers of deer and elk currently utilize the mesa year round for habitat and migration. Numerous other mammals,

birds, reptiles, and insects are present. Many species of plants also currently thrive on the proposed site.

Economic Losses: RMA has estimated that the proposed strip mine has the potential to create only 3 new jobs. Currently, seven gravel pit mines operate in the Montrose area, with two located just one mile and two miles south of the proposed strip mine on Hwy 550. One of the pit mines south of town is not in operation due to lack of demand for gravel products. In contrast, the property tax base for the county government will decrease dramatically due to the extensive and permanent decline in property values for hundreds of property owners adjacent to the proposed heavy industrial mining complex. The county will also lose sales tax revenue, as current businesses will have to relocate or close up shop due to the introduction of heavy industrial mining in the area.

Ineffective Governmental Oversight: The only oversight of the strip mine required is by The State of Colorado Air Pollution Division. The Air Pollution Division is required to make an on-site visit only once every 6-8 years. The county government has no direct oversight responsibilities.

Violation with many sections of the 2010 Montrose County Master Plan: This proposed strip mine is incompatible with many goals for the southern region of the Montrose County master plan. Examples include: maintaining agricultural related uses (Goal 1), protecting the viewsheds on state highways with particular emphasis on Highway 550 (Goal 2) and encourage limited access points for the federal and state highway system (Goal 6).

Required permit applications not completed: RMA has not completed its required applications and decisions from the Colorado Department of Transportation and the State of Colorado are still months away. The core samples report in the application is inadequate and was designed for only residential development.

Erosion of quality of life for thousands of county citizens at the expense of profits for one corporation: As citizens of Montrose County, we assert that we have rights as a community to protect the health, safety and welfare of the residents and ecosystems of Montrose County.

This Special Use Permit is incomplete, inaccurate, incompatible and includes items specifically prohibited by the County Zoning Resolution. I respectfully request that you deny this permit.

Yours,

A handwritten signature in cursive script that reads "Lee R. Bartlett". The signature is fluid and elegant, with the first name "Lee" and last name "Bartlett" clearly legible.

Lee R. Bartlett
23400 Horsefly Rd.
Montrose, CO 81403
970-252-1340

leebart53@gmail.com

✓ Mr. Wallace Erickson
Mr. Russell Means
CO DRMS
1313 Sherman St Rm 215.
Denver CO 80203

June 23, 2013

Mr. Erickson and Mr. Means,

Re: Permit M-2013-007

RECEIVED

✓ JUN 26 2013

✓ DIVISION OF RECLAMATION
MINING AND SAFETY

While this application has become very involved, complex and a bit convoluted with the Sage Grouse issue and lots of local controversy, I would like to call your attention back to the original application and its numerous errors. The first line of the application states that this permit is 9.0 miles from the City of Montrose. In fact, it is less than 3 miles from the City limits. The next line states that the site is approximately a mile from hwy 550 south. In fact, the permit begins less than 1/4 mile from the highway. For your consideration I have included a photo of the second "public notice" for the pit, this time with the correct County name; it is far off the road and behind numerous trees and bushes. While this may seem petty, it also could be construed as trying to fly under the radar, which clearly this group has tried to do from the beginning. Page A-3 indicates that the "entire permit area is 277.07 acres + 3.69 acres = 247.76 acres" again while these may seem like simple math mistakes, this application is what we have to judge the applicant. There are several of these in the application.

On page G-4 in the "summary of consumptive uses" based on full operation the applicant claims that he is using 0.00 potable water for the operation. In our County Planning Commission meeting April 25th Mr. Luttrell stated that he would be using our local drinking water resource, Tri-County water, for the concrete operations resulting in 80,000 gallons of potable water use daily. There is a note in the application that 50 gallons a month will be used, and purchased "commercially" (section G, #6).

The CDPHE Air Pollution Control Application has many discrepancies from the Amended application filed with you on April 22nd. Of much concern is the difference in haul traffic; the application on file with you is 1.8 trucks/hour and the CDPHE app indicates 87 loads/day resulting in 7.91 trucks/hour. Quite a difference, and this is only the gravel harvest, the asphalt and concrete applications were not completed

when I contacted CDPHE in May. I have written them to indicate these discrepancies. As of June 13 the applicant had not yet completed their CDOT application for access to Hwy 550; this is a huge component of this project and again, obviously a concern as to which set of numbers they are using on the CDOT application. 87 Loads a day results in almost twice that many actual semi-truck trips as most of those vehicles return for repeat loads. They have the 40 trips a day for potable water when the concrete plant is in operation, and trucks for the asphalt operation, including hauling recycle product into the site. The CDPHE application also has different numbers of topsoil storage and haul road length than the application you have.

I would like to reiterate my concern once again in regard to dust from this proposed project. The stockpile of 77,000 tons of topsoil on top of a mesa 300 feet above a valley floor with our far above average winds seems inappropriate at best. The plan does not require this stockpile to be planted for up to one year. If that stockpile had been up there, for example, in the last six weeks, I feel certain that much of it would be down here in the valley. Some sort of consideration must be taken in regard to this issue, I do not know how those things are determined. We have dust days here without this pit where you cannot see the mountain three miles east. The applicant constantly stresses how dry it is up there, and is using our precious resource water for dust control and reclamation. Regardless of the seed mix, it still needs water to germinate. Where is that use accounted for? It is not listed on his "consumptive uses" list.

I was interested to see your adequacy letter of June 14 in regard to this permit. As landowners living north of T Road and the new Haul Road, Mr. Roger Noble and myself utilize the same irrigation head gate as the land owner. This water flows north from the west canal over his farmland to our properties, which own water rights. In a local meeting I questioned the haul road location due to this issue and was assured that it was illegal to not allow water access to us. As you have noted, there are no culverts for natural drainage or for irrigation water flow on the newly planned haul road.

I do want to note a small typographical error in your #1, clerk listed as Montezuma county rather than Montrose. Just a technicality, of course.

#8 is in regard to the sediment ponds. In a public meeting on May 23rd, Mr. Luttrell mentioned when questioned on the issue that he was willing to line these ponds in order to control the selenium concern in this area. The Uncompahgre Valley is a concern in regard to excess selenium in the irrigation water. Has the plan been modified to reflect that? Why would these ponds remain after reclamation when the applicant claims that

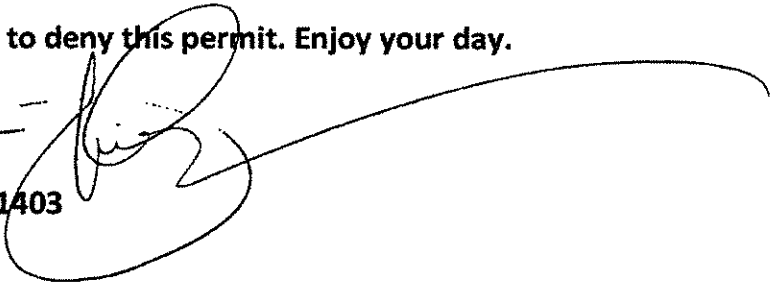
there is no water on this mesa? Shouldn't those ponds be reclaimed to the original landscape? As another issue it is illegal in the state of Colorado to capture rainwater, but that is exactly what this project does. I have contacted DNR water resources on this issue but did not receive an adequate response.

My residence and business, the sole source of my income, is within 200 feet of the permit boundary and haul road. #15 of the adequacy letter would pertain to my guest house, my home and my outbuilding to the east, a licensed commercial kitchen. The guest house is under consideration for the Colorado register of Historic Places as it is the only existing structure left of the 1880's Fort Crawford Army Outpost. At this time the applicant has made no effort to contact me for a damage compensation agreement.

It has come to our attention that the applicant, Zane Luttrell and/or Rocky Mountain Aggregate, has recently had a contract or permit revoked in our region due to the extensive numbers of complaints from neighbors of his operation. I have been told that Mr. Means is aware of this situation and assume it is being taken into consideration when this applicant is asking for a 105 year mining permit. When time allows, I would appreciate a phone call from Mr. Means in regard to this situation as I do not know if my information is accurate and have no interest in spreading untruths. Thank you.

I encourage you to deny this permit. Enjoy your day.

Janice Wheeler
67269 T Road
Montrose, CO 81403
970 209-9630



Janice Wheeler

From: "JANICE WHEELER" <janice@pineconeunlimited.com>
To: "JANICE WHEELER" <janice@pineconeunlimited.com>
Sent: Sunday, June 23, 2013 4:58 PM
Subject: IMG_5183.JPG



IMG_5183.JPG