

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 15, 2013

Zane Luttrell

Rocky Mountain Aggregate and Construction

23625 Uncompahgre Road

Montrose, CO 81401

Greg Lewicki

Greg Lewicki and Associates

11541 Warrington Court

Parker, CO 80138

John W. Hickenlooper
Governor

Mike King
Executive Director

Loretta E. Piñeda
Director

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

Dear Mr. Luttrell and Mr. Lewicki:

On July 15, 2013, the Division received a correspondence from Janice Wheeler, dated July 11, 2013, responding to the damage compensation agreement provided by the Applicant. The correspondence was received after the close of the public comment period and is deemed not timely. Copy of the late comment is enclosed for your records.

Therefore, the Division has received written comments to the amended application from the following parties and/or interested persons:

Timely 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

Timely Letter of Support:

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

Timely Commenting Agency:

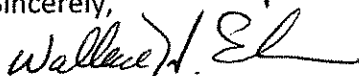
35. History Colorado, SHPO, dated March 8, 2013, received March 12, 2013
36. Colorado Parks & Wildlife, dated April 9, 2013, received April 15, 2013

Late Letter of Objection:

37. Janice Wheeler, dated July 11, 2013, received July 15, 2013

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 letter from Janice Wheeler, listed above as item 37

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

July 11, 2013

Mr. Wally Erickson

Environmental Protection Specialist CODRMS

691 County Rd 233 Suite A-2

Durango, CO 81301

Mr. Erickson,

RECEIVED
JUL 15 2013
Durango Field Office
Division of Reclamation,
Mining and Safety

In my June 23rd letter I briefly eluded to the situation regarding Permanent Man Made Structures for the Uncompahgre Pit File # M-2013-007. I have received an undated letter from Rocky Mountain Aggregate (copy enclosed) that in the certification section refers to Exhibit A of the original application filed with your office. Exhibit A then refers to map B-1 which does not have the current permit lines in place per the amended application received by your office on April 22nd.

I have enclosed for you a map produced by Greg Lewicki and Associates that has the revised permit boundaries. It appears on this map that the permit border is T Road to just past Horsefly Creek on the East to the end of T Road on the west. Soon after purchase the landowner had the property surveyed and moved the fenceline to the right of way/property line so it is easy to recognize. This morning after reviewing Mr. Luttrell's letter I called him to ask for clarification of the permit border as the majority of my structures and the most valuable were not included in his Structure Agreement. He stated that the north permit line is actually 100 feet south of the right of way/property border. This is not reflected in the map included with this letter.

I am requesting clarification of the permit boundary from Mr. Luttrell and Mr. Lewicki. **Regardless if the permit boundary is 100' south or on the property border my home would be included in the Structure Agreement as it is 90' from the property boundary.** If the permit boundary is the property boundary, my garage would be included as well as my chicken coop/garden storage building. I do not have a driveway culvert as listed on the Agreement.

In addition I am requesting an engineering evaluation pursuant to rule 6.4.19(b) to ensure that any potential damage from the mining process is taken into consideration by an expert. Who chooses this individual? Please let me know how that proceeds.

If damage does occur, how and by whom is that determined and how will I be compensated? If this permit changes hands with the land as it does here in Montrose County, how would the next permittee be held responsible? I look forward to hearing from you.

Very sincerely,

Janice Wheeler

67269 T Road Montrose CO 81403 970 209-9630

Cc : Zane Luttrell, Rocky Mountain Aggregate and Construction LLC

ROCKY MOUNTAIN
AGGREGATE & CONSTRUCTION LLC

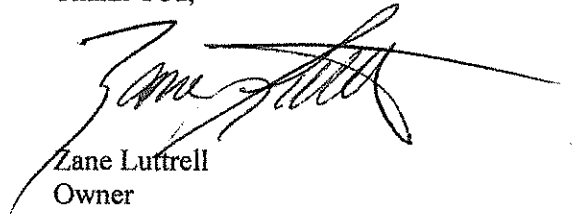
Janice Wheeler
67269 T Road
Montrose, CO

RE: Uncompahgre Gravel Pit Damage Waiver

Janice,

Please find the attached structure agreement that is required by the State of Colorado Division of Reclamation, Mining and Safety to be sent to any landowner who has man-made structures within 200 feet of the permit boundary. The purpose of the agreement is to ensure that we, the permittee of the mine, will fix or replace any structures on your property that are within 200 feet of the permit area that we could damage. This is an extremely remote possibility, but nevertheless, it is required that we send this agreement to you. We have listed any man-made structures that fall within this area on the agreement in order to insure that damages that are proven to be caused by our operations will fall under the guidelines of the attached agreement. If you have any questions regarding this form, please call me and I can provide further explanation of this requirement by the State of Colorado Division of Mining, Reclamation and Safety.

Thank You,



Zane Luttrell
Owner
Rocky Mountain Aggregate & Construction

Attachment:
Structure agreement for DRMS

An example Structure Agreement which meets the requirements of the Statutes is shown below.

Structure Agreement

This letter has been provided to you as the owner of a structure on or within two hundred (200) feet of a proposed mine site. The State of Colorado, Division of Reclamation, Mining and Safety ("Division") requires that where a mining operation will adversely affect the stability of any significant, valuable and permanent man-made structure located within two hundred (200) feet of the affected land, the Applicant shall either:

- a) Provide a notarized agreement between the Applicant and the Person(s) having an interest in the structure, that the Applicant is to provide compensation for any damage to the structure; or
- b) Where such an agreement cannot be reached, the Applicant shall provide an appropriate engineering evaluation that demonstrates that such structure shall not be damaged by activities occurring at the mining operation; or
- c) Where such structure is a utility, the Applicant may supply a notarized letter, on utility letterhead, from the owner(s) of the utility that the mining and reclamation activities, as proposed, will have "no negative effect" on their utility. (*Construction Materials Rule 6.3.12 and Rule 6.4.19 & Hard Rock/Metal Mining Rule 6.3.12 and Rule 6.4.20*)

The Colorado Mined Land Reclamation Board ("Board") has determined that this form, if properly executed, represents an agreement that complies with Construction Materials Rule 6.3.12(a), Rule 6.4.19(a), and C.R.S. § 34-32.5-115(4)(e) and with Hard Rock/Metal Mining Rule 6.3.12(a), Rule 6.4.20(a), and C.R.S. § 34-32-115(4)(d). This form is for the sole purpose of ensuring compliance with the Rules and Regulations and shall not make the Board or Division a necessary party to any private civil lawsuit to enforce the terms of the agreement or create any enforcement obligations in the Board or the Division.

The following structures are located on or within 200 feet of the proposed affected area:

1. IRRIGATION STRUCTURES
2. FENCES
3. WOODEN CABIN ADJACENT TO T ROAD
4. DRIVEWAY CULVERT
5. _____

(Please list additional structures on a separate page)

CERTIFICATION

The Applicant, Rocky Mountain Aggregate and Construction, LLC (print applicant/company name),
by Zane Luttrell (print representative's name), as Manager (print
representative's title), does hereby certify that JANICE WHEELER (structure owner) shall
be compensated for any damage from the proposed mining operation to the above listed structure(s)
located on or within 200 feet of the proposed affected area described within Exhibit A, of the Reclamation
Permit Application for Uncompahgre Pit (operation name),
File Number M- 2013- -007.

*This form has been approved by the Colorado Mined Land Reclamation Board pursuant to its
authority under the Colorado Land Reclamation Act for the Extraction of Construction Materials and
the Colorado Mined Land Reclamation Act for Hard Rock, Metal, and Designated Mining Operations.
Any alteration or modification to this form shall result in voiding this form.*

NOTARY FOR PERMIT APPLICANT

ACKNOWLEDGED BY:

Applicant Rocky Mountain Aggregate & Construction LLC Representative Name ZANE LUTTRELL
Date 6/25/2013 Title MANAGER

STATE OF COLORADO)
) ss.
COUNTY OF MONTROSE)

The foregoing was acknowledged before me this 25 day of JUNE, 2013, by
ZANE LUTTRELL as MANAGER of ROCKY MOUNTAIN AGGREGATE
& CONSTRUCTION LLC

[Signature]
Notary Public

My Commission Expires: 1/4/2016

