

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 23<sup>rd</sup> 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 22<sup>nd</sup>.

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

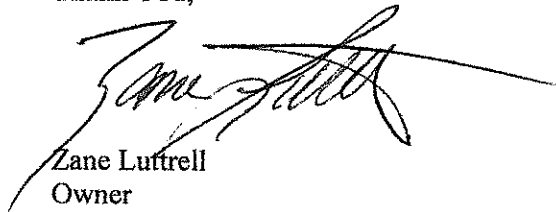
Janice Wheeler  
67269 T Road  
Montrose, CO

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.

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### 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

Notary Public

My Commission Expires: 1/4/2016

