



DEPARTMENT OF NATURAL RESOURCES

## DIVISION OF WATER RESOURCES

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Dick Wolfe, P.E.  
Director/State Engineer

August 1, 2013

Wally Erickson  
Division of Reclamation, Mining and Safety  
Durango Field Office  
691 County Road 233, Suite A-2  
Durango, CO 81301

RECEIVED  
AUG 01 2013  
Durango Field Office  
Division of Reclamation,  
Mining and Safety

Re: Notice of Amended 112 Construction Materials Reclamation Permit Application  
Consideration Rocky Mountain Aggregate & Construction, LLC, Uncompahgre Pit, File No,  
M-2013-007

Dear Mr. Erickson,

I am in receipt of your request for a response regarding the water supply for the proposed Uncompahgre Pit, DRMS File No. M-2013-007. On July 30, 2013, Bob Hurford, Division Engineer for our Division 4 office, provided comments regarding your specific question on the use of the Ouray Ditch and shares in the Uncompahgre Valley Water Users Association for this proposal. This letter is to provide some additional comments regarding other water related aspects of the proposal.

In reviewing the application, it appears that ground water will not be exposed during or after the mining process. Instead, water for the proposal will be supplied either from the aforementioned ditches during irrigation season, or from Tri-County Water Company during the non-irrigation season. As long as the applicant complies with the comments from Mr. Hurford, the use of the ditch water is acceptable. For the non-irrigation season, any water used in the process should be from a source that is approved for the proposed purposes at the mine site, whether from Tri-County Water Company or another provider. Copies of receipts for any water purchased for use at the mine site should be maintained by the applicant, and provided to the Water Commissioner and/or Division Engineer upon request.

Also in the application, it appears that the applicant will construct settling ponds that will remain after mining is complete. Though the applicant has indicated that the dam will be less than 10 feet in height, any structure built above the ground surface for the purposes of impounding water must be approved by the Division of Water Resources Dam Safety Section. It appears that these settling ponds may qualify as non-jurisdictional dams and a *Notice of Intent to Construct* this type of structure must be sent to the Dam Safety Section for evaluation 45 days prior to construction. The form is available on our website at <http://water.state.co.us/SurfaceWater/DamSafety/DesignConstruction/Pages/DamConstructionForm.aspx>. The applicant should contact Jason Ward, Dam Safety Engineer for Division 4 at (970) 249-6622, with any questions regarding this form and any other dam related issues.

Office of the State Engineer

1313 Sherman Street, Suite 818 • Denver, CO 80203 • Phone: 303-866-3581 • Fax: 303-866-3589

<http://water.state.co.us>

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Uncompahgre Pit, M-2013-007  
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Another issue related to the settling ponds is the ponds are not decreed as storage rights at this time and thus do not have a decreed priority within the surface water rights priority system. Without a decree, the ponds are the most junior structure in the water district for administrative purposes and any water stored out of priority must be released at the direction of the Division Engineer. While the river basin is considered over-appropriated, there may be times when the physical supply in the river is sufficient to satisfy senior water rights thus allowing those structures with very junior or no decreed rights to divert/store water (in this case, the applicant would be impounding storm water in the settling ponds). This situation is referred to as not having a call on the river. When a senior right places a call for water on the river and junior and non-decreed structures must then cease diverting/storing, the applicant must be prepared to release any storm water that was impounded during the time the call was active (a.k.a. stored out of priority). Contact information of the person responsible for the operation of the ponds should be provided to the Division Office for administration purposes.

Please let me know if you have any other questions regarding water issues related to this application.

Sincerely,



Megan Sullivan, P.E.  
Colorado Division of Water Resources  
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Denver CO 80203  
303-866-3581  
303-866-3581 (fax)  
[www.water.state.co.us](http://www.water.state.co.us)

cc: Bob Hurford, Division 4 Engineer  
Jason Ward, Dam Safety Engineer