

# **CONSTRUCTION MATERIALS APPLICATION WITH OBJECTIONS**

**Staff Presentation**

**August 14, 2013**

## **INTRODUCTION**

Application Type: 112c  
File No.: M-2013-007  
Applicant: Rocky Mountain Aggregate & Construction, LLC  
Operation Name: Uncompahgre Pit  
Location: SE ¼ of Section 27, T 47 N, R 9 W, NMPM, Montrose County  
Permit Area: 253.25 acres  
Method of Mining: conventional excavation  
On-site Processing: crushing, screening, washing, production of asphalt and concrete  
Reclamation: phased mine plan in 20-acre increments with contemporaneous reclamation  
PMLU: rangeland, wildlife habitat, industrial/commercial  
Proposed Bond: \$99,409.04  
Objections: 33 timely letters of objection, received from 25 parties  
Letters of Support: one  
Agency Comments: SHPO and CPW timely, DWR August 1, 2013  
Specialist: Wally Erickson

## **ISSUES RAISED BY THE OBJECTING PARTIES AND COMMENTING AGENCIES**

The issues raised by the objecting parties and commenting agencies, and the Office's response, are detailed in the Office's recommendation and rationale document, dated July 19, 2012. Additional responses to the specific issues listed in the Pre-hearing Order are provided in staff's PowerPoint presentation.

## **OFFICE RECOMMENDATION AND REQUEST**

The Office requests the Board AFFIRM staff's recommendation for approval of the Uncompahgre Pit, File No. M-2013-007, over objections, as detailed in the Office's recommendation and rationale document, dated July 19, 2013.



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John W. Hickenlooper  
Governor

Mike King  
Executive Director

Dick Wolte, P.E.  
Director/State Engineer

Bob W. Hurford, P.E.  
Division Engineer

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AUG 01 2013

Montrose Field Office  
Division of Reclamation,  
Mining and Safety

July 30, 2013

Zane Luttrell, Manager  
Rocky Mountain Aggregate & Construction  
23625 Uncompahgre Road  
Montrose, CO 81403

**RE: M2013-007: Use of Surface Water Rights for Gravel Pit Operations**

Dear Mr. Luttrell:

You requested a letter from my desk explaining the viability of using certain surface water sources for the gravel pit operations Rocky Mountain Aggregate & Construction is proposing on land owned by Lazy K Land & Cattle in the south Montrose area. The water desired to be used for dust control and gravel washing is water decreed to the Ouray Ditch and water shares delivered under the Uncompahgre Valley Water Users Association (UVWUA).

During times of shortage, such as this season when the M&D Canal calls out all junior water rights on the Uncompahgre above its point of diversion (the Ouray Ditch is an affected water right), any water still in priority in the Ouray Ditch may only be used for irrigation. In other words, you cannot use Ouray Ditch water for gravel operations when the river is on call.

UVWUA shares may be used for purposed other than irrigation. So, if your only sources of water for operations are the Ouray Ditch and UVWUA shares, and there is a call on the Uncompahgre River, you are limited to using the UVWUA shares until such time the call is lifted.

If you have any further questions, please don't hesitate to call.

Sincerely,

Bob W. Hurford, PE  
Division Engineer

Water Division 4 • Montrose

P. O. Box 456 (2730 Commercial Way) • Montrose, CO 81402 • Phone: 970-249-6622 • Fax: 970-249-8728  
[www.water.state.co.us](http://www.water.state.co.us)



DEPARTMENT OF NATURAL RESOURCES

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August 1, 2013

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AUG 01 2013

Durango Field Office  
Division of Reclamation,  
Mining and Safety

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

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>


## DIVISION OF WATER RESOURCES

Wally Erickson  
Division of Reclamation, Mining and Safety  
Uncompahgre Pit, M-2013-007  
August 1, 2013  
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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  
1313 Sherman St., Rm. 818  
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